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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312236-3999-02]

RIN 0648-BD05

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Snapper-Grouper Fishery Off the Southern Atlantic States;  
Amendment 27

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 27 (Amendment 27) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council). Amendment 27 and this final rule extend the South Atlantic Council's management responsibility for Nassau grouper into the Gulf of Mexico (Gulf) exclusive economic zone (EEZ); increase the number of allowable crew members to four on dual-permitted snapper-grouper vessels (i.e., vessels holding a South Atlantic Charter Vessel/Headboat Permit for Snapper-Grouper and a commercial South Atlantic Unlimited or

a 225-Pound Trip Limit Snapper-Grouper Permit) that are fishing commercially; remove the prohibition on retaining any fish under the aggregate bag limit for grouper and tilefish or the vermilion snapper bag limit by captains and crew of federally permitted for-hire vessels; modify the snapper-grouper framework procedures to allow acceptable biological catch levels (ABCs), annual catch limits (ACLs), and annual catch targets (ACTs) to be adjusted via an abbreviated framework process; and remove blue runner from the FMP. The purposes of this final rule are to streamline management of Nassau grouper, improve vessel safety for dual-permitted vessels, implement consistent regulations regarding captains and crew retention limits for snapper-grouper species, expedite adjustments to snapper-grouper catch limits when new scientific information becomes available, and minimize socio-economic impacts to fishermen who harvest and sell blue runner.

DATES: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Electronic copies of Amendment 27, which includes an environmental assessment, a regulatory flexibility act analysis and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727-

824-5305, or e-mail: [kate.michie@noaa.gov](mailto:kate.michie@noaa.gov).

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the South Atlantic Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On September 18, 2013, NMFS published a notice of availability for Amendment 27 and requested public comment (78 FR 57337). On September 27, 2013, NMFS published a proposed rule for Amendment 27 and requested public comment (78 FR 59635). NMFS approved Amendment 27 on December 16, 2013. The proposed rule and Amendment 27 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by Amendment 27 and this final rule is provided below.

Management Measures Contained in this Final Rule

Extension of Management Authority for Nassau Grouper in the Gulf of Mexico to the South Atlantic Council

Amendment 27 and this final rule extend the South Atlantic Council management responsibility for Nassau grouper into Federal waters of the Gulf. The current restrictions on the harvest or possession of Nassau grouper in the Gulf EEZ and

South Atlantic EEZ continue through this final rule.

#### Increase in Crew Member Limit for Dual-Permitted Vessels

This final rule increases the crew size limit from three to four persons on dual-permitted vessels (vessels with both a South Atlantic Charter Vessel/Headboat Permit for Snapper-Grouper and a commercial South Atlantic Unlimited or 225-Pound Permit for Snapper-Grouper) when operating commercially.

#### Removal of Captains and Crew Bag Limit Retention Restrictions for Snapper-Grouper Species

This final rule removes the current restriction that prohibits the captains and crew on a vessel operating as a charter vessel or headboat from retaining the bag limits of gag, black grouper, red grouper, scamp, red hind, rock hind, coney, graysby, yellowfin grouper, yellowmouth grouper, yellowedge grouper, snowy grouper, misty grouper, vermilion snapper, sand tilefish, blueline tilefish, and golden tilefish.

#### Modify the Framework Procedures in the Snapper-Grouper FMP

This final rule allows an ABC, ACL, and ACT to be modified using an abbreviated framework procedure. After the South Atlantic Council has taken final action to change an ABC, ACL, and/or ACT, the Council submits a letter with supporting data and information to the NMFS Southeast Regional Administrator (RA) requesting the desired change to those applicable harvest

parameters. Based on the information provided by the South Atlantic Council, the RA determines whether or not the requested modifications may be warranted. If the requested modifications may be warranted, NMFS develops the appropriate documentation to comply with the National Environmental Policy Act (NEPA) and other applicable law, and proposes the action through rulemaking.

#### Remove Blue Runner from the FMP

Finally, this final rule removes blue runner from the FMP.

#### Comments and Responses

NMFS received 12 unique comment submissions on Amendment 27 and the proposed rule. The comments were submitted by one fishing association, one state agency, one environmental organization, one Federal agency, and eight individuals. One individual and one fishing association expressed general support for all the actions in the amendment. One individual and one environmental organization expressed support for the Framework Procedure modifications. Two individuals opposed, and one favored, allowing captains and crew to retain all snapper-grouper species. One individual opposed increasing the number of crew members on dual-permitted vessels. One state agency and one individual supported removing blue runner from the FMP, and one individual opposed extending the jurisdiction for Nassau

grouper management. One comment was beyond the scope of the actions contained within the amendment. A summary of the comments and NMFS' responses to those comments appears below.

Comment 1: One commenter opposed extending the South Atlantic Council's jurisdictional management authority of Nassau grouper into the Gulf.

Response: The South Atlantic Council's assumption of management authority of Nassau grouper throughout its range in the Southeast Region is consistent with Magnuson-Stevens Act National Standard (NS) 3, which states that an individual stock of fish shall be managed as a unit throughout its range, and NS 7 because it removes a duplication of management effort. The Gulf Council took action to remove Nassau grouper from the Gulf reef fish fishery management unit, for the purpose of allowing the South Atlantic Council to extend its area of jurisdiction for management of Nassau grouper to include Federal waters of the Gulf. Without the South Atlantic Council extending its jurisdiction for management of Nassau grouper into the Gulf, Nassau grouper would not be managed throughout its range. The majority of Nassau grouper are found in the South Atlantic Region; therefore, NMFS and both Councils determined that giving the South Atlantic Council sole regulatory authority over Nassau grouper in the Southeast Region is the most efficient

arrangement for monitoring and managing the species.

Comment 2: Two commenters opposed allowing captains and crew of for-hire vessels (charter vessels and headboats) to harvest bag limit quantities of all snapper-grouper species because the recreational ACLs could be caught faster and could result in additional fishing pressure on the resource. One commenter supported allowing captains and crew of for-hire vessels to harvest bag limit quantities of all snapper-grouper species.

Response: For species with very low recreational ACLs (such as snowy grouper), allowing the captain and crew to retain bag limits may cause the ACL to be met earlier and reduce the amount of time private recreational anglers have access to certain species. However, the biological impacts analysis in Amendment 27 indicates the average increase in harvest of the most commonly landed snapper-grouper species under this action will be only 0.02 percent for the headboat sector and 0.35 percent for the charter vessel sector. These minor increases in harvest are not likely to result in a significantly accelerated pace of harvest compared to current harvest rates for most snapper-grouper species. Additionally, these negligible increases are unlikely to result in negative biological impacts, particularly since ACLs and accountability measures (AMs) are in

place to prevent overfishing from occurring. Allowing crew members of for-hire vessels to harvest and retain bag limit quantities of gag, black grouper, red grouper, scamp, red hind, rock hind, coney, graysby, yellowfin grouper, yellowmouth grouper, yellowedge grouper, snowy grouper, misty grouper, vermilion snapper, sand tilefish, blueline tilefish, and golden tilefish will create consistent regulations for retention of all snapper-grouper species by for-hire captain and crew members in the South Atlantic. Therefore, in the South Atlantic, this action will eliminate confusion about retention restrictions for snapper-grouper species, and could help streamline enforcement efforts within this fishery.

Comment 3: One commenter opposed allowing a fourth crew member to work onboard dual-permitted vessels, because allowing the captains and crew to keep their bag limit would shorten the fishing seasons.

Response: This commenter is confusing two actions in the amendment. There is an action to remove the prohibition for captains and crew on for-hire vessels to retain the snapper-grouper bag limits (discussed in response to Comment 2), and there is an action to extend the maximum crew size limit on dual-permitted vessels from three to four. Currently, there is no restriction on the number of crew members on for-hire



vessels, but there is a restriction on the number of crew members on vessels that have both a commercial vessel permit and a for-hire vessel permit for South Atlantic snapper-grouper. Allowing one additional commercial crew member to work onboard dual-permitted vessels may lead to increased efficiency of commercial fishing operations; however, the rate of harvest is not expected to substantially increase. Therefore, the addition of one crew member is not likely to result in snapper-grouper ACLs from being met earlier in the fishing season compared to the status quo.

The action to increase the crew size from three people to four on these dual-permitted vessels will resolve a conflict between the South Atlantic Council's maximum crew size restrictions (no more than three crew members) and the United States Coast Guard's minimum crew size requirements (at least four crew members) for vessels required to have a Certificate of Inspection. This action will increase safety onboard dual-permitted vessels because it allows crew members to properly use the buddy system (i.e., diving as a pair instead of individually) while engaging in diving operations.

Additionally, allowing four crew members onboard dual-permitted vessels in the South Atlantic would create consistent regulations with those that apply in the Gulf of Mexico, which

will benefit fishermen and the administrative environment by simplifying enforcement of the maximum crew size restriction.

Comment 4: One commenter supported more flexibility in management and minimizing regulatory delay in response to new stock assessments. One environmental organization supported the abbreviated Framework Procedure included in Amendment 27, but stressed the need for continued compliance with NMFS' Operational Guidelines, which established the circumstances under which the abbreviated Framework Process may be applied, and ensures adequate public notice and comment during the abbreviated Framework Process.

Response: Amendment 27 and this final rule will modify the current Framework Procedure for the FMP to allow for an abbreviated process for changing ABCs, ACLs, and ACTs for species in the snapper-grouper fishery management unit in response to a stock assessment. The abbreviated Framework Procedure will be utilized for the routine adjustment of these harvest parameters in keeping with NMFS' Operational Guidelines. This action will give the South Atlantic Council and NMFS the ability to implement appropriate levels of harvest more quickly in response to the latest scientific information, while ensuring adequate notice and public comment. NMFS anticipates that this more streamlined approach will minimize administrative impacts

for routine changes to harvest parameters. Any action implemented through the abbreviated Framework Process will comply with the Magnuson-Stevens Act and all other applicable law.

Comment 5: One individual and one state agency supported removing blue runner from the FMP. The Florida Fish and Wildlife Conservation Commission (FWC) specifically referenced a letter from the FWC Chairman to the South Atlantic Council Chairman dated May 20, 2013. The letter explained the intent of the FWC to extend state management measures for blue runner into adjacent Federal waters if Amendment 27 is approved for implementation.

Response: According to Amendment 27, from 2005 through 2011, most recreational (99 percent) and commercial (99 percent) blue runner harvest were from Federal and state waters off Florida, and of that harvest, 76 percent of blue runner landings came from state waters. Blue runner is not commonly retained for human consumption, is primarily used as bait, and is currently subject to management in Florida state waters, including gear prohibitions, a recreational bag limit, bycatch restrictions, penalties for unlicensed sale of blue runner, a Saltwater Products License requirement, and trip ticket requirements. Additional restrictions (gear, area closures,

etc.) apply to blue runner in waters off certain Florida counties. At its September 5-6, 2013, meeting the FWC considered a draft rule for blue runner that would:

1) define blue runner as any fish of the species Caranx crysos (as it is currently defined in the Federal FMP, but was recently inadvertently mislabeled in the NMFS regulations as Caranx bartholomaei (yellow jack));

2) establish a statewide recreational daily bag limit of 100 fish per person per day;

3) extend this bag limit into adjacent Federal waters if Federal rules are removed; and

4) clarify that a Saltwater Products License is required for commercial harvest of blue runner in both state and Federal waters.

At its November 21-22, 2013, meeting the FWC approved this draft rule and stated the final rule would become effective after blue runner is removed from the Federal FMP.

Because blue runner is predominantly harvested in Florida state waters and is infrequently harvested off states other than Florida, and because Florida currently manages blue runner and intends to extend its management for fishing vessels registered under Florida law into Federal waters off Florida, NMFS determined that it is appropriate to remove the species from the

FMP without having a negative biological impact on the stock.

#### Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is necessary for the conservation and management of South Atlantic snapper-grouper and is consistent with Amendment 27, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared for this action. The FRFA incorporates the IRFA, a summary of the significant economic issues raised by public comment, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

No public comments specific to the IRFA were received and, therefore, no public comments are addressed in this FRFA. Certain comments with socioeconomic implications are addressed in the comments and responses section. No changes in the final rule were made in response to public comments.

NMFS agrees that the South Atlantic Council's choice of preferred alternatives would best achieve the South Atlantic Council's objectives for Amendment 27 to the FMP while minimizing, to the extent practicable, the adverse effects on

fishers, support industries, and associated communities. The preamble to this final rule provides a statement of the need for and objectives of this rule.

The final rule extends the South Atlantic Council's jurisdictional authority for management of Nassau grouper to include Gulf Federal waters and continues the harvest prohibition of Nassau grouper in the Gulf and South Atlantic EEZ; increases, from three to four, the number of crew members on any dual-permitted vessel (a vessel with both a South Atlantic for-hire snapper-grouper and a South Atlantic commercial snapper-grouper permit) when operating commercially; removes the snapper-grouper species retention restrictions for captains and crew of vessels with a South Atlantic for-hire snapper-grouper permit; modifies the South Atlantic Snapper-Grouper FMP framework procedure; and removes blue runner from the South Atlantic Snapper-Grouper FMP.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule. Accordingly, this final rule does not implicate the Paperwork Reduction Act.

NMFS expects the final rule to directly affect commercial

fishermen and for-hire vessel operators in the South Atlantic snapper-grouper fishery. The Small Business Administration (SBA) recently modified the small entity size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in finfish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$19.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, all qualifiers apply except that the annual receipts threshold is \$7.0 million (NAICS code 487210, recreational industries). The SBA periodically reviews and changes, as appropriate, these size criteria. On June 20, 2013, the SBA issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398). This rule increased the size standard for commercial finfish harvesters from \$4.0 million to \$19.0 million. Neither this rule, nor other recent SBA rules, changed the size standard for for-hire vessels.

From 2007 through 2011, an annual average of 336 vessels with valid commercial South Atlantic snapper-grouper permits landed at least 1 lb (0.45 kg) of blue runner. These vessels

generated dockside revenues of approximately \$2.1 million (2011) from all species caught in the same trips as blue runner, of which \$111,000 (2011 dollars) were from sales of blue runner. Each vessel, therefore, generated an average of approximately \$6,250 in gross revenues, of which \$330 were from blue runner. Vessels in the coastal migratory pelagics fishery also harvested blue runner on some of their trips harvesting Spanish or king mackerel. In 2007-2011, an average of 176 vessels harvested at least 1 lb (0.45 kg) of king mackerel and 1 lb (0.45 kg) of blue runner. These vessels generated an average of about \$799,000 from sales of king mackerel and \$57,000 from sales of blue runner. For the same period, an average of 219 vessels harvested at least 1 lb (0.45 kg) of Spanish mackerel and 1 lb (0.45 kg) of blue runner. These vessels generated about \$352,000 from sales of Spanish mackerel and \$33,000 from sales of blue runner.

For more than two decades, the commercial and recreational harvest of Nassau grouper in the South Atlantic and Gulf has been prohibited, so no revenue information on commercial vessels dependent on Nassau grouper is available. Based on the revenue information presented above, all commercial vessels that will be affected by the rule can be considered small entities.

From 2007 through 2011, an annual average of 1,813 vessels



had valid South Atlantic charter vessel/headboat (for-hire) snapper-grouper permits. As of January 22, 2013, 1,462 vessels held South Atlantic for-hire snapper-grouper permits, and about 75 are estimated to have operated as headboats in 2013. The for-hire fleet consists of charter vessels, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Average annual revenues (2011 dollars) per charter vessel are estimated to be \$126,032 for Florida vessels, \$53,443 for Georgia vessels, \$100,823 for South Carolina vessels, and \$101,959 for North Carolina vessels. For headboats, the corresponding per vessel estimates are \$209,507 for Florida vessels and \$153,848 for vessels in the other states. Revenue figures for headboats in states other than Florida are aggregated for confidentiality reasons. Based on these average revenue figures, all for-hire operations that will be affected by the rule can be considered small entities.

NMFS expects the final rule to directly affect all federally permitted commercial vessels harvesting blue runner and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, NMFS has determined that this rule will affect a substantial number of small entities. In addition, the

issue of disproportional effects on small versus large entities does not arise in the present case.

Extending the South Atlantic Council's jurisdictional authority for management of Nassau grouper has no direct effects on the profits of commercial and for-hire vessels, because there are no accompanying changes to the management measures for this species. Any future changes to the management for Nassau grouper in the Gulf or South Atlantic EEZ will pass through the usual regulatory process, although in the future it will be solely under the South Atlantic Council's regulatory process.

Increasing the maximum number of crew members on any dual-permitted vessel that is operating commercially from three to four will generally affect only those vessels that opt to bring on board an additional crew member. Vessel owners/operators will likely weigh the additional costs and benefits of such an action. Direct costs will be in the form of compensation to the additional crew member. Benefits could come in the form of better safety conditions, especially on trips that involve diving. The net effect of this action is relatively unknown in the short term. This action will make the South Atlantic regulation on the maximum crew size of dual-permitted vessels consistent with the Gulf regulation. Preliminary reports for the Gulf for-hire sector appear to indicate that safety-at-sea

has improved when vessels started adding crew members.

Removing the snapper-grouper bag limit retention restrictions for the captains and crew of for-hire vessels (i.e., allowing the captains and crew to possess bag limits for all snapper-grouper species with allowable bag limits) could potentially increase the profits of for-hire vessels. These extra bag limits could be used as part of crew compensation, which would lower overall cost, or as a marketing tool to attract additional angler trips, which could bring in additional revenues. It is likely, however, that profit increases will be relatively minimal because of the small number of additional fish that could be kept if the retention restriction were removed. The total extra fish in a year that will result from allowing the captains and crew of for-hire vessels to keep bag limits is estimated to be about 51 fish on all charter trips and 138 fish on all headboat trips. From an enforcement perspective, this action will reduce confusion regarding which snapper-grouper species may be retained by the captains and crew of for-hire vessels.

Modifying the FMP framework procedure has no direct effects on commercial and for-hire vessel profits. This modification will allow for faster implementation of changes in the ABCs, ACLs, and ACTs for any snapper-grouper species based on the most

recent stock assessment. The effects of those changes will be analyzed once they are considered by the South Atlantic Council.

Removing blue runner from the FMP will leave this species relatively unregulated in the South Atlantic EEZ, where 24 percent of the landings occurred from 2005-2011. As a result, commercial vessels could harvest as many blue runner as they can, using whatever gear is most efficient for their operations. In principle, therefore, this action can be expected to result in overall profit increases to commercial vessels in the short term. Historically, however, blue runner has not been a major species targeted or landed by commercial snapper-grouper or coastal migratory pelagic vessels. During 2007-2011, revenues from blue runner accounted for an average of about 5 percent of total revenues generated by snapper-grouper commercial vessels that landed at least 1 lb (0.45 kg) of blue runner. These vessels will generate additional profits mainly if they increase their effort in harvesting blue runner. This will require some changes in their harvesting strategies that may only increase fishing costs. Many vessel operators may have deemed this cost increase not worth expending, as partly evidenced by the relatively small share that sales of blue runner contribute to total vessel revenues.

The case with commercial vessels targeting mainly Spanish

or king mackerel is different from that with vessels mainly dependent on snapper-grouper species. Under the no action alternative, a commercial snapper-grouper permit is required to possess and land blue runner. In addition, allowable gear types for harvesting any snapper-grouper species exclude gillnets, which are a gear type used in harvesting king and Spanish mackerel. Vessels which harvest king or Spanish mackerel, but do not possess a commercial snapper-grouper permit, must discard their catches of blue runner; or, even if they have the necessary commercial snapper-grouper permit, they may not use gillnets to harvest blue runner along with king and Spanish mackerel. For commercial vessels landing at least 1 lb (0.45 kg) of Spanish mackerel and 1 lb (0.45 kg) of blue runner, revenues from blue runner were about 10 percent of revenues from Spanish mackerel in 2007-2011; and for commercial vessels landing at least 1 lb (0.45 kg) of king mackerel and 1 lb (0.45 kg) of blue runner, revenues from blue runner were about 5 percent of revenues from king mackerel in 2007-2011. Removing blue runner from the FMP will allow these vessels to legally maintain their revenues and profits at current levels. However, some of these vessels' revenues may be forgone if Florida extends its gillnet ban into the EEZ.

Similar to commercial vessels, for-hire vessels will, in

principle, benefit from removing blue runner from the FMP. These vessels may take as many trips targeting blue runner as they can. However, charter vessels and headboats accounted for only 2.4 percent and 2.5 percent, respectively, of total recreational landings of blue runner during 2007-2011. In addition, there is no record of target trips for blue runner by charter vessels, and target trips for blue runner by headboats are unknown. Given this information on landings and target trips, removing blue runner from the FMP will likely have minimal effects on the profits of for-hire vessels.

The long-term effects of removing blue runner from the FMP on commercial and for-hire vessel profits depend on whether the harvest of blue runner is sustainable in the absence of Federal management of the species. Should blue runner undergo overfishing or become overfished, commercial and for-hire vessel catches of blue runner would decline and so would their profits. However, it should be noted that about 99 percent of blue runner are caught off Florida, so with blue runner being removed from the FMP, Florida could extend its fishing regulations into the EEZ. This could allow for continued sustainable management of the species. In addition, the South Atlantic Council expressed its intention to continue monitoring trends and landings of blue runner for possible future management actions affecting the

species, should the need arise.

The following discussion analyzes the alternatives that were not preferred by the South Atlantic Council, or alternatives for which the South Atlantic Council chose the no action alternative.

Two alternatives, including the preferred alternative, were considered for extending the South Atlantic Council's jurisdictional authority for management of Nassau grouper. The only other alternative is the no action alternative. The South Atlantic Council decided two alternatives were sufficient, since the Secretary of Commerce has already designated the South Atlantic Council as the responsible fishery management council to manage Nassau grouper in the Gulf. These two alternatives are administrative in nature and therefore would have no direct effects on the profits of commercial and for-hire vessels.

Three alternatives, including the preferred alternative, were considered for modifying the crew size restriction for dual-permitted snapper-grouper vessels. The first alternative, the no action alternative, would maintain the commercial crew size limit of three persons. This alternative would have no effects on vessel profits, but it would not address safety issues particularly related to diving trips. The second alternative would remove entirely the commercial crew size limit

on dual-permitted snapper-grouper vessels. This alternative would afford vessel owners/operators more flexibility in selecting the optimal crew size for every fishing trip, and thus may be expected to result in higher profits than any of the other alternatives. However, this alternative would tend to complicate the enforcement of fishing rules that differentiate between a commercial and a for-hire fishing trip. Under the alternative, dual-permitted vessels could take a for-hire trip with every angler practically considered a crew member, and then sell their catch as if a commercial vessel trip was taken. In addition to being illegal, this practice could pose problems in tracking recreational versus commercial landings of snapper-grouper species for purposes of ACL monitoring. Moreover, accountability measures could be unduly imposed on one sector if sector ACLs could not be properly monitored.

Three alternatives, including the preferred alternative, were considered for modifying the bag limit restriction on snapper-grouper species for the captains and crew of permitted for-hire vessels. The first alternative, the no action alternative, would maintain the prohibition on captains and crew of for-hire vessels from retaining bag limit quantities of the following species: gag, black grouper, red grouper, scamp, red hind, rock hind, coney, graysby, yellowfin grouper, yellowmouth



grouper, yellowedge grouper, snowy grouper, misty grouper, vermilion snapper, sand tilefish, blueline tilefish, and golden tilefish. This alternative would not change the profits of for-hire vessels, but would also forgo any potential profit that could result from the preferred alternative. The second alternative would establish a bag limit of zero for the captains and crew of permitted for-hire vessels for all species included in the FMP. Under this alternative, captains and crew of for-hire vessels would tend to forgo annually about 275 fish in charter trips, and 4,291 fish in headboat trips. If these fish were used as part of crew compensation, losing them would increase the cost of fishing; if these fish were used as a marketing tool to attract additional angler trips, those trips and associated revenues would likely not occur in the future. There is, therefore, a substantial likelihood that this alternative would adversely affect the profits of for-hire vessels, although the magnitude of effects would be relatively small.

Two alternatives, including the preferred alternative, were considered for modifying the FMP framework procedure. The only other alternative is the no action alternative. These two alternatives are administrative in nature and therefore would have no direct effects on the profits of commercial and for-hire

vessels. Only one alternative was considered by the Council that would meet the purpose of this amendment and at same time address the concerns raised by NOAA General Counsel (NOAA GC). The Council had initially proposed amending the framework procedure to allow for adjustments to ACLs via publication of a notice in the Federal Register. However, NOAA GC advised the Council that such a process would not meet current legal requirements and NMFS would likely disapprove it. Subsequently, the Council revised the alternative to incorporate NOAA GC suggestions.

Three alternatives, including the preferred alternative, were considered for modifying the placement of blue runner in a fishery management unit and/or modifying management measures for blue runner. The first alternative, the no action alternative, would have no effect on the profits of commercial and for-hire vessels in the snapper-grouper fishery. However, commercial vessels in the coastal migratory pelagics fishery that do not possess a commercial snapper-grouper permit would have to discard their catches of blue runner unless they secure the necessary permit. Without the necessary permit, they would experience revenue and profit reductions from discarding blue runner. If they wanted to continue their practice of harvesting and selling blue runner, they would have to purchase a

commercial snapper-grouper permit. Their cost would increase especially because the commercial snapper-grouper permit is under a limited access program, and the likely purchase price of a commercial snapper-grouper permit would be substantially higher than the administrative cost of securing an open access permit or renewing a commercial snapper-grouper permit. The second alternative would retain blue runner in the FMP, but would allow commercial harvest and sale of blue runner for vessels with a South Atlantic commercial Spanish mackerel permit. In addition, gillnets would be an allowable gear in the snapper-grouper fishery, although only for harvesting blue runner. This alternative would tend to maintain the current profitability of commercial vessels, especially in the coastal migratory pelagics fishery as these vessels would be allowed to harvest and sell blue runner without incurring additional costs through the purchase of commercial snapper-grouper permits. The third alternative would retain blue runner in the FMP, but would exempt the species from the commercial snapper-grouper permit requirement for purchase, harvest, and sale of snapper or grouper. This alternative would have the same effects on the profits of commercial vessels as the second alternative.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Headboat, Reporting and recordkeeping requirements, South Atlantic.

Dated: December 20, 2013

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Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
performing the functions and duties of the  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.1, paragraph (d), Table 1, the entry for "FMP for the Snapper-Grouper Fishery of the South Atlantic Region" is revised and footnote 6 is added to read as follows:

§ 622.1 Purpose and scope.

\* \* \* \* \*

(d) \* \* \*

Table 1--FMPs Implemented Under Part 622

FMP title	Responsible fishery management council(s)	Geographical area
* * * * *		
FMP for the Snapper-Grouper Fishery of the South Atlantic Region	SAFMC	South Atlantic <sup>6</sup>
* * * * *		

\* \* \* \* \*

<sup>6</sup> Nassau grouper in the South Atlantic EEZ and the Gulf EEZ are managed under the FMP.

3. In § 622.2, the definition for "Charter vessel" is revised to read as follows:

§ 622.2 Definitions and acronyms.

\* \* \* \* \*

Charter vessel means a vessel less than 100 gross tons (90.8 mt) that is subject to the requirements of the USCG to carry six or fewer passengers for hire and that engages in charter fishing at any time during the calendar year. A charter vessel with a commercial permit, as required under § 622.4(a)(2), is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew, except for a charter vessel with a commercial vessel permit for Gulf reef fish or South Atlantic snapper-grouper. A charter vessel that has a charter vessel permit for Gulf reef fish and a commercial vessel permit for Gulf reef fish or a charter vessel permit for South Atlantic snapper-grouper and a commercial permit for South Atlantic snapper-grouper (either a South Atlantic snapper-grouper unlimited permit or a 225-lb (102.1-kg) trip limited permit for South Atlantic snapper-grouper) is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than four persons aboard, including operator and crew. A charter vessel that has a charter vessel permit for Gulf reef fish, a commercial vessel permit for Gulf reef fish, and a valid

Certificate of Inspection (COI) issued by the USCG to carry passengers for hire will not be considered to be operating as a charter vessel provided--

(1) It is not carrying a passenger who pays a fee; and

(2) When underway for more than 12 hours, that vessel meets, but does not exceed the minimum manning requirements outlined in its COI for vessels underway over 12 hours; or when underway for not more than 12 hours, that vessel meets the minimum manning requirements outlined in its COI for vessels underway for not more than 12-hours (if any), and does not exceed the minimum manning requirements outlined in its COI for vessels that are underway for more than 12 hours.

\* \* \* \* \*

4. In § 622.33, a sentence is added at the end of paragraph (a) and paragraph (c) is removed and reserved.

The addition reads as follows:

§ 622.33 Prohibited species.

(a) \* \* \* (Note: Nassau grouper in the Gulf EEZ may not be harvested or possessed, as specified in § 622.181(b)(1).)

\* \* \* \* \*

5. In § 622.38, paragraph (b)(2) is revised to read as follows:

§ 622.38 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(2) Groupers, combined, excluding goliath grouper--4 per person per day, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day, or 2 gag per person per day.

However, no grouper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero. (Note: Nassau grouper in the Gulf EEZ may not be harvested or possessed, as specified in § 622.181(b)(4).)

\* \* \* \* \*

6. In § 622.181, paragraph (b)(1) is revised and paragraph (b)(4) is added to read as follows:

§ 622.181 Prohibited and limited-harvest species.

\* \* \* \* \*

(b) \* \* \*

(1) Goliath grouper may not be harvested or possessed in the South Atlantic EEZ. Goliath grouper taken in the South Atlantic EEZ incidentally by hook-and-line must be released immediately by cutting the line without removing the fish from the water.

\* \* \* \* \*

(4) Nassau grouper may not be harvested or possessed in the



South Atlantic EEZ or the Gulf EEZ. Nassau grouper taken in the South Atlantic EEZ or the Gulf EEZ incidentally by hook-and-line must be released immediately by cutting the line without removing the fish from the water.

\* \* \* \* \*

7. In § 622.187, paragraphs (b)(2), (b)(5), and (b)(8) are revised to read as follows:

§ 622.187 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(2) Grouper and tilefish, combined--3. Within the 3-fish aggregate bag limit:

(i) No more than one fish may be gag or black grouper, combined;

(ii) No more than one fish per vessel may be a snowy grouper;

(iii) No more than one fish may be a golden tilefish; and

(iv) No goliath grouper or Nassau grouper may be retained.

\* \* \* \* \*

(5) Vermilion snapper--5.

\* \* \* \* \*

(8) South Atlantic snapper-grouper, combined--20. However, excluded from this 20-fish bag limit are tomtate, South Atlantic

snapper-grouper ecosystem component species (specified in Table 4 of Appendix A to part 622), and those specified in paragraphs (b) (1) through (7) and paragraphs (b) (9) and (10) of this section.

\* \* \* \* \*

§ 622.193 [Amended]

7. In § 622.193, paragraph (s) is removed and reserved.

8. In Appendix A to part 622, Table 4 is revised to read as follows:

Appendix A to part 622--Species Tables

\* \* \* \* \*

Table 4 of Appendix A to Part 622--South Atlantic Snapper-Grouper

Balistidae--Triggerfishes

Gray triggerfish, Balistes capriscus

Carangidae--Jacks

Bar jack, Caranx ruber

Greater amberjack, Seriola dumerili

Lesser amberjack, Seriola fasciata

Almaco jack, Seriola rivoliana

Banded rudderfish, Seriola zonata

Ephippidae--Spadefishes

Spadefish, Chaetodipterus faber

Haemulidae--Grunts

Margate, Haemulon album

Tomtate, Haemulon aurolineatum

Sailor's choice, Haemulon parrai

White grunt, Haemulon plumieri

Labridae--Wrasses

Hogfish, Lachnolaimus maximus

Lutjanidae--Snappers

Black snapper, Apsilus dentatus

Queen snapper, Etelis oculatus

Mutton snapper, Lutjanus analis

Blackfin snapper, Lutjanus buccanella

Red snapper, Lutjanus campechanus

Cubera snapper, Lutjanus cyanopterus

Gray snapper, Lutjanus griseus

Mahogany snapper, Lutjanus mahogoni

Dog snapper, Lutjanus jocu

Lane snapper, Lutjanus synagris

Silk snapper, Lutjanus vivanus

Yellowtail snapper, Ocyurus chrysurus

Vermilion snapper, Rhomboplites aurorubens

Malacanthidae--Tilefishes

Blueline tilefish, Caulolatilus microps

Golden tilefish, Lopholatilus chamaeleonticeps

Sand tilefish, Malacanthus plumieri

Percichthyidae--Temperate basses

Wreckfish, Polyprion americanus

Serranidae--Groupers

Rock hind, Epinephelus adscensionis

Graysby, Epinephelus cruentatus

Speckled hind, Epinephelus drummondhayi

Yellowedge grouper, Epinephelus flavolimbatus

Coney, Epinephelus fulvus

Red hind, Epinephelus guttatus

Goliath grouper, Epinephelus itajara

Red grouper, Epinephelus morio

Misty grouper, Epinephelus mystacinus

Warsaw grouper, Epinephelus nigritus

Snowy grouper, Epinephelus niveatus

Nassau grouper, Epinephelus striatus

Black grouper, Mycteroperca bonaci

Yellowmouth grouper, Mycteroperca interstitialis

Gag, Mycteroperca microlepis

Scamp, Mycteroperca phenax

Yellowfin grouper, Mycteroperca venenosa

Serranidae--Sea Basses

Black sea bass, Centropristis striata

Sparidae--Porgies

Jolthead porgy, Calamus bajonado

Saucereye porgy, Calamus calamus

Whitebone porgy, Calamus leucosteus

Knobbed porgy, Calamus nodosus

Red porgy, Pagrus pagrus

Scup, Stenotomus chrysops

The following species are designated as ecosystem component species:

Cottonwick, Haemulon melanurum

Bank sea bass, Centropristis ocyurus

Rock sea bass, Centropristis philadelphica

Longspine porgy, Stenotomus caprinus

Ocean triggerfish, Canthidermis sufflamen

Schoolmaster, Lutjanus apodus

\* \* \* \* \*

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