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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 181019966-9244-02]

RIN 0648-BI56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Abbreviated Framework Amendment 2

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in Abbreviated Framework Amendment 2 (Abbreviated Framework 2) 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 (Council). This final rule revises the commercial and recreational annual catch limits (ACLs) for vermilion snapper and black sea bass in the exclusive economic zone (EEZ) of the South Atlantic. The purpose of this final rule is to respond to the results of the latest stock assessments for the species and to help achieve optimum yield (OY) for vermilion snapper and black

sea bass. Additionally, this final rule serves to announce the length of the South Atlantic black sea bass recreational fishing season for the 2019-2020 fishing year. NMFS announces that the length of the recreational fishing season for black sea bass in the Council's jurisdiction of the EEZ of the South Atlantic will extend throughout the species' April 1, 2019, through March 31, 2020, recreational fishing year.

DATES: This final rule is effective *[insert date 30 days after date of publication in the **Federal Register]***. The black sea bass recreational season notification is effective from *[insert date of date of publication in the **Federal Register]***, until 12:01 a.m., local time, April 1, 2020, unless changed by subsequent notification in the **Federal Register**.

ADDRESSES: Electronic copies of Abbreviated Framework 2, which includes a Regulatory Flexibility Act (RFA) analysis and a regulatory impact review, may be obtained from *www.regulations.gov* or the Southeast Regional Office Web site at *https://www.fisheries.noaa.gov/action/abbreviated-framework-amendment-2-vermilion-snapper-and-black-sea-bass*.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS SERO, telephone: 727-824-5305, email: *Frank.Helies@noaa.gov*.

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

On February 19, 2019, NMFS published a proposed rule for Abbreviated Framework 2 and requested public comment (84 FR 4758). The proposed rule and Abbreviated Framework 2 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Abbreviated Framework 2 and implemented by this final rule is described below.

All weights described in this final rule are in round weight, unless otherwise specified.

In April 2018, Southeast Data, Assessment, and Review (SEDAR) standard stock assessments were completed for both South Atlantic vermilion snapper (SEDAR 55) and black sea bass (SEDAR 56). The Council's Scientific and Statistical Committee (SSC) reviewed both assessments at their May 2018 meeting, stated that they represented the best scientific information available, and provided the Council with

acceptable biological catch (ABC) recommendations for the two species. Based on the results of the SEDAR 55 and SEDAR 56, NMFS determined that neither species was overfished or undergoing overfishing.

Recreational landings of snapper-grouper, including vermilion snapper and black seas bass are monitored through the Marine Recreational Information Program (MRIP). NMFS notes that as of January 1, 2018, there was a change to MRIP and a change in the estimation of recreational fishing effort. As a result of the changes to MRIP, the NMFS Southeast Fisheries Science Center (SEFSC) revised the vermilion snapper and black sea bass stock assessments (SEDAR 55 and 56) using the newly calibrated MRIP data. The Council's SSC reviewed the revised stock assessments at their October 2018 and February 2019 meetings. However, the SSC has not provided new ABC recommendations to the Council based on the revised assessments, and the SSC continues to discuss how to incorporate the revised MRIP data into stock assessments.

Management Measures Contained in This Final Rule

This final rule revises the commercial and recreational ACLs for South Atlantic vermilion snapper and black sea bass based on updated information from stock assessments.

Vermilion snapper

The vermilion snapper ACL is allocated between the sectors into a current commercial ACL of 862,920 lb (391,414 kg) and a current recreational ACL of 406,080 lb (184,195 kg) that were set in Regulatory Amendment 18 to the FMP (78 FR 47574; September 5, 2013). The Council established the current sector allocations for vermilion snapper of 68 percent commercial and 32 percent recreational in Amendment 16 to the FMP (74 FR 30964; July 29, 2009). This final rule does not change these allocations.

Consistent with the results of SEDAR 55, and the ABC recommendations from the SSC subsequently accepted by the Council, this final rule increases the commercial and recreational ACLs for vermilion snapper. For the commercial sector, the ACL (commercial quota) is equally divided into two 6-month seasons of January through June and July through December each year.

This final rule will set each commercial seasonal quota at 483,658 lb (219,384 kg), gutted weight, 536,860 lb (243,516 kg) for the 2019 fishing year; 452,721 lb (205,351 kg), gutted weight, 502,520 lb (227,939 kg) for the 2020 fishing year; 431,279 lb (195,625 kg), gutted weight, 478,720 lb (217,144 kg) for the 2021 fishing year; 417,189

lb (189,234 kg), gutted weight, 463,080 lb (210,050 kg) for the 2022 fishing year; and 409,225 lb (185,621 kg), gutted weight, 454,240 lb (206,040 kg) for the 2023 and subsequent fishing years.

This final rule will set the recreational ACL at 455,207 lb (206,478 kg), gutted weight, 505,280 lb (229,191 kg) for the 2019 fishing year; 426,090 lb (193,271 kg), gutted weight, 472,960 lb (214,531 kg) for the 2020 fishing year; 405,910 lb (184,118 kg), gutted weight, 450,560 lb (204,552 kg) for the 2021 fishing year; 392,649 lb (178,103 kg), gutted weight, 435,840 lb (197,694 kg) for the 2022 fishing year; and 385,520 lb (174,869 kg), gutted weight, 427,520 lb (193,920 kg) for the 2023 and subsequent fishing years.

The vermilion snapper commercial sector has experienced in-season fishing closures every year since 2009, regardless of the amount of the commercial quota. If the catch rates of vermilion snapper in the commercial sector continue as expected, the revised seasonal quotas are still projected to result in an in-season closure during each of the two 6-month seasons as a result of the seasonal quotas being reached. However, the increase to the commercial ACL is expected to extend the commercial fishing season up to 48 days over the entire 2019 fishing year.

NMFS expects the projected increase in the number of days for the commercial season to then progressively decrease each year after 2019, corresponding with the annual declining ACL values. By 2023, the revised commercial ACL is expected to result in up to 5 additional fishing days. NMFS does not expect the revised recreational ACL to be reached, and expects that the recreational sector will remain open for the entire fishing year.

Black sea bass

The current black sea bass commercial and recreational ACLs were implemented in 2013 through Regulatory Amendment 19 to the FMP (78 FR 58249; September 23, 2013). The current commercial ACL is 755,274 lb (342,587 kg) and the recreational ACL is 1,001,176 lb (454,126 kg).

The ACLs are based on the sector allocation ratio developed by the Council for black sea bass (43 percent commercial and 57 percent recreational) as established in Amendment 13C to the FMP (71 FR 55096; October 23, 2006). This final rule does not change these allocations.

Consistent with the results of SEDAR 56 and the ABC recommendations from the SSC accepted by the Council, this final rule reduces the commercial and recreational ACLs for black sea bass. The commercial ACL will be 276,949 lb (125,622 kg), gutted weight, 326,800 lb (148,234 kg) for

the 2019 fishing year; 243,788 lb (110,580 kg), gutted weight, 287,670 lb (130,485 kg) for the 2020 fishing year; and 234,314 lb (106,283 kg), gutted weight, 276,490 lb (125,414 kg) for 2021 and subsequent fishing years.

Because the fishing year for the black sea bass recreational sector is from April 1 through March 31, the recreational ACLs are described as yearly combinations. The revised black sea bass recreational ACL will take effect during the 2019-2020 fishing year, which began on April 1, 2019. The current recreational ACLs that are effective for the 2018-2019 fishing year are 848,455 lb (384,853 kg), gutted weight, 1,001,177 lb (454,126 kg). The revised recreational ACLs are 367,119 lb (166,522 kg), gutted weight, 433,200 lb (196,496 kg) for the 2019-2020 fishing year; 323,161 lb (146,583 kg), gutted weight, 381,330 lb (172,968 kg) for the 2020-2021 fishing year; and 310,602 lb (140,887 kg), gutted weight, 366,510 lb (166,246 kg) for the 2021-2022 and subsequent fishing years.

Since 2015, black sea bass total landings have not exceeded 40 percent of the current combined commercial and recreational ACLs, and the last fishing season closures for the commercial and recreational sectors occurred in 2012 and 2011, respectively. Based on the projected future commercial landings of black sea bass for the 2019 fishing

year, NMFS does not expect the revised commercial ACL to be reached, and anticipates that the commercial sector will remain open for the entire fishing year. However, in the 2020 and 2021 fishing years, NMFS projects commercial in-season closures to occur during the month of November. The recreational sector has not experienced any recent fishing season closures as a result of reaching its ACL, and based on projected recreational landings compared to the revised ACL, NMFS does not expect the recreational ACL to be reached and expects that the recreational sector will remain open for the entire fishing year. More specifically, the length of 2019-2020 recreational fishing season is discussed later in this final rule.

Comments and Responses

NMFS received 21 comments during the public comment period on the proposed rule for Abbreviated Framework 2. The commenters included individuals as well as commercial and recreational fishers and commercial and recreational fishing organizations. The majority of comments supported the increase in the vermilion snapper ACLs, and comments both opposed and supported the reduction in the black sea bass ACLs. NMFS acknowledges the comments in favor of all or part of the actions in Abbreviated Framework 2 and the proposed rule, and agrees with them; they are not further

addressed below. Comments opposing the reduction in black sea bass ACLs and other comments that were similar and specifically relate to the actions in Abbreviated Framework 2 and the proposed rule were grouped together and are summarized and responded to below.

Comment 1: The black sea bass ACLs should not be reduced as the population is abundant. Additionally, there are historical issues with the black sea bass stock assessment, and a full benchmark assessment that addresses the recent changes to MRIP should be completed prior to making any changes to black sea bass ACLs.

Response: NMFS disagrees that the black sea bass ACLs should not be reduced. The latest stock assessment for South Atlantic black sea bass (SEDAR 56) was completed in April 2018. The Council's SSC reviewed the assessment, stated that the assessment represented the best scientific information available, and provided the Council with overfishing limits and ABC recommendations for the stock that result in the need to reduce black sea bass harvest levels. Although NMFS determined that black sea bass is not currently overfished or undergoing overfishing, SEDAR 56 demonstrated a smaller stock biomass than previously calculated in the SEDAR 25 update (2013) assessment. The Magnuson-Stevens Act requires all FMPs to contain ACLs that

prevent overfishing. The best scientific information available indicates the current ACLs for the black sea bass stock are at levels that pose a risk of overfishing; therefore, this final rule reduces the sector ACLs to levels that minimize that risk. The Council determined that setting the total ACL for black sea bass at the SSC's recommended ABC levels is expected to provide biological benefits to the black sea bass stock. While the reduced ACLs are consistent with the recommended ABC levels, they are not expected to immediately result in actual harvest limitations. However, the reduced ACLs may constrain future harvest and prevent overfishing if harvest levels increase in the future and closures of the fishing seasons become necessary.

The Council's SSC reviewed a revised version of SEDAR 56 that incorporated the changes to MRIP, but the SSC did not provide new catch level recommendations based on the revised assessment to the Council. NMFS has determined that Abbreviated Framework 2 and the ACLs included in this final rule are the best scientific information available. The black sea bass stock is tentatively scheduled to undergo a research track stock assessment in 2021. A research track stock assessment is similar to past benchmark assessments and would provide a comprehensive review of all available

data and assessment methods, with the potential to create new assessment models. Specific benchmark assessments will no longer occur starting in 2020.

Comment 2: NMFS should implement other management measures in place of the proposed black sea bass ACL reductions, such as reduced recreational bag limits, adjusted minimum size limits, and/or a spawning season closure. These other measures may be more effective in managing black sea bass harvest than ACL reductions.

Response: While the management measures suggested during the proposed rule comment period could be effective at slowing or even reducing black sea bass harvest, they would not replace the need for the reductions in the black sea bass commercial and recreational ACLs. As explained in the response to *Comment # 1*, SEDAR 56 demonstrated a smaller stock biomass than previously calculated in the 2013 stock assessment, and the SSC recommended a lower ABC to the Council. The Magnuson-Stevens Act requires all FMPs to contain ACLs that prevent overfishing, and the best scientific information available indicates the current ACLs for the black sea bass stock are at levels that pose a risk of overfishing; therefore, this final rule reduces the sector ACLs to levels that minimize that risk. In Abbreviated Framework 2, the Council only considered

actions to reduce the black sea bass ACLs to prevent overfishing of the stock in the South Atlantic. In the future, the Council could consider other measures, such as revisions to recreational bag limits, minimum size limits, and spawning season closures.

Comment 3: The proposed vermilion snapper ACLs should gradually increase over the next 5 years as opposed to immediately increasing the ACLs upon implementation of the final rule and then annually decreasing the ACLs until 2023.

Response: NMFS disagrees. The Council's SSC applied the Council's ABC control rule to the results of the latest vermilion snapper stock assessment (SEDAR 55). The vermilion snapper ACLs initially increase because the biomass of the stock is currently above levels that will produce the maximum sustainable yield (MSY). When the stock size is greater than the biomass that will produce MSY, it can be reduced to the MSY level. This is achieved by gradually reducing the ACLs over time, which will allow for fishing effort to reduce the stock biomass each year until the biomass level at MSY is reached in 2023.

Black Sea Bass Recreational Fishing Season Length for 2019-2020 Fishing Year

This final rule also serves to announce the South Atlantic recreational fishing season length for the 2019-2020 fishing year, based on the revised black sea bass recreational ACL implemented in this final rule.

The recreational fishing year for black sea bass is April 1 through March 31. Setting the length of recreational season for black sea bass is one of the AMs for the recreational sector, and was established in Regulatory Amendment 14 to the FMP (79 FR 66316, November 7, 2014). The season length AM for recreational black sea bass states that prior to the April 1 start of each recreational fishing year, NMFS projects the length of the upcoming recreational fishing season based on when NMFS projects the recreational ACL will be met and announces the recreational season end date in the **Federal Register** (50 CFR 622.193(e)(2)). The purpose of this AM is to have a more predictable recreational season length while still constraining harvest at or below the recreational ACL to protect the stock from experiencing adverse biological consequences. This year, as a result of delays in this rulemaking related to the recent lapse in appropriations for NMFS, the announcement for the current fishing year, via publication of this final rule, was not able to occur prior to April 1, 2019.

NMFS estimates that recreational landings for the 2019-2020 fishing year will be less than current ACL and less than the 2019-2020 recreational ACL implemented in this final rule for Abbreviated Framework 2. This recreational landings estimate is not connected to the overall timing of this fishing season announcement. To make this determination, NMFS compared landings in the last 3 fishing years to the recreational ACL for the 2019-2020 black sea bass fishing year of 367,119 lb (166,522 kg), gutted weight, 433,200 lb (196,496 kg), round weight. Landings in each of the past 3 fishing years have been below the 2019-2020 recreational ACL. Therefore, NMFS projects the recreational landings in the 2019-2020 fishing year to be less than the 2019-2020 recreational ACL. Accordingly, the recreational sector for black sea bass is not expected to close as a result of reaching its ACL, and the season end date for recreational fishing for black sea bass in the South Atlantic EEZ south of 35°15.9' N. lat. is March 31, 2020, the end of the current fishing year.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with the framework action, 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 (EO) 12866. This rule is not an EO 13771 regulatory action because this rule is not significant under EO 12866.

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.

NMFS notes that Abbreviated Framework 2 considered only one alternative to increase the ACLs for vermilion snapper and one alternative to reduce the ACLs for black sea bass. These alternatives are based on the Council SSC's recommendations, in response to the latest stock assessments for each species, in order to achieve OY and prevent overfishing the stocks.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments from the public or SBA's Chief Counsel

for Advocacy were received regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

As noted in the preamble, this final rule also serves to announce that for the 2019-2020 fishing year the recreational sector for South Atlantic black sea bass is not expected to close prior to March 31, 2020, as a result of the ACL reduction implemented through this final rule.

The action to announce the length of the black sea bass recreational fishing season responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement the notice of the recreational season length constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment is unnecessary. Such procedures are unnecessary, because the final rule to implement Regulatory Amendment 14 that established the AM to announce the length of the season (79 FR 66316, November 7, 2014) has already been subject to notice and comment, and all that remains is

to notify the public of the recreational season length. Because there is good cause to waive prior notice and public comment on the determination of the length of the fishing season, a regulatory flexibility analysis is not required for this determination and none has been prepared. In addition, the absence of a recreational closure and the fact that recreational anglers and for-hire vessels (charter vessels and headboats) are not considered business entities for RFA purposes, this action has no economic impacts on small business entities.

Providing as much advance notice as possible to recreational black sea bass fishers provides the benefit of increased flexibility for additional time to conduct trip planning and booking of recreational trips. In addition, the black sea bass recreational fishing year begins annually on April 1, and as described in 50 CFR 622.193(e)(2), NMFS is required to announce the length of the recreational fishing season by that date. Waiving the 30-day delay in effectiveness for this measure will allow this notification to occur as close to April 1 as practicable. Additionally, the recreational season length announcement does not impose any requirements on recreational fishermen and no advance preparation is necessary. Therefore, for the aforementioned reasons, for

the black sea bass recreational season length announcement specifically, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

List of Subjects in 50 CFR Part 622

Annual catch limits, Black sea bass, Fisheries,
Fishing, South Atlantic, Quotas, Vermilion snapper.

Dated: April 2, 2019.

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, revise paragraphs (a)(4)(i) and (ii)
and (a)(5) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(4) * * *

(i) For the period January through June each year.

(A) For the 2019 fishing year—483,658 lb (219,384 kg), gutted weight; 536,860 lb (243,516 kg), round weight.

(B) For the 2020 fishing year—452,721 lb (205,351 kg), gutted weight; 502,520 lb (227,939 kg), round weight.

(C) For the 2021 fishing year—431,279 lb (195,625 kg), gutted weight; 478,720 lb (217,144 kg), round weight.

(D) For the 2022 fishing year—417,189 lb (189,234 kg), gutted weight; 463,080 lb (210,050 kg), round weight.

(E) For the 2023 and subsequent fishing years—409,225 lb (185,621 kg), gutted weight; 454,240 lb (206,040 kg), round weight.

(ii) For the period July through December each year.

(A) For the 2019 fishing year—483,658 lb (219,384 kg), gutted weight; 536,860 lb (243,516 kg), round weight.

(B) For the 2020 fishing year—452,721 lb (205,351 kg), gutted weight; 502,520 lb (227,939 kg), round weight.

(C) For the 2021 fishing year—431,279 lb (195,625 kg), gutted weight; 478,720 lb (217,144 kg), round weight.

(D) For the 2022 fishing year—417,189 lb (417,189 kg), gutted weight; 463,080 lb (210,050 kg), round weight.

(E) For the 2023 and subsequent fishing years—409,225 lb (185,621 kg), gutted weight; 454,240 lb (206,040 kg), round weight.

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(5) *Black sea bass*. (i) For the 2019 fishing year—276,949 lb (125,622 kg), gutted weight; 326,800 lb (148,234 kg), round weight.

(ii) For the 2020 fishing year—243,788 lb (110,580 kg), gutted weight; 287,670 lb (130,485 kg), round weight.

(iii) For the 2021 fishing year and subsequent fishing years—234,314 lb (106,283 kg), gutted weight; 276,490 lb (125,414 kg), round weight.

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3. In § 622.193, revise the first sentence of paragraph (e)(2) and revise paragraph (f)(2)(iv) to read as follows:

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

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(e) * * *

(2) *Recreational sector*. The recreational ACL for black sea bass is 848,455 lb (384,853 kg), gutted weight, 1,001,177 lb (454,126 kg), round weight for the 2018-2019 fishing year; 367,119 lb (166,522 kg), gutted weight,

433,200 lb (196,496 kg), round weight for the 2019-2020 fishing year; 323,161 lb (146,583 kg), gutted weight, 381,330 lb (172,968 kg), round weight, for the 2020-2021 fishing year; and 310,602 lb (140,887 kg), gutted weight, 366,510 lb (166,246 kg), round weight, for the 2021-2022 and subsequent fishing years. * * *

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(f) * * *

(2) * * *

(iv) The recreational ACL for vermilion snapper is 455,207 lb (206,478 kg), gutted weight, 505,280 lb (229,191 kg), round weight, for the 2019 fishing year; 426,090 lb (193,271 kg), gutted weight, 472,960 lb (214,531 kg), round weight, for the 2020 fishing year; 405,910 lb (184,118 kg), gutted weight, 450,560 lb (204,552 kg), round weight, for the 2021 fishing year; 392,649 lb (178,103 kg), gutted weight, 435,840 lb (197,694 kg), round weight, for the 2022 fishing year; and 385,520 lb (174,869 kg), gutted weight, 427,520 lb (193,920 kg), round weight, for the 2023 and subsequent fishing years.

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