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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 150305220-5683-02]**

**RIN 0648-BE76**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Snapper-Grouper Fishery off the Southern Atlantic States; Regulatory  
Amendment 22**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Regulatory Amendment 22 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Regulatory Amendment 22), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule revises the annual catch limits (ACLs) for gag grouper (gag) and wreckfish and the directed commercial quota for gag, based upon revisions to the acceptable biological catch (ABC) and the optimum yield (OY) for gag and wreckfish. The purpose of this final rule is to help achieve OY and prevent overfishing of gag and

wreckfish in the South Atlantic region while minimizing, to the extent practicable, adverse social and economic effects to the snapper-grouper fishery.

**DATES:** This rule is effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*], except for the amendments to §§ 622.190(b) and 622.193(r) (1) which are effective [*insert date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** Electronic copies of Regulatory Amendment 22, which includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/s\\_atl/sg/2015/reg\\_am22/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2015/reg_am22/index.html).

**FOR FURTHER INFORMATION CONTACT:** Mary Janine Vara, telephone: 727-824-5305, e-mail: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Gag and wreckfish are in the snapper-grouper fishery and are managed under the FMP. The FMP was prepared by the 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 June 4, 2015, NMFS published a proposed rule for Regulatory Amendment 22 and requested public comment through July 6, 2015 (80 FR 31880). The proposed rule and Regulatory Amendment 22 set forth

the rationale for the actions contained in this final rule. A summary of the actions implemented by Regulatory Amendment 22 and this final rule is provided below.

### **Management Measures Contained in this Final Rule**

This final rule revises the commercial and recreational ACLs and directed commercial quotas for gag for the 2015 through the 2019 fishing years and subsequent fishing years, and revises the commercial and recreational ACLs for wreckfish for the 2015 through the 2020 fishing years and subsequent fishing years.

### **Comments and Responses**

NMFS received a total of six unique comment submissions (some containing several comments) from three individuals, two fishing associations, and one Federal agency on Regulatory Amendment 22 and the proposed rule. Two comments were supportive of the actions contained in the regulatory amendment and proposed rule, one comment stated the commenter had no comments, and three of the comments expressed concerns regarding red snapper regulations, venting fish, fishery closures, sector allocations, tag programs, reporting requirements, and changing the Marine Recreational Information Program on accuracy and reliability; NMFS determined these comments were beyond the scope of the proposed rule and, therefore, they have not been addressed in this final rule. A summary of the comments relevant to Regulatory Amendment 22 and the proposed rule and NMFS's

responses are included below.

*Comment 1:* One commenter questioned whether the 2012, 2013, and 2014 catch years were included in the gag stock assessment, and asked why the recreational ACL will be lowered when the recreational sector caught only a percentage of the recreational ACL during those 3 years.

*Response:* The stock assessment for gag was initially conducted in 2006 and then updated in 2014 using data through 2012, and the recreational ACL is changing because of that stock assessment. Based on that stock assessment, the Council's Scientific and Statistical Committee (SSC) recommended new ABC levels for gag. This final rule sets the total ACL equal to 95 percent of the SSC's recommended ABC. The ABC and total ACL for gag will initially decrease from 2014 levels but will gradually increase after 2015 as the biomass increases, and will exceed 2014 levels in 2018. The sector allocations of 51 percent commercial and 49 percent recreational that were established in Amendment 16 to the FMP (74 FR 30964, June 29, 2009) are applied to the total ACL to determine each sector's ACL. Thus, the recreational ACL is decreased because the ABC and total ACL are decreased. NMFS determined that Regulatory Amendment 22 is based on the best scientific information available.

**Classification**

The NMFS Regional Administrator, Southeast Region, has determined that this final rule is necessary for the conservation and

management of South Atlantic gag and wreckfish and is consistent with Regulatory Amendment 22, 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.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. No changes to the final rule were made in response to public comments. As a result, a final regulatory flexibility analysis was not required and none was prepared.

The NOAA Assistant Administrator for Fisheries (AA) finds good cause under 5 U.S.C. 553(d) (3) to waive the 30-day delay in effectiveness for the commercial ACLs (commercial quotas) for wreckfish contained at §§ 622.190(b) and 622.193(r) (1) in this final rule. The final rule increases the commercial ACLs for wreckfish in the South Atlantic exclusive economic zone (EEZ) to help achieve OY and prevent overfishing of wreckfish, while minimizing adverse social

and economic effects on wreckfish. Implementing these increased commercial ACLs immediately provides timely opportunity for commercial wreckfish fishermen to achieve OY for the fishery, thereby helping to achieve the intent of this final rule.

In addition, eliminating the 30-day delay in effectiveness will allow fishermen to access wreckfish during the summer when weather and sea conditions are most favorable for harvest. Wreckfish are taken far offshore and in deep water. Therefore, to enhance safety-at-sea, implementing the opportunity for commercial wreckfish fishermen to continue fishing right away would mean that fishermen will not need to fish later in the fishing year when weather can be poor, which is more likely to happen if these ACLs are implemented with a 30-day delay in effectiveness.

**List of Subjects in 50 CFR Part 622**

Annual catch limits, Fisheries, Fishing, Gag, Quotas, South atlantic, Wreckfish.

Dated: August 7, 2015.

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Samuel D. Rauch III,  
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 § 622.190, the last sentence in the introductory text of paragraph (a), and paragraphs (a) (7) and (b), are revised to read as follows:

**§ 622.190 Quotas.**

\* \* \* \* \*

(a) \* \* \* The quotas are in gutted weight, that is eviscerated but otherwise whole, except for the quotas in paragraphs (a) (4) through (7) of this section which are in both gutted weight and round weight.

\* \* \* \* \*

(7) *Gag*--(i) For the 2015 fishing year--295,459 lb (134,018 kg), gutted weight; 348,642 lb (158,141 kg), round weight.

(ii) For the 2016 fishing year--297,882 lb (135,117 kg), gutted weight; 351,501 (159,438 kg), round weight.

(iii) For the 2017 fishing year--318,231 lb (144,347 kg), gutted weight; 375,513 lb (170,330 kg), round weight.

(iv) For the 2018 fishing year--335,188 lb (152,039 kg), gutted weight; 395,522 lb (179,406 kg), round weight.

(v) For the 2019 and subsequent fishing years--347,301 lb (157,533 kg), gutted weight; 409,816 lb (185,889 kg), round weight.

\* \* \* \* \*

(b) *Wreckfish*. (1) The quotas for wreckfish apply to wreckfish shareholders, or their employees, contractors, or agents. The quotas are given round weight. See § 622.172 for information on the wreckfish shareholder under the ITQ system.

(i) For the 2015 fishing year--411,350 lb (186,585 kg).

(ii) For the 2016 fishing year--402,515 (182,578 kg).

(iii) For the 2017 fishing year--393,490 lb (178,484 kg).

(iv) For the 2018 fishing year--385,985 lb (175,080 kg).

(v) For the 2019 fishing year--376,960 lb (170,986 kg).

(vi) For the 2020 and subsequent fishing years--369,645 lb (167,668 kg).

(2) [Reserved]

\* \* \* \* \*

3. In § 622.193, paragraphs (c) and (r) are revised to read as follows:

**§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs),**

**and accountability measures (AMs) .**

\* \* \* \* \*

(c) *Gag--(1) Commercial sector.* If commercial landings, as estimated by the SRD, reach or are projected to reach the applicable directed commercial quota, specified in § 622.190(a)(7), the AA will file a notification with the Office of the Federal Register to close the commercial sector for gag for the remainder of the fishing year. The commercial ACL for gag is 322,677 lb (146,364 kg), gutted weight, 380,759 lb (172,709 kg), round weight, for 2015; 325,100 lb (147,463 kg), gutted weight, 383,618 lb (174,006 kg), round weight, for 2016; 345,449 lb (197,516 kg), gutted weight, 407,630 lb (184,898 kg), round weight, for 2017; 362,406 lb (164,385 kg), gutted weight, 427,639 lb (193,974 kg), round weight, for 2018; and 374,519 lb (169,879 kg), gutted weight, 441,932 lb (200,457 kg), round weight, for 2019 and subsequent fishing years.

(2) *Recreational sector.* (i) If recreational landings, as estimated by the SRD, reach or are projected to reach the applicable recreational ACL, specified in paragraph (c)(2)(iv) of this section, and gag are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to close the gag recreational sector for the remainder of the fishing year. On and after the effective date of such notification, the bag and possession limits for gag in or from

the South Atlantic EEZ are zero. These bag and possession limits also apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(ii) Without regard to overfished status, if gag recreational landings exceed the recreational ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the recreational ACL for that fishing year by the amount of the overage.

(iii) Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

(iv) The recreational ACL for gag is 310,023 lb (148,025 kg), gutted weight, 365,827 (165,936 kg), round weight, for 2015; 312,351 lb (149,137 kg), gutted weight, 368,574 lb (175,981 kg), round weight, for 2016; 331,902 lb (158,472 kg), gutted weight, 391,644 lb (186,997 kg), round weight, for 2017; 348,194 lb (166,251 kg), gutted weight, 410,869 lb (196,176 kg), round weight, for 2018; and 359,832 lb (171,807 kg), gutted weight, 424,602 lb (202,733 kg), round weight, for 2019 and subsequent fishing years.

\* \* \* \* \*

(r) *Wreckfish*--(1) *Commercial sector*. The ITQ program for

wreckfish in the South Atlantic serves as the accountability measure for commercial wreckfish. The commercial ACL for wreckfish is equal to the applicable commercial quota specified in § 622.190(b).

(2) *Recreational sector.* (i) If recreational landings for wreckfish, as estimated by the SRD, exceed the recreational ACL specified in paragraph (r)(2)(ii) of this section, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational season will also not be reduced during the following fishing year if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is unnecessary.

(ii) The recreational ACL for wreckfish is 21,650 (9,820 kg), round weight, for 2015; 21,185 lb (9,609 kg), round weight, for 2016; 20,710 lb (9,394 kg), round weight, for 2017; 20,315 lb (9,215 kg), round weight, for 2018; 19,840 lb (8,999 kg), round weight, for 2019; and 19,455 lb (8,825 kg), round weight, for 2020 and subsequent fishing years.

\* \* \* \* \*

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