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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 170828813-7813-01]**

**RIN 0648-BH15**

**Snapper-Grouper Fishery of the South Atlantic Region;  
Temporary Measures to Reduce Overfishing of Golden Tilefish**

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

**ACTION:** Proposed temporary rule; request for comments.

**SUMMARY:** This proposed temporary rule would implement interim measures to reduce overfishing of golden tilefish in Federal waters of the South Atlantic. Beginning in 2018, this temporary rule would reduce the total annual catch limit (ACL), the commercial and recreational sector ACLs, and the quotas for the hook-and-line and longline components of the commercial sector. This proposed temporary rule would be effective for 180 days, although NMFS may extend the temporary rule's effectiveness for a maximum of an additional 186 days. The intended effect of this proposed temporary rule is to reduce overfishing of golden tilefish while the South Atlantic Fishery Management Council develops long-term management measures.

**DATES:** Written comments must be received by [*insert date 15 days after date of publication in the Federal Register*].

**ADDRESSES:** You may submit comments on the proposed temporary rule, identified by "NOAA-NMFS-2017-0111," by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal:

*http://www.regulations.gov. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0111 click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.*

- *Mail:* Submit written comments to Karla Gore, 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 *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 required fields if you wish to remain anonymous).

Electronic copies of an environmental assessment (EA) supporting these interim measures may be obtained from the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/s\\_atl/sg/2017/golden\\_tilefish\\_interim/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2017/golden_tilefish_interim/index.html). The EA includes a Regulatory Flexibility Act (RFA) analysis.

**FOR FURTHER INFORMATION CONTACT:** Karla Gore, NMFS Southeast Regional Office, telephone: 727-551-5753, or email: [karla.gore@noaa.gov](mailto:karla.gore@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery in the South Atlantic region is managed under the Fishery Management Plan for Snapper-Grouper Fishery of the South Atlantic Region (FMP) and includes golden tilefish, along with other snapper-grouper species. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

### **Background**

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from

federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

Golden tilefish are harvested by both commercial and recreational fishermen throughout the South Atlantic, although total landings are dominated by the commercial sector using bottom longline gear. Golden tilefish are also harvested commercially using hook-and-line gear, while the recreational sector harvests at a much lower level than either component of the commercial sector. Using data through 2010, the golden tilefish stock was assessed in 2011 through the Southeast Data, Assessment, and Review (SEDAR) stock assessment process (SEDAR 25). SEDAR 25 results indicated that golden tilefish was not subject to overfishing, and was not overfished. Based upon the results of SEDAR 25, Amendment 18B to the FMP and its implementing final rule allocated the total ACL among the sectors and commercial gear components, and specified the ACLs based upon the allocation percentages, among other actions (78 FR 23858, April 23, 2013). For golden tilefish, 97 percent of the total ACL is allocated to the commercial sector, with 25 percent of the commercial ACL available for harvest by

the hook-and-line component and 75 percent available for the longline component. The recreational sector is allocated three percent of the total ACL.

In April 2016, an update to SEDAR 25 was completed for golden tilefish using data through 2014 (SEDAR 25 Update 2016). The SEDAR 25 Update 2016 indicated that golden tilefish is undergoing overfishing but is not overfished. NMFS notified the Council of the updated stock status determination in a letter dated January 4, 2017. As mandated by the Magnuson-Stevens Act, NMFS and the Council must prepare and implement a plan amendment and regulations to end overfishing of golden tilefish.

In May 2016, the Council's Scientific and Statistical Committee (SSC) reviewed the SEDAR 25 Update 2016 and provided fishing level recommendations for the stock. The SSC determined that the SEDAR 25 Update 2016 was based on the best scientific information available. The Council received the results of the SEDAR 25 Update 2016 and the SSC recommendations in June 2016, and Council members stated their concern over the large differences in biological benchmarks between SEDAR 25 and the SEDAR 25 Update 2016 and the much lower fishing level recommendations in the SEDAR 25 Update 2016. The Council subsequently requested that the SSC review the SEDAR 25

Update 2016, primarily as a result of their concerns about the socio-economic consequences of the large catch level reductions suggested by the SEDAR 25 Update 2016, and the large buffer recommended between the acceptable biological catch (ABC) and the overfishing limit.

In May 2017, the SEDAR Steering Committee considered a Council request for another golden tilefish update assessment, which was intended to address the SEDAR 25 Update 2016 concerns raised by the Council and their SSC during their earlier reviews. While an update assessment could not be included in the SEDAR schedule for 2017, the Southeast Fisheries Science Center agreed to revise the SEDAR 25 Update 2016 to address these Council concerns.

The revised stock assessment for golden tilefish will be reviewed by the SSC at its October 2017 meeting, and the Council is scheduled to discuss the revised assessment results at their December 2017 meeting. The results of the revised assessment will be used to develop Amendment 45 to the FMP, which is intended to end overfishing of golden tilefish with long-term management measures.

The revised ABC recommendations from the Council's SSC will not be available until late October 2017, which provides insufficient time for the Council and NMFS to develop and implement management measures, respectively, to

end overfishing of golden tilefish in time for the start of the 2018 fishing year on January 1, 2018. Therefore, in a letter to NMFS dated June 27, 2017, the Council requested that NMFS implement interim measures to immediately reduce overfishing of golden tilefish while long-term measures can be developed through Amendment 45. For 2018, the Council recommended setting the total ACL at the projected yield at 75 percent of the yield produced by the fishing mortality rate at maximum sustainable yield, which would be 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight. The interim measures in a final temporary rule would be effective for 180 days after the publication date in the *Federal Register* and may be extended for an additional 186 days. If NMFS does not extend the proposed interim measures beyond 180 days, the total and sector ACLs, as well as the quotas for the hook-and-line and longline components of the commercial sector would revert to their current values.

**Management Measures Contained in This Proposed Temporary Rule**

During the effectiveness of this proposed temporary rule in 2018, the total ACL for golden tilefish would be 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight. This proposed temporary rule would also

specify the commercial and recreational sector ACLs and component commercial quotas using the existing sector allocations of 97 percent commercial and 3 percent recreational, as well as 25 percent of the commercial ACL available for the hook-and-line component and 75 percent available for the longline component. Therefore, during the effectiveness of this proposed temporary rule in 2018, the commercial ACL would be 313,310 lb (142,115 kg), gutted weight. The commercial quota for the hook-and-line component would be 78,328 lb (35,529 kg), gutted weight, and the commercial quota for the longline component would be 234,982 lb (106,586 kg), gutted weight. The recreational ACL during the effectiveness of this proposed temporary rule in 2018 would be 2,187 fish, which is equivalent to 9,690 lb (4,395 kg), gutted weight.

The temporary reductions in the ACLs could result in earlier in-season closures particularly for the commercial sector. The earlier closures would likely result in short-term adverse socio-economic effects. However, the temporary ACLs and quotas are expected to minimize future adverse socio-economic effects by potentially reducing future reductions in the ACLs and quotas required to end overfishing through Amendment 45. The temporary ACLs and quotas would also provide biological benefits to the golden

tilefish stock by reducing the current levels of fishing mortality.

### **Future Action**

NMFS has determined that this proposed temporary rule is necessary to reduce overfishing of golden tilefish in the South Atlantic. NMFS will consider all public comments received on this proposed temporary rule in determining whether to proceed with a final temporary rule and, if so, whether any revisions to the final temporary rule would be appropriate. If NMFS issues a final temporary rule, it would be effective for not more than 180 days after the date of publication in the *Federal Register*, as authorized by section 305(c) of the Magnuson-Stevens Act. The final temporary rule could be extended if NMFS publishes a temporary rule extension in the *Federal Register* for up to an additional 186 days, provided that the public has had an opportunity to comment on the rule, such as through this proposed temporary rule.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed temporary rule is consistent with the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

NMFS prepared an initial regulatory flexibility analysis (IRFA) for this proposed temporary rule, as required by section 603 of the RFA, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed temporary rule, if implemented, would have on small entities. A description of this proposed temporary rule, why it is being considered, and the objectives of, and legal basis for this proposed temporary rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from the NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this 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 proposed temporary rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

This proposed temporary rule, if implemented, would be expected to directly affect all commercial vessels that harvest South Atlantic golden tilefish under the FMP. The

change in recreational ACL in this proposed temporary rule would not directly apply to or regulate charter vessel and headboat (for-hire) businesses. Any impact to the profitability or competitiveness of for-hire fishing businesses would be the result of changes in for-hire angler demand and would therefore be indirect in nature. The RFA does not consider recreational anglers, who would be directly affected by this proposed temporary rule, to be small entities, so they are outside the scope of this analysis and only the effects on commercial vessels were analyzed. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

As of August 10, 2017, there were 544 vessels with valid or renewable Federal South Atlantic snapper-grouper unlimited permits, 114 valid or renewable 225-lb trip limited permits, and 22 golden tilefish longline endorsements. The golden tilefish longline endorsement

system started in 2013. From 2012 through 2016, an average of 23 longline vessels per year landed golden tilefish in the South Atlantic. These vessels, combined, averaged 255 trips per year in the South Atlantic on which golden tilefish were landed, and 182 trips taken in the South Atlantic on which no golden tilefish were harvested or in areas outside the South Atlantic. The average annual total dockside revenue (2016 dollars) for these vessels combined was approximately \$1.56 million from golden tilefish, \$0.10 million from other species co-harvested with golden tilefish (on the same trips), and \$0.43 million from trips in the South Atlantic on which no golden tilefish were harvested or in areas outside the South Atlantic. Total average annual revenue from all species harvested by longline vessels harvesting golden tilefish in the South Atlantic was approximately \$2.10 million, or approximately \$92,000 per vessel. Longline vessels generated approximately 74 percent of their total revenues from golden tilefish. For the same period, an average of 82 vessels per year landed golden tilefish using other gear types (mostly hook-and-line) in the South Atlantic. These vessels, combined, averaged 483 trips per year in the South Atlantic on which golden tilefish were landed, and 2,862 trips taken in the South Atlantic on which no golden

tilefish were harvested or in areas outside the South Atlantic. The average annual total dockside revenue (2016 dollars) for these 82 vessels was approximately \$0.36 million from golden tilefish, \$0.66 million from other species co-harvested with golden tilefish (on the same trips in the South Atlantic), and \$4.13 million from trips in the South Atlantic on which no golden tilefish were harvested or in areas outside the South Atlantic. The total average annual revenue from all species harvested by these 82 vessels was approximately \$5.16 million, or approximately \$62,000 per vessel. Approximately seven percent of these vessels' total revenues came from golden tilefish. Based on the foregoing revenue information, all commercial vessels using longlines or other gear types (mostly hook-and-line) affected by the proposed temporary rule may be assumed to be small entities.

Because all entities expected to be directly affected by this proposed temporary rule are assumed to be small entities, NMFS has determined that this proposed temporary rule would affect a substantial number of small entities. For the same reason, the issue of disproportionate effects on small versus large entities does not arise in the present case.

Reducing the South Atlantic stock ACL for golden tilefish would reduce the specific ACLs for the commercial and recreational sectors. These ACL reductions would result in ex-vessel revenue losses of approximately \$229,000 for hook-and-line vessels and \$600,000 for longline vessels over the entire 2018 fishing year. Ex-vessel revenue reductions for the commercial sector would result in profit reductions, although this is more likely for longline vessels as they are more dependent on golden tilefish than hook-and-line vessels.

The following discusses the alternatives that were not selected as preferred by the Council.

Four alternatives, including the preferred alternative as described above, were considered for reducing the stock and sector ACLs for South Atlantic golden tilefish. The first alternative, the no action alternative, would maintain the current economic benefits to all participants in the South Atlantic golden tilefish component of the snapper-grouper fishery. This alternative, however, would not address the need to curtail continued overfishing of the stock, very likely leading into the adoption of more stringent measures in the near future. The second alternative would reduce the ACLs more than the preferred alternative, and thus would be expected to result in larger

revenue (and profit) losses to the commercial sector. The third alternative would establish higher ACLs than the preferred alternative. Although this alternative would result in lower revenue losses to the commercial sector, the ACLs it would establish may not be low enough to address the overfishing status of the stock. To an extent, this alternative would leave open a greater likelihood of implementing more stringent measures when more long-term management actions are implemented in Amendment 45.

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

Annual catch limit, Fisheries, Fishing, Golden tilefish, South Atlantic.

Dated: October 23, 2017.

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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 proposed to be 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, suspend paragraphs (a)(2)(i) through (iii) and add paragraphs (a)(2)(iv) through (vi) to read as follows:

**§ 622.190 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

(iv) *Hook-and-line and longline components combined--*  
313,310 lb (142,115 kg).

(v) *Hook-and-line component--*78,328 lb (35,529 kg).

(vi) *Longline component--*234,982 lb (106,586 kg).

\* \* \* \* \*

3. In § 622.193, suspend paragraphs (a)(1)(i), (ii), and (iii), and (a)(2), and add paragraphs (a)(1)(iv), (v), and (vi), and (a)(3) to read as follows:

**§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

(a) \* \* \*

(1) \* \* \*

(iv) *Hook-and-line component*. If commercial landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(v), the AA will file a notification with the Office of the Federal Register to close the hook-and-line component of the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(v) *Longline component*. If commercial landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(vi), the AA will file a notification with the Office of the Federal Register to close the longline component of the commercial sector for the remainder of the fishing year. After the commercial ACL for the longline component is reached or projected to be reached, golden tilefish may not be fished for or possessed by a vessel with a golden tilefish longline endorsement. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(vi) If commercial landings of golden tilefish, as estimated by the SRD, exceed the commercial ACL (including both the hook-and-line and longline component quotas) specified in § 622.190(a)(2)(iv), and the combined commercial and recreational ACL of 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight, is exceeded during the same fishing year, and golden tilefish 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 reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

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(3) *Recreational sector.* (i) If recreational landings of golden tilefish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 2,187 fish, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and

possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings of golden tilefish, as estimated by the SRD, exceed the recreational ACL, 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 recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

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