



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200113-0013]

RIN 0648-BI32

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 27

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

ACTION: Final rule.

SUMMARY: NMFS implements management measures described in Vision Blueprint Commercial Regulatory Amendment 27 (Regulatory Amendment 27) to the Fishery Management Plan (FMP) 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). This final rule modifies commercial fishing seasons, trip limits, and minimum size limits for selected snapper-grouper species in the South Atlantic exclusive economic zone (EEZ). The purpose of this final rule is to improve equitable access for commercial fishermen in the snapper-grouper fishery, minimize discards to the extent

practicable, and improve marketability within the snapper-grouper fishery.

DATES: This final rule is effective on February 26, 2020.

ADDRESSES: Electronic copies of Regulatory Amendment 27 may be obtained from *www.regulations.gov* or the NOAA Fisheries website at

https://www.fisheries.noaa.gov/action/regulatory-amendment-27-vision-blueprint-commercial-measures. Regulatory Amendment 27 includes an environmental assessment, 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 blueline tilefish, snowy grouper, greater amberjack, red porgy, vermilion snapper, almaco jack, other jacks complex (lesser amberjack, almaco jack, and banded rudderfish), 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).

On October 17, 2019, NMFS published a proposed rule for Regulatory Amendment 27 in the **Federal Register** and requested public comment (84 FR 55531). Regulatory Amendment 27 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measures described in Regulatory Amendment 27 and implemented by this final rule is provided below.

Management Measures Contained in this Final Rule

This final rule modifies the commercial trip limits for blueline tilefish, greater amberjack, red porgy, and vermilion snapper; establishes commercial split seasons for snowy grouper, greater amberjack, and red porgy; and establishes a commercial trip limit for the other jacks complex. For the commercial sector, this final rule establishes a minimum size limit for almaco jack, removes the minimum size limits for silk snapper, queen snapper, and blackfin snapper, and reduces the minimum size limit for gray triggerfish in the EEZ off the east coast of Florida. The management measures in this final rule apply on board a vessel for which a Federal commercial permit for South Atlantic snapper-grouper has been issued. Unless

otherwise noted, all weights in this final rule are described in gutted weight.

Commercial Trip Limit for Blueline Tilefish

This final rule modifies the commercial trip limit for blueline tilefish throughout the South Atlantic EEZ. During the period from January 1 through April 30 each year, the commercial trip limit is 100 lb (45 kg), and from May 1 through December 31 each year, the commercial trip limit is 300 lb (136 kg). The Council determined that a lower 100-lb (45-kg) commercial trip limit of blueline tilefish each year from January through April would help reduce snowy grouper discards by commercial fishermen operating south of Cape Hatteras, North Carolina, because the commercial trip limit for blueline tilefish would be met more quickly on a trip. This final rule maintains the current 300-lb (136-kg) trip limit for blueline tilefish from May through December when good weather conditions are more likely to allow commercial fishermen in the northern portion of the Council's area of jurisdiction to have greater access to the resource and optimize their harvest through an extended fishing season.

Commercial Split Season for Snowy Grouper

This final rule establishes two commercial fishing seasons for snowy grouper of January 1 through June 30

(Season 1) and July 1 through December 31 (Season 2) within the current fishing year. This final rule allocates the commercial quotas as 70 percent to Season 1, 107,754 lb (48,876 kg), and 30 percent to Season 2, 46,181 lb (20,947 kg). Any remaining commercial quota from Season 1 will be transferred to Season 2. Any remaining commercial quota from Season 2 will not be carried forward into the next fishing year. The Council determined that allocating the majority of the commercial quota to Season 1 will ensure availability of snowy grouper when it is most valuable at the market and optimize access to this species for the majority of commercial fishermen in the South Atlantic. The Council also decided that allocating 30 percent of the commercial quota of snowy grouper for Season 2 allows for the incidental harvest of snowy grouper when North Carolina commercial fishermen are targeting blueline tilefish.

Commercial Split Season and Trip Limit for Greater Amberjack

This final rule establishes two commercial fishing seasons for greater amberjack. The two seasons are March 1 through August 31 (Season 1) and September 1 through the end of February (Season 2). The commercial quotas are allocated as 60 percent to Season 1, 461,633 lb (209,393 kg), and 40 percent to Season 2, 307,755 lb (139,595 kg).

Any remaining commercial quota from Season 1 will be added to the commercial quota in Season 2. Any remaining quota from Season 2 will not be carried forward into the next fishing year. Additionally, this final rule modifies the commercial trip limit for greater amberjack. During Season 1, the commercial trip limit is 1,200 lb (544 kg) in round or gutted weight, and during Season 2, the commercial trip limit is 1,000 lb (454 kg) in round or gutted weight. However, during April each year, the commercial sale and purchase of greater amberjack will continue to be prohibited, and the commercial harvest and possession limit will continue to be one fish per person per day or one fish per person per trip, whichever is more restrictive.

The Council expects that dividing the commercial quota for South Atlantic greater amberjack between two seasons and reducing the commercial trip limit for the latter half of the fishing year would lengthen the greater amberjack commercial season and allow for a more equitable distribution and price stability of the greater amberjack resource throughout the South Atlantic.

Commercial Split Season and Trip Limit for Red Porgy

This final rule establishes two commercial fishing seasons for red porgy. Season 1 is January 1 through April 30, and Season 2 is May 1 through December 31. The

commercial quotas are allocated as 30 percent to Season 1, which is 47,308 lb (21,459 kg), gutted weight, or 49,200 lb (22,317 kg), round weight; and 70 percent to Season 2, which is 110,384 lb (50,069 kg), gutted weight, or 114,800 lb (52,072 kg), round weight. Any remaining commercial quota from Season 1 will be added to the commercial quota in Season 2. Any remaining quota from Season 2 will not be carried forward into the next fishing year.

Additionally, Regulatory Amendment 27 and this final rule modify the commercial trip limit for red porgy during Season 1 to be 60 fish. During Season 2, the commercial trip limit for red porgy will continue to be 120 fish.

The final rule removes the current commercial sale and purchase prohibition and the possession limit of three fish per person per day or three fish per person per trip, whichever is more restrictive, from January 1 through April 30. The Council determined that these new measures will continue to constrain commercial harvest to protect spawning red porgy during Season 1, while allowing commercial fishermen to retain some red porgy when targeting other co-occurring species, thereby reducing discards of red porgy.

Commercial Trip Limit for Vermilion Snapper

This final rule removes the commercial trip limit reduction for vermilion snapper when 75 percent of the seasonal quota is met during both Season 1 and 2 but retains the 1,000 lb (454 kg) commercial trip limit. The Council determined that there is no longer a need to have a trip limit reduction for vermilion snapper. Also, as described in Regulatory Amendment 27, maintaining the current commercial trip limit would ensure economic profitability and efficient use of the vermilion snapper resource.

Minimum Size Limit for Almaco Jack

This final rule establishes a commercial minimum size limit of 20 inches (50.8 cm), fork length (FL), for almaco jack in the South Atlantic EEZ. The Council determined that a commercial minimum size limit of 20 inches (50.8 cm) FL will allow more individual almaco jack to reach reproductive activity before being susceptible to harvest, and is projected to increase the average size and the corresponding average weight of fish harvested.

Commercial Trip Limit for the Other Jacks Complex

This final rule establishes a commercial trip limit for the other jacks complex of 500 lb (227 kg). The Council determined a 500-lb (227-kg) commercial trip limit for the other jacks complex would still allow fishermen to make a

profitable trip, and enables them to have the added benefit of an extended commercial season, and it is better for the long-term sustainability of the other jacks complex resource.

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

Queen snapper, silk snapper, and blackfin snapper are part of the deep-water complex. Prior to this final rule, the commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper was 12 inches (30.5 cm) total length (TL), but the remaining species in the deep-water complex do not have a specified minimum size limit requirement. The Council determined that removing the commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper would reduce discards and discard mortality for these species. Therefore, this final rule removes the commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper.

Minimum Size Limit for Gray Triggerfish

This final rule reduces the commercial minimum size limit to 12 inches (30.5 cm) FL for gray triggerfish in the EEZ off the east coast of Florida. In 2015, the 12-inch (30.5-cm) FL commercial minimum size limit was implemented for gray triggerfish in the EEZ off North Carolina, South

Carolina, and Georgia, and a commercial 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). However, after the commercial 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 increasing discards of gray triggerfish in south Florida where the average size of gray triggerfish is less than that off northeast Florida. In response to that concern, the FWC subsequently reduced the recreational minimum size limit of gray triggerfish in state waters to 12 inches (30.5 cm) FL in 2015 (incorrectly stated in the preamble of the proposed rule as 2017), and requested that the Council develop consistent size limit regulations in Federal waters for gray triggerfish. Therefore, reducing the commercial minimum size limit to 12 inches (30.5 cm) FL in the EEZ off the east coast of Florida will make these state and Federal commercial regulations for gray triggerfish consistent throughout the Council's jurisdiction.

Comments and Responses

NMFS received six comments from individuals, a state agency, and a fisheries consulting company during the public comment period on the proposed rule for Regulatory

Amendment 27. Five of the comments offered were in general support of most or all the actions in the proposed rule. NMFS acknowledges the comments in favor of all or part of the actions in the proposed rule and agrees with them. Comments that were beyond the scope of the proposed rule are not responded to in this final rule. The public comment that opposed an action contained in Regulatory Amendment 27 and the proposed rule is summarized below, along with NMFS' response.

Comment 1: The commercial minimum size limit for almaco jack should be 20 inches (50.8 cm) FL off North Carolina, and 12 inches (30.5 cm) FL off the east coast of Florida. Almaco jack grow larger off North Carolina, so a 20-inch (50.8-cm) FL minimum size limit is appropriate off that state, but due to the regional differences in catchability, the minimum size limit for almaco jack should be 12 inches (30.5 cm) FL off the east coast of Florida, since fishermen will be discarding those fish at a higher rate if the minimum size limit is 20 inches (50.8 cm) FL.

Response: The Council decided to implement a minimum size limit for almaco jack because during the Vision Blueprint process, fishermen expressed concern about the small size and resulting poor commercial value of some of the almaco jack being landed. The Council considered a

range of minimum size limits in Regulatory Amendment 27, in addition to no minimum size limit; however, a 12-inch (30.5-cm) minimum size limit was not within the range of alternatives considered by the Council during the development of Regulatory Amendment 27.

Although minimum size limits, in general, have the potential to increase discards, NMFS believes that almaco jack would presumably exhibit similar release mortality to that of greater amberjack (20 percent, Southeast Data, Assessment, and Review 15, 2008), and thus, most discarded fish would likely survive. Some fishermen also believe that almaco jack are a "hardy" fish and have high release survival. Therefore, a 20-inch (50.8-cm) FL minimum size limit is expected to reduce discards to the extent practicable.

Additionally, and as stated in Regulatory Amendment 27, 88.5 percent of almaco jack landed commercially (by weight) in the South Atlantic are above 20 inches (50.8 cm) FL and 66 percent of the catch is above 26 inches (66 cm) FL; therefore, the change in regulatory discards is expected to be minimal. In regard to biological benefits, the larger the minimum size limit, the greater the resulting benefits to the population in terms of increased reproductive potential. Therefore, implementing a

commercial minimum size limit of 20 inches (50.8 cm) FL is expected to result in positive biological impacts to the almaco jack stock. Overall, the Council determined that action to implement the 20-inch (50.8-cm) FL minimum size limit best meets their purpose to minimize discards in the snapper-grouper commercial fishery to the extent practicable while improving marketability.

Classification

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

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is considered to be an Executive Order 13771 deregulatory action. The potential cost savings from this final rule are estimated to be \$.02 million in 2016 dollars, discounted at 7 percent in perpetuity.

A final regulatory flexibility analysis (FRFA) was prepared. NMFS did not receive any comments from the U.S. Small Business Administration's Office of Advocacy or the public on the IRFA in the proposed rule, and therefore,

NMFS did not make any associated changes to this final rule. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

The objective of this rule is to improve management of the commercial sector of the snapper-grouper fishery to better achieve optimum yield, while minimizing to the extent practicable, the adverse socio-economic effects of regulations on commercial fishing entities in the South Atlantic.

This final rule makes the following changes to the regulations for the commercial snapper-grouper fishing industry in the South Atlantic region. This rule reduces the commercial trip limit for blueline tilefish from 300 lb (136 kg) to 100 lb (45 kg) from January 1 through April 30 each fishing year. For snowy grouper, this rule establishes two commercial fishing seasons of January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2), rather than a single season within the fishing year; allocates 70 percent of the commercial quota to Season 1 and 30 percent to Season 2; and adds any remaining commercial quota from Season 1 to Season 2 only. For greater amberjack, this rule establishes two commercial fishing seasons of March 1 through August 31 (Season 1) and September 1 through the end of February (Season 2), rather

than a single season within the March through February fishing year; allocates 60 percent of the commercial quota to Season 1 and 40 percent to Season 2; and adds any remaining commercial quota from Season 1 to Season 2 only; and reduces the commercial trip limit from 1,200 lb (545 kg) in round or gutted weight to 1,000 lb (454 kg) in round or gutted weight for Season 2. For red porgy, this rule removes the sale and purchase prohibition, and the possession limit of three fish per person per day or three fish per person per trip during January 1 to April 30 each year; specifies two commercial fishing seasons for red porgy of January 1 through April 30 (Season 1) and May 1 through December 31 (Season 2) within the fishing year; allocates 30 percent of the commercial quota to Season 1 and 70 percent to Season 2; and establishes a commercial trip limit of 60 fish in Season 1. In addition, this rule also removes the in-season reduction of the commercial trip limit in Season 1 and Season 2 for vermilion snapper; establishes a commercial minimum size limit of 20 inches (50.8 cm) FL for almaco jack; establishes a commercial trip limit of 500 lb (227 kg) for the other jacks complex; removes the 12-inch (30.5-cm) TL commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper; and reduces the commercial minimum size limit for

gray triggerfish from 14 inches (35.6 cm) to 12 inches (30.5 cm) FL in the EEZ off the east coast of Florida. Therefore, this final rule is expected to directly regulate businesses that are active in the commercial snapper-grouper fishing industry.

As of August 17, 2018, the number of vessels with a valid or renewable Federal commercial permit for South Atlantic snapper-grouper was 644, composed of 536 transferable, unlimited snapper-grouper permits and 108 non-transferable, 225-lb (102 kg) trip-limited permits. With the exception of species-specific trip limits, there is no aggregate snapper-grouper harvest limit per trip for vessels with unlimited snapper-grouper permits, while vessels with trip-limited permits cannot harvest more than 225 lb (102 kg) of all snapper-grouper species per trip. On average, only 584 vessels used their commercial permits for harvesting purposes from 2012 through 2016. Some permit holders retain their permits for speculative or other non-harvesting purposes. The majority of vessels harvest multiple snapper-grouper species. The rule will only directly regulate permit holders that actually use their permits for harvesting purposes. Therefore, it is expected that approximately 584 vessels will be directly regulated by this final rule.

Although NMFS started to collect ownership data for businesses that possess commercial snapper-grouper permits in 2017, this data is currently incomplete and historical data is not available. Therefore, it is not currently feasible to accurately determine affiliations between these particular businesses. As a result of the incomplete ownership data, for purposes of this analysis, it is assumed each of these vessels is independently owned by a single business, which is expected to result in an overestimate of the actual number of businesses directly regulated by this rule. Therefore, this rule is estimated to directly regulate 584 businesses in the commercial snapper-grouper fishing industry.

All monetary estimates in the following analysis are in 2016 dollars. For vessels that were active in the snapper-grouper fishing industry from 2012 through 2016, average annual gross revenue was approximately \$44,000 per vessel. Average annual net cash flow per vessel was approximately \$8,300 while net revenue from operations was approximately \$2,000 per vessel. Net revenue from operations is the best available estimate of economic profit.

The Small Business Administration has established size standards for all major industry sectors in the U.S.

including commercial fishing businesses. On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (80 FR 81194, December 29, 2015). In addition to this gross revenue standard, a business primarily involved in commercial fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates). The maximum average annual gross revenue from 2012 through 2016 for a single vessel in the commercial snapper-grouper fishing industry was about \$1.6 million. Based on the information above, all businesses directly regulated by this rule are determined to be small businesses for the purpose of this analysis.

This final rule, if implemented, would be expected to directly regulate the 584 active vessels with Federal commercial permits in the South Atlantic snapper-grouper fishery of the 644 vessels that currently possess those permits. All directly regulated businesses have been determined, for the purpose of this analysis, to be small entities. Based on this information, the rule is expected to affect a substantial number of small businesses.

The action to reduce the commercial trip limit for blueline tilefish from 300 lb (136 kg) to 100 lb (45 kg) each year from January 1 through April 30 is expected to directly regulate approximately 134 vessels. These vessels' average annual gross revenues were \$82,411 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations (economic profit) for these vessels is estimated to be about \$3,300 per vessel. Average annual gross revenue per vessel is expected to increase by about \$13 per year, which would result in an increase in economic profit of about 0.4 percent for these vessels.

For snowy grouper, the action to establish two commercial fishing seasons of January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2) rather than a single season within the fishing year, allocate 70 percent of the commercial quota to Season 1 and 30 percent to Season 2, and to add any remaining commercial quota from Season 1 to Season 2 only, is expected to directly regulate approximately 149 vessels. These vessels' average annual gross revenues were \$85,475 per vessel from 2012 through 2016. Average annual net revenue from operations for these

vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Therefore, annual net revenue from operations for these vessels is estimated to be about \$3,400 per vessel. This action is not expected to affect landings, annual gross revenue, or harvesting costs, and thus economic profit for these vessels is not expected to change.

For greater amberjack, the action to establish two commercial fishing seasons of March 1 through August 31 (Season 1) and September 1 through the end of February (Season 2) within the fishing year, allocate 60 percent of the commercial quota to Season 1 and 40 percent to Season 2, add any remaining commercial quota from Season 1 to Season 2 only, and reduce the commercial trip limit from 1,200 lb (545 kg) in round or gutted weight to 1,000 lb (454 kg) in round or gutted weight for Season 2 is expected to directly regulate approximately 263 vessels. These vessels' average annual gross revenues were \$62,578 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, average annual net revenue from operations for these vessels is estimated to be about \$2,500 per vessel. This action is expected to reduce

average annual gross revenues to these vessels by about \$34, which represents less than 0.1 percent of their average annual gross revenues, and about 11.4 percent of their average annual economic profit. Although a quantitative estimate cannot be provided due to lack of data, this action is also expected to cause a minor increase in these vessels' operating costs. In general, trip limits are expected to increase costs because commercial fishing vessels must take more trips to harvest and land the same amount of fish. The more restrictive the trip limit, the greater the expected increase in costs. The reduction in the commercial trip limit for Season 2 is 200 lb (91 kg) in round or gutted weight per trip, or about 17 percent of the current trip limit. A 17 percent reduction is not a large reduction in general and the reduction only applies in Season 2. Thus, this action would be expected to only slightly reduce these vessels' economic profits.

For red porgy, the actions to remove the sale and purchase prohibition, and the possession limit of three fish per person per day or three fish per person per trip from January 1 to April 30 each year, establish two commercial fishing seasons of January 1 through April 30 (Season 1) and May 1 through December 31 (Season 2) within the fishing year, allocate 30 percent of the commercial

quota to Season 1 and 70 percent to Season 2, and establish a commercial trip limit of 60 fish in Season 1 is expected to directly regulate approximately 160 vessels. These vessels' average annual gross revenues were \$73,366 per vessel from 2012 through 2016. Average annual net revenue from operations for commercial vessels in the snapper-grouper fishery was approximately 4.5 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations for these vessels is estimated to be about \$3,300 per vessel. The expected increase in annual gross revenue from this action is about \$335 per vessel, representing an increase of about 0.5 percent of average annual gross revenues but a 9 percent increase in economic profit. The decision to harvest red porgy during the months when sale and purchase are currently prohibited could lead to additional harvesting costs, but these would be self-imposed and, assuming standard business practices by owners of commercial vessels, the additional gross revenues will exceed the additional costs (*i.e.*, economic profit is expected to increase). Moreover, the red porgy landings that would be expected from January through April are likely fish that were previously discarded due to the current prohibition. If these landings are fish that were previously discarded,

then no additional costs would be incurred and the additional gross revenue would represent additional economic profit to these vessels as well.

The action to remove the in-season commercial trip limit reduction for vermilion snapper in both seasons is expected to directly regulate approximately 206 vessels. These vessels' average annual gross revenues were \$66,330 per vessel from 2011 through 2016. Average annual net revenue from operations for these vessels was approximately negative 1 percent of their average annual gross revenue from 2014 through 2016 (*i.e.*, these vessels have been generating economic losses). Thus, annual net revenue from operations for these vessels is estimated to be about negative \$6,600 per vessel. This action is expected to result in a reduction of \$42 in average annual gross revenue per vessel, which is a minimal change relative to annual average gross revenues, but would increase economic losses by about 0.6 percent. However, the action is also expected to change the cost of harvesting vermilion snapper. In general, trip limits are expected to increase costs because commercial fishing vessels must take more trips to harvest and land the same amount of fish. The more restrictive the trip limit, the greater the expected increase in costs. Under previous regulations, the

commercial trip limit for both seasons was reduced from 1,000 lb (454 kg) gutted weight to 500 lb (227 kg) gutted weight, or by 50 percent, when 75 percent of the commercial quota in either season was harvested, which was significant. Further, changes in trip limits within a fishing year and particularly within a season can introduce inefficiencies in the production process as commercial fishing vessels must adjust their operations to account for such changes. While these inefficiencies are likely not as great when the trip limit changes are known well in advance, they become particularly significant when the owners of commercial fishing vessels do not know if or when the trip limit change is going to occur, which was the case under the previous regulations. Further, because at least some owners of commercial fishing vessels would prefer to fish when the trip limit is greater, trip limit reductions can result in mini-fishing derbies (race-to-fish) within a season. Splitting the commercial quota between seasons only partially mitigates this effect. Although models are not available to quantitatively estimate the expected changes in costs, the elimination of the trip limit reduction in this rule is expected to significantly reduce these vessels' harvesting costs, likely more than offsetting the relatively minor reduction in gross revenue. Therefore,

this action is expected to increase economic profit for these vessels.

The action to establish a commercial minimum size limit of 20 inches (50.8 cm) FL for almaco jack is expected to directly regulate approximately 165 vessels. These vessels' average annual gross revenues were \$77,267 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, average annual net revenue from operations for these vessels is estimated to be about \$3,100 per vessel. Average annual gross revenue per vessel is expected to decrease by about \$4 per vessel under the action, which is minimal (*i.e.*, about 0.1 percent of economic profit), and thus unlikely to affect these vessels' fishing behavior. However, establishing a minimum size limit will also lead to discarded fish. Thus, commercial fishing vessels would have to exert more effort per trip or take more trips to land the same amount of almaco jack, which would lead to higher costs. The more restrictive the minimum size limit, the greater the amount of discarded fish and thus the greater the expected increase in costs. The increase in costs per vessel could be considerably higher than the minimal increase in average

annual gross revenue per vessel, depending on the amount of almaco jack that vessels are forced to discard and how much additional effort they exert to maintain their landings and revenue. However, the increase in cost may be partially offset through a higher price received for larger sized fish. But the extent to which this effect will occur is unknown due to lack of data on the variability of prices across almaco jack of different sizes. Based on this information, this action may reduce the economic profits of these 165 vessels.

The action to establish a commercial trip limit of 500 lb (227 kg) for the other jacks complex is expected to directly regulate approximately 210 vessels. These vessels' average annual gross revenues were \$69,363 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Therefore, annual net revenue from operations for these vessels is estimated to be about \$2,800 per vessel. Given the commercial minimum size limit for almaco jack discussed in the previous action, establishing a commercial trip limit for the other jacks complex is expected to result in a reduction of \$28 in average annual gross revenue per vessel, or about 1 percent of the average annual economic

profit. However, establishing a minimum size limit is also expected to increase costs, which would decrease economic profit even further. The magnitude of the increase in costs depends on how much additional effort commercial vessels must exert to maintain their landings and revenues. Therefore, economic profit for these vessels is expected to be reduced.

The action to remove the 12-inch (30.5-cm) TL commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper is expected to directly regulate approximately 94 vessels. These vessels' average annual gross revenues were \$93,154 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations for these vessels is estimated to be about \$3,700 per vessel. This action is expected to result in a minimal increase in landings of queen snapper, silk snapper, and blackfin snapper. However, commercial fishing vessels have only harvested about 43 percent of the commercial ACL for the deep-water complex since blueline tilefish was removed from that complex. Therefore, landings of queen snapper, silk snapper, and blackfin snapper could increase significantly without any

concern of exceeding the commercial ACL for the deep-water complex. Further, with the elimination of the minimum size limit, vessels would be able to increase their landings per unit of effort for these species, thereby decreasing the cost per pound of fish landed. Therefore, this action would be expected to increase the economic profit of these vessels to some extent.

The action to reduce the commercial minimum size limit for gray triggerfish in the EEZ off the east coast of Florida from 14 inches (35.6 cm) to 12 inches (30.5 cm) FL is expected to directly regulate approximately 213 vessels. These vessels' average annual gross revenues were \$65,661 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 2 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations for these vessels is estimated to be about \$1,300 per vessel. This action is expected to result in an increase in annual gross revenue per vessel of approximately \$10, which would represent an increase the average vessel's economic profit of about 0.8 percent per year. Reducing the minimum size limit for gray triggerfish will also allow commercial fishing vessels to harvest these species with less effort. As such, this action would also be expected to decrease the

cost per pound of harvest, though by how much is unknown due to the lack of appropriate models. Thus, this action is expected to result in a modest increase in these vessels' economic profit.

Based on the information above, average annual gross revenues for the 584 active commercial snapper-grouper vessels is expected to increase by about \$33,400, or approximately \$57 per vessel, as a result of all the actions in this rule. This increase represents only about 0.1 percent of these vessels' average annual gross revenues, but about 3 percent of their average annual economic profit. Harvesting costs are expected to significantly decrease for vessels harvesting vermilion snapper and slightly decrease for vessels harvesting gray triggerfish, while they are expected to increase for vessels harvesting greater amberjack, almaco jack, and species in the other jacks complex. Because of these countervailing effects on harvesting costs, harvesting costs for many commercial snapper-grouper vessels will likely change little if at all. Thus, economic profit for the average commercial snapper-grouper vessel is expected to increase slightly or remain relatively the same, though some vessels could experience a reduction in economic profit.

Five alternatives, including the *status quo*, were considered for the action to reduce the commercial trip limit for blueline tilefish from 300 lb (136 kg) to 100 lb (45 kg) from January 1 through April 30. The *status quo* alternative and the other four alternatives were not selected because they are not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic. The *status quo* alternative is also not expected to increase economic profits for the affected small entities.

Two alternatives, including the *status quo*, were considered for the action to establish, for snowy grouper, two commercial fishing seasons of January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2) within the calendar fishing year, allocate 70 percent of the commercial ACL to Season 1 and 30 percent to Season 2, and transfer any remaining quota from Season 1 to Season 2. The *status quo* alternative and the other alternative were not selected because they are not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic.

Nine alternatives, including the *status quo*, were

considered for the action to establish, for greater amberjack, two commercial fishing seasons of March 1 through August 31 (Season 1) and September 1 through February 31 (Season 2) within the March through February fishing year, allocate 60 percent of the commercial ACL to Season 1 and 40 percent to Season 2, transfer any remaining quota from Season 1 to Season 2, and reduce the commercial trip limit from 1,200 lb (545 kg) in round or gutted weight to 1,000 lb (454 kg) in round or gutted weight for Season 2. The *status quo* alternative was not selected because it is not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic. Six of the other alternatives are expected to decrease economic profits for the affected small entities more than the action and thus were not selected. The other two alternatives are expected to reduce economic profits less than the action, but were not selected because they are not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic.

For red porgy, seven alternatives, including the *status quo*, were considered for the action to remove the sale and purchase prohibition, and the possession limit of

three per person per day or three per person per trip during January 1 to April 30 each year, specify two commercial fishing seasons of January 1 through April 30 (Season 1) and May 1 through December 31 (Season 2) within the fishing year, allocate 30 percent of the commercial ACL to Season 1 and 70 percent to Season 2, and establish a commercial trip limit of 60 fish in Season 1. The *status quo* was not selected because it is not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic and is not expected to increase economic profits for the affected small entities.

Five alternatives, including the *status quo*, were considered for the action to remove the trip limit reduction in both seasons for vermilion snapper. None of these alternatives were selected because they are expected to result in lower economic profits for the affected small entities, while three of these alternatives are also expected to result in significantly higher regulatory costs to the Federal Government.

Four alternatives, including the *status quo*, were considered for the action to establish a commercial minimum size limit of 20 inches (50.8 cm) FL for almaco jack. The *status quo* was not selected because almaco jack less than

20 inches (50.8 cm) FL are not considered to be of a marketable size (*i.e.*, they are difficult if not impossible to sell at a price that would not lead to economic losses) and therefore would likely be discarded. Thus, the *status quo* alternative is not expected to achieve the Council's goals of improving the marketability of certain species and minimizing discards. The other three alternatives are expected to result in even higher discards, which is contrary to the Council's goal of minimizing discards, and are also expected to reduce economic profits for the affected small entities more than the action.

Three alternatives, including the *status quo*, were considered for the action to establish a commercial trip limit of 500 lb (227 kg) for the other jacks complex. The *status quo* alternative was not selected as it is not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic. The other two alternatives are expected to reduce economic profits more than the action and therefore were not selected.

One alternative, the *status quo*, was considered for the action to remove the 12-inch (30.5-cm) TL commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper. The *status quo* alternative was not

selected because it is expected to result in higher discards, which is contrary to the Council's goal of minimizing discards, and is also expected to result in lower economic profits for the affected small entities.

One alternative, the *status quo*, was considered for the action to reduce the commercial minimum size limit for gray triggerfish in the EEZ off the east coast of Florida from 14 inches (35.6 cm) to 12 inches (30.5 cm) FL. The *status quo* alternative was not selected because it is expected to result in higher discards, which is contrary to the Council's goal of minimizing discards, and is also expected to result lower economic profits for the affected small entities.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a fishery bulletin that also serves as a small entity compliance guide was prepared. Copies of this final rule

are available from the Southeast Regional Office, see **ADDRESSES**, and the guide will be sent to all Federal permit holders for the fishery. The guide and this final rule will be available upon request.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Grouper, Snapper, South Atlantic.

Dated: January 14, 2019.

Samuel D. Rauch III,
Deputy Assistant Administrator,
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.*

§ 622.184 [Amended]

2. In § 622.184, remove paragraph (c).

3. In § 622.185, revise paragraphs (a) (3) and (c) (2) and add paragraph (c) (6) to read as follows:

§ 622.185 Size limits.

* * * * *

(a) * * *

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

* * * * *

(c) * * *

(2) *Gray triggerfish*. (i) For a fish taken by a person not subject to the bag limit specified in § 622.187(b) (8)--12 inches (30.5 cm), FL.

(ii) For a fish taken by a person that is subject to the bag limit specified in § 622.187(b) (8)--

(A) In the South Atlantic EEZ off Florida--14 inches (35.6 cm), FL.

(B) In the South Atlantic EEZ off North Carolina, South Carolina, and Georgia--12 inches (30.5 cm), FL.

* * * * *

(6) *Almaco jack*. For a fish taken by a person not subject to the bag limit specified in § 622.187(b) (8)--20 inches (50.8 cm), FL.

4. In § 622.190 revise paragraphs (a) (1), (3), and (6) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(1) *Snowy grouper*--(i) For the period January 1 through June 30 each year--107,754 lb (48,876 kg).

(ii) For the period July 1 through December 31 each year--46,181 lb (20,947 kg).

(iii) Any unused portion of the quota specified in paragraph (a) (1) (i) of this section will be added to the quota specified in paragraph (a) (1) (ii) of this section. Any unused portion of the quota specified in paragraph (a) (1) (ii) of this section, including any addition of quota specified in paragraph (a) (1) (i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

(3) *Greater amberjack*--(i) For the period March 1 through August 31 each year--461,633 lb (209,393 kg).

(ii) For the period September 1 through the end of February each year--307,755 lb (139,595 kg).

(iii) Any unused portion of the quota specified in paragraph (a) (3) (i) of this section will be added to the

quota specified in paragraph (a) (3) (ii) of this section. Any unused portion of the quota specified in paragraph (a) (3) (ii) of this section, including any addition of quota specified in paragraph (a) (3) (i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

(6) *Red porgy*--(i) For the period January 1 through April 30 each year--47,308 lb (21,458 kg), gutted weight; 49,200 lb (22,317 kg), round weight.

(ii) For the period May 1 through December 31 each year--110,384 lb (50,069 kg), gutted weight; 114,800 lb (52,072 kg), round weight.

(iii) Any unused portion of the quota specified in paragraph (a) (6) (i) of this section will be added to the quota specified in paragraph (a) (6) (ii) of this section. Any unused portion of the quota specified in paragraph (a) (6) (ii) of this section, including any addition of quota specified in paragraph (a) (6) (i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

5. In § 622.191, revise paragraphs (a) (4) through (6) and (a) (10) and add paragraph (a) (14) to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(4) *Red porgy*. The following commercial trip limits apply until the applicable commercial quota specified in § 622.190(a)(6) is reached. See § 622.190(c)(1) for the limitations regarding red porgy after the applicable commercial quota is reached.

(i) From January 1 through April 30--60 fish.

(ii) From May 1 through December 31--120 fish.

(5) *Greater amberjack*. The following commercial trip limits apply until the applicable commercial quota specified in § 622.190(a)(3) is reached. See § 622.190(c)(1) for the limitations regarding greater amberjack after the applicable commercial quota is reached.

(i) From March 1 through August 31--1,200 lb (544 kg).

(ii) From September 1 through the end of February--1,000 lb (454 kg).

(6) *Vermilion snapper*. Until the applicable commercial quota specified in § 622.190(a)(4) is reached--1,000 lb (454 kg), gutted weight. See § 622.190(c)(1) for the limitations regarding vermilion snapper after the applicable commercial quota is reached.

* * * * *

(10) *Blueline tilefish*. The following commercial trip limits apply until the commercial ACL specified in § 622.193(z)(1)(i) is reached. See § 622.193(z)(1)(i) for the limitations regarding blueline tilefish after the commercial ACL is reached.

(i) From January 1 through April 30--100 lb (45 kg), gutted weight; 106 lb (48 kg), round weight.

(ii) From May 1 through December 31--300 lb (136 kg), gutted weight; 318 lb (144 kg), round weight.

* * * * *

(14) *Other jacks complex (lesser amberjack, almaco jack, and banded rudderfish)*. Until the commercial ACL specified in § 622.193(1)(1)(i) is reached--500 lb (227 kg), gutted weight; 520 lb (236 kg), round weight. See § 622.193(1)(1)(i) for the limitations regarding the other jacks complex after the commercial ACL is reached.

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[FR Doc. 2020-00912 Filed: 1/24/2020 8:45 am; Publication Date: 1/27/2020]