



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 191018-0066]**

**RIN 0648-BI33**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 26**

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

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

**SUMMARY:** NMFS proposes to implement recreational sector management measures described in Vision Blueprint Recreational Regulatory Amendment 26 (Regulatory Amendment 26) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For the recreational sector, this proposed rule would remove the minimum size limits for queen snapper, silk snapper, and blackfin snapper, reduce the minimum size limit for gray triggerfish in the exclusive economic zone (EEZ) off the east coast of Florida, and modify the 20-fish snapper-grouper aggregate

bag limit. The purpose of this proposed rule is to minimize regulatory discards to the extent practicable, improve regulatory compliance among fishers, and increase consistency among regulations.

**DATES:** Written comments on the proposed rule must be received by [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on the proposed rule, identified by "NOAA-NMFS-2019-0077," by either of the following methods:

- *Electronic submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/docket?D=NOAA-NMFS-2019-0077>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Mary Vara, 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](http://www.regulations.gov) without change. All personal

identifying information (e.g., name, address), 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 Regulatory Amendment 26 may be obtained from *www.regulations.gov* or the Southeast Regional Office website at

*https://www.fisheries.noaa.gov/action/regulatory-amendment-26-vision-blueprint-recreational-measures*. Regulatory Amendment 26 includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: *mary.vara@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery in the South Atlantic region is managed under the Snapper-Grouper FMP and includes queen snapper, silk snapper, blackfin snapper, and gray triggerfish, along with other snapper-grouper species. The Snapper-Grouper 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).

## **Background**

During a series of stakeholder meetings in 2014, the Council gathered input from recreational and commercial fishers throughout the South Atlantic region to develop a long-term strategic plan for managing the snapper-grouper fishery. Based on that input, the Council developed the 2016-2020 Vision Blueprint for the Snapper-Grouper Fishery (Vision Blueprint). The Vision Blueprint identified the goals, objectives, strategies, and actions that support the Council's vision for the snapper-grouper fishery and centers around four goal areas: Science, Management, Communication, and Governance. In 2015, the Council prioritized action items in the Vision Blueprint that would be addressed through amendments to the Snapper-Grouper FMP over the next 5 years. As part of this prioritization, the Council chose to focus on actions that would address the seasonality of access to certain snapper-grouper species and measures in order to lengthen fishing seasons and better utilize existing annual catch limits (ACLs) in the snapper-grouper fishery. To accomplish this, the Council began development of two regulatory amendments to the Snapper-Grouper FMP to address the commercial and

recreational sectors, respectively. Regulatory Amendment 26 includes modifications to recreational sector management measures in the snapper-grouper fishery based on stakeholder input. The purpose of the Council's actions in Regulatory Amendment 26 is to reduce regulatory discards, improve regulatory compliance among fishers, and increase consistency among regulations. Separately, the Council has submitted to NMFS the Vision Blueprint Commercial Regulatory Amendment 27 to the Snapper-Grouper FMP, which would revise commercial management measures in the snapper-grouper fishery, and it is currently in the rulemaking process.

**Management Measures Contained in this Proposed Rule**

For the recreational sector, this proposed rule would remove the minimum size limits for silk snapper, queen snapper, and blackfin snapper, reduce the minimum size limit for gray triggerfish in the EEZ off the east coast of Florida, and modify the snapper-grouper aggregate bag limit for the 20-fish aggregate.

*Minimum Size Limit for Queen Snapper, Silk Snapper, and Blackfin Snapper*

The deep-water complex includes yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, and blackfin snapper. This proposed rule would remove the

12 inches (30.5 cm) total length (TL) recreational minimum size limit for queen snapper, silk snapper, and blackfin snapper. The remaining species in the deep-water complex do not have a minimum size limit requirement. The current 12 inches (30.5 cm) TL minimum size limit for queen snapper, silk snapper, and blackfin snapper was implemented early in the management of the snapper-grouper fishery through Amendment 4 to the Snapper-Grouper FMP (56 FR 56016; October 31, 1991), before estimates of discard mortality were available, and prior to the creation of the various snapper-grouper species complexes by the Council. All of the species in the deep-water complex have high discard mortality as a result of the effects of barotrauma from being harvested from deep water. NMFS expects that removing the recreational minimum size limits would reduce discards and, therefore, discard mortality.

*Minimum Size Limit for Gray Triggerfish*

The current recreational minimum size limit for gray triggerfish in the South Atlantic EEZ off the east coast of Florida is 14 inches (35.6 cm) fork length (FL) and 12 inches (30.5 cm) FL, off North Carolina, South Carolina, and Georgia. This proposed rule would reduce the recreational minimum size limit for gray triggerfish to 12 inches (30.5 cm) FL in the EEZ off the east coast of

Florida. In 2015, the 12-inch (30.5-cm) FL minimum size limit was implemented for gray triggerfish in the EEZ off North Carolina, South Carolina, and Georgia, and a minimum size limit of 14 inches (35.6 cm) FL was implemented in the EEZ off the east coast of Florida (80 FR 30947; June 1, 2015). This was a precautionary action taken by the Council in response to their concerns about the status of the South Atlantic gray triggerfish stock, to align Federal regulations off the east coast of Florida with those in the Gulf of Mexico, and to achieve consistency between state and Federal regulations off the east coast of Florida. However, after the minimum size limit went into effect on July 1, 2015, stakeholders in Florida expressed concern to the Florida Fish and Wildlife Conservation Commission (FWC) regarding an increasing number of gray triggerfish discards in south Florida where the average size of gray triggerfish is smaller than off northeast Florida. In response to that concern, the FWC reduced the recreational minimum size limit of gray triggerfish in Florida state waters from 14 inches (35.6 cm), FL to 12 inches (30.5 cm) FL in 2017, and requested that the Council develop consistent size limit regulations in Federal waters. Reducing the recreational minimum size limit to 12 inches (30.5 cm) FL would make the state and Federal regulations for gray triggerfish

consistent off the east coast of Florida, and for all Federal waters throughout the Council's jurisdiction. NMFS expects this action to reduce regulatory discards, improve regulatory compliance among fishers, and increase consistency among regulations.

*20-Fish Snapper-Grouper Aggregate Bag Limit*

This proposed rule would modify the 20-fish snapper-grouper aggregate bag limit by specifying that no more than 10 fish can be of any one species within the 20-fish aggregate. Currently, 14 snapper-grouper species are included in the 20-fish aggregate bag limit for the recreational sector. Recreational fishers in the South Atlantic EEZ may retain 20 total fish per person per day for the following species: whitebone porgy, jolthead porgy, knobbed porgy, saucereye porgy, scup, gray triggerfish, bar jack, almaco jack, banded rudderfish, lesser amberjack, white grunt, margate, sailor's choice, and Atlantic spadefish. These species do not have individual recreational bag limits. The Council determined that modifying the 20-fish aggregate bag limit in this way would allow recreational anglers to catch the same number of fish overall as within the current limit, while limiting the number of any one species within the 20-fish aggregate to 10 fish. Because of stakeholder concerns over the status of

the South Atlantic gray triggerfish stock and large catches of Atlantic spadefish in recent years, the Council chose to be proactive and limit the harvest of these two species, as well as the remainder of the species in the 20-fish aggregate. In addition, the state of Florida currently limits harvest of gray triggerfish to 10 fish per person per day in state waters off its east coast. Therefore, this action to revise the snapper-grouper 20-fish aggregate bag limit would also simplify the regulatory environment by creating consistent regulations for recreational fishing for and retention of gray triggerfish in state and Federal waters off the east coast of Florida. In both cases (the size limits for gray triggerfish, and the bag limits applicable to gray triggerfish), the changes in this proposed rule would align the state and Federal regulations for gray triggerfish off the east coast of Florida.

**Measures in Regulatory Amendment 26 Not in this Proposed Rule**

During development of Regulatory Amendment 26, the Council considered three related actions that would establish a deep-water species aggregate, specify the recreational season for the deep-water species aggregate, and specify the aggregate bag limit for the deep-water species aggregate. Upon consideration, the Council decided

not to make changes based on these three actions because of the regional and seasonal differences in access to some of the deep-water species in the South Atlantic and the potential disproportionate negative effects on some recreational fishers.

**Classification**

Pursuant to section 304(b) (1) (A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Regulatory Amendment 26, the Snapper-Grouper FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under EO 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration for purposes of the RFA that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

A description of the proposed rule and its purpose are

contained at the beginning of the **SUPPLEMENTARY INFORMATION** section and in the **SUMMARY** section of the preamble. 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 rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

The proposed action would apply only to the recreational sector of the South Atlantic snapper-grouper fishery. This proposed action would remove the recreational minimum size limits for queen snapper, silk snapper, and blackfin snapper; reduce the recreational minimum size limit for gray triggerfish in the EEZ off the east coast of Florida; and modify the snapper-grouper 20-fish aggregate bag limit.

Recreational anglers fishing for snapper-grouper species would be directly affected by the proposed action, but anglers are not considered business entities under the RFA. For-hire vessels (charter vessels and headboats) would also be affected by this action, but only in an indirect way. For-hire businesses operate in the recreational sector, but these businesses only sell fishing services to

recreational anglers. Even though expectations of successful fishing, however defined, likely factor into the decision by anglers to purchase these services, for-hire vessels provide a platform for the opportunity to fish and not a guarantee to catch or harvest any species. Because the effects on for-hire vessels would be indirect, they are outside the scope of the RFA. Therefore, the proposed actions in Regulatory Amendment 26 would not directly affect any small business entities in the snapper-grouper fishery.

Primarily for informational purposes to the public in this proposed rule, the following description of small entities (*i.e.*, for-hire vessels) indirectly affected by the proposed action is provided. Charter vessels and headboats (also called party boats) are the two types of vessels operating in the for-hire business industry. Although charter vessels tend to be smaller, on average, than headboats, the key distinction between the two types of operations is how the fee is typically determined. On a charter vessels trip, the fee charged is for the entire vessel, regardless of how many passengers are carried, whereas the fee charged for a headboat trip is paid per individual angler.

A Federal charter vessel/headboat snapper-grouper

permit (South Atlantic for-hire permit) is required for harvesting snapper-grouper species when fishing on for-hire vessels. The South Atlantic for-hire permit is an open access permit. As of June 2, 2019, there were 1,743 valid (non-expired) or renewable South Atlantic for-hire permits. A renewable permit is an expired permit that may not be actively fished, but is renewable for up to 1 year after expiration. Some vessel owners may have obtained open access permits as insurance for uncertainties in the fisheries in which they currently operate. From 2012 through 2016, the lowest number of for-hire vessel permits occurred in 2014 and the highest occurred in 2016. The majority of snapper-grouper for-hire permitted vessels were home-ported in Florida, and approximately 10 percent of the total number of for-hire snapper-grouper vessels are home-ported in states outside of the Council's area of jurisdiction. Although the for-hire permit application collects information on the primary method of operation, the resultant permit itself does not identify the permitted vessel as either a charter vessel or a headboat. This is because operation as either a charter vessel or headboat is not restricted by the permitting regulations, and vessels may operate in both capacities under the permit. However, according to the NMFS Southeast Region Headboat Survey,

there were 63 headboats operating in the South Atlantic.

Economic value for for-hire vessels can be measured by producer surplus (PS) per passenger trip (the amount of money that a vessel owner earns in excess of the cost of providing the trip). Estimates of the PS per for-hire passenger trip are not available. Instead, net operating revenue (NOR), which is the return used to pay all labor wages, returns to capital and owner profits, is used as a proxy for PS. For the South Atlantic region, estimated NOR values are \$165 per charter angler trip and \$45 per headboat angler trip. To calculate the economic effects on for-hire vessels, these NOR values would have to be multiplied by the changes in for-hire angler trips. Due to the absence of data regarding the complex nature of angler behavior, it is not possible to estimate the potential changes in angler trips. However, it is likely that for-hire trips would not be substantially reduced because of the presence of alternative species that anglers can target and catch. It is, therefore, likely that the NOR effects on for-hire vessels would be relatively small.

Regulatory Amendment 26 also considered three related actions that would have established a deep-water species aggregate, specified the recreational season for the deep-water species aggregate, and specified the aggregate bag

limit for the deep-water species aggregate. Because the Council chose the no action alternative for each of these actions, they would have no economic effects on directly or indirectly affected small entities.

The information provided above supports a determination that this proposed rule would not directly affect any small entities in the snapper grouper fishery, and that it would not likely have a significant economic impact on even indirectly affected entities. Therefore, this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

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

Bag limits, Fisheries, Fishing, Grouper, Size limits, Snapper, South Atlantic.

Dated: October 21, 2019

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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 § 622.185, revise paragraphs (a)(3) and (c)(2) to read as follows:

**§ 622.185 Size limits.**

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(a) \* \* \*

(3) *Cubera, gray, and yellowtail snappers*—12 inches (30.5 cm), TL.

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(c) \* \* \*

(2) *Gray triggerfish*—12 inches (30.5 cm), FL.

\* \* \* \* \*

3. In § 622.187, revise paragraph (b) (8) to read as follows:

**§ 622.187 Bag and possession limits.**

\* \* \* \* \*

(8) *South Atlantic snapper-grouper (whitebone porgy, jolthead porgy, knobbed porgy, saucereye porgy, scup, almaco jack, banded rudderfish, lesser amberjack, white grunt, margate, sailor's choice, Atlantic spadefish, gray triggerfish, bar jack), 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. Within the 20-fish bag limit, no more than 10 fish can be of any one of these single snapper-grouper species.

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