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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 240202-0034]

RIN 0648-BM80

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Atlantic Coastal Migratory Pelagic Fishery; Atlantic Dolphin and Wahoo Fishery; and South Atlantic Snapper-Grouper Fishery; Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advanced notice of proposed rulemaking; request for comments.

SUMMARY: This advance notice of proposed rulemaking seeks comment on the benefits or disadvantages of the South Atlantic Fishery Management Council (Council) potentially setting future restrictions, resulting in subsequent rulemakings from NMFS, in the Atlantic the coastal migratory pelagics fishery and the dolphin and wahoo fishery, and the snapper-grouper fishery in the South Atlantic. The Council recently set a control date of December 8, 2023. That control date, and an existing control date of June 15, 2016, may both be used to create restrictions limiting participation in the exclusive economic zone for the Federal charter vessel/headboat (for-hire) components of the recreational sectors of the coastal migratory pelagics fishery in the Atlantic, dolphin and wahoo fishery in the Atlantic, and snapper-grouper fishery in the South Atlantic. The Council is considering a future action that may affect or limit the number of participants in the fishery, and stresses that participants should locate and preserve all relevant, fishing-related documents. If such an action is developed, approved, and implemented through a Council decision and a subsequent rulemaking by NMFS, future access to the fishery after the control date would not be assured. NMFS is informing the public of the new control date, in part, to promote awareness of the potential changes to eligibility criteria for future access so as to discourage speculative entry into the Federal for-hire components of the Atlantic coastal migratory pelagics,

Atlantic dolphin and wahoo, or the South Atlantic snapper-grouper fisheries, while the Council and NMFS consider whether and how access to these for-hire components should be managed.

DATES: Written comments must be received no later than March 11, 2024.

ADDRESSES: You may submit comments identified by “NOAA-NMFS-2023-0157” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type “NOAA-NMFS-2023-0157” in the Search box (*note:* copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Nikhil Mehta, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727-824-5305, or email: nikhil.mehta@noaa.gov.

SUPPLEMENTARY INFORMATION: The coastal migratory pelagics fishery in the Atlantic is managed under the Fishery Management Plan (FMP) for Coastal Migratory Pelagic Resources (CMP FMP). The dolphin and wahoo fishery in the Atlantic is managed under the FMP for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin and Wahoo FMP). The snapper-grouper fishery in the South Atlantic is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The CMP FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils. The Dolphin and Wahoo and Snapper-Grouper FMPs were prepared by the Council. Under the authority of the Magnuson-Stevens Fishery Conservation and Management

Act (Magnuson-Stevens Act), NMFS approved the FMPs and implements them through regulations at 50 CFR part 622.

The purpose of a control date is to enable the Council to inform current and potential participants that it is considering whether to create restrictions that limit participation in a fishery. NMFS previously published a control date of June 15, 2016, for the coastal migratory pelagics, dolphin and wahoo, and snapper-grouper for-hire components of the recreational sector on September 27, 2016 (81 FR 66244). At its December 2023 meeting, the Council again discussed access options for these fisheries and requested that NMFS publish another control date of December 8, 2023, for the Federal for-hire component of the recreational sectors of the Atlantic coastal migratory pelagics, Atlantic dolphin and wahoo, and South Atlantic snapper-grouper fisheries as a possible future eligibility criteria for these fisheries. The Federal charter vessel/headboat permits for these for-hire components are currently open access, available to be applied for by anyone with a valid vessel registration. The new control date of December 8, 2023, and the existing control date of June 15, 2016, could both be considered as possible options for use by the Council to determine future access to these fisheries. The purpose of these control dates is to inform current and potential participants that the Council is considering whether to propose future restrictions that limit fishery participation in the for-hire components of these fisheries. Should the Council decide to implement further restrictions on the fishery, those restrictions would be codified into the regulations through a NMFS rulemaking.

As a condition of the for-hire, December 8, 2023, control date, the Council specified at their December 2023 meeting that Federal permit holders that had not reported catch from the for-hire components of these fisheries to the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) program in the Atlantic on, or prior to, December 5, 2023, would not be assured of future access should a management regime that limits participation in the for-hire components of these fisheries be prepared and implemented. The Atlantic SEFHIER program was implemented on January 4, 2021 (85 FR 47917, August 7, 2020). That final rule established weekly electronic reporting requirements for owners or operators of federally permitted coastal migratory pelagics, dolphin and wahoo, and snapper-

grouper charter vessels and changed the electronic reporting deadline for owners and operators of federally permitted headboats. The purpose of that final rule and the Atlantic SEFHIER program was to improve recreational fisheries management of the for-hire components in the Atlantic. NMFS notes that as of October 2023, 54 percent of vessels in the Atlantic SEFHIER program were missing required reports since the implementation of the program (https://safmc.net/documents/jc1_a2_sefhier-program-analysis_202312-revised-pdf/). The Council chose Tuesday, December 5, 2023, because Atlantic SEFHIER participants are required to report their catch weekly on Tuesdays and in order to avoid a possible influx of late reports occurring prior to December 8, 2023, by permit holders in reaction to the announcement of the control date. Late reporting by SEFHIER participants can negatively impact reliable and timely catch and effort data, decrease accuracy of reports, and increase recall bias of participants.

In addition to selecting a control date, at their December 2023 meeting, the Council also approved a motion to initiate an amendment to the CMP FMP, the dolphin and wahoo FMP, and the snapper-grouper FMP to consider establishing limited entry for the for-hire components of the recreational sectors of Atlantic coastal migratory pelagics, Atlantic dolphin and wahoo, and South Atlantic snapper-grouper fisheries.

NMFS is therefore, informing current and potential fishery participants in the Federal for-hire components of the recreational sectors for Atlantic coastal migratory pelagics, Atlantic dolphin and

wahoo, and South Atlantic snapper-grouper fisheries that began participating after December 8, 2023, that they may not be ensured participation under future management of these fisheries, should the Council elect to implement, and NMFS subsequently codify, further restrictions. Additionally, Federal permit holders that have not reported catch from these fisheries to the Atlantic SEFHIER Program on, or prior to, December 5, 2023, will not be assured of future access should a management regime that limits participation in the Federal charter vessel/headboat (for-hire) component of the recreational sectors is implemented. If the Council decides to amend the FMPs to restrict participation in the Federal for-hire components of the recreational sectors of the Atlantic coastal migratory pelagics, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper fisheries in relation to this control date, an analysis of the specific administrative, biological, economic, and social effects will be prepared at that time. The Gulf of Mexico Fishery Management Council will also need to approve any such action taken toward the management of any species within the CMP FMP.

Participants, and other persons, interested in obtaining a Federal for-hire permit for the Atlantic coastal migratory pelagics, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper fisheries after the control date are not assured of future access to these for-hire components should management changes be implemented that would restrict participation. Such management changes would require preparation of amendments to the respective FMPs,

NMFS publication of a notice of availability and proposed rule in the **Federal Register** with public comment periods, and NMFS approval of the FMP amendments and issuance of a final rule.

Fishermen are not guaranteed future participation in a fishery, sector, or component within a sector regardless of when they obtained their permits or of their level of participation in the fishery, sector, or component within a sector before or after the control date under consideration. The Council subsequently may choose a different control date, or they may propose different management approaches without using a control date. The Council also may choose to take no further action to propose measures to control entry or access to the Federal for-hire components of the recreational sectors of the Atlantic coastal migratory pelagics, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper fisheries.

Interested participants should locate and preserve records that substantiate and verify their participation in the Federal for-hire components of the recreational sectors of the Atlantic coastal migratory pelagics, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper fisheries.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: February 2, 2024.

Samuel D. Rauch, III,
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Regulatory Programs, National Marine
Fisheries Service.*

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