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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200408-0104]

RIN 0648-BI81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 29

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Regulatory Amendment 29 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). If implemented, this proposed rule would require descending devices be on board vessels and require the use of specific fish hook types while fishing for or possessing snapper-grouper species. The proposed rule would also allow the use of powerheads in Federal waters off South Carolina to harvest snapper-grouper species. The purpose of this proposed rule is to modify fishing gear

requirements to promote best fishing practices and to ensure consistent regulations for the dive component of the snapper-grouper fishery.

DATES: Written comments on the proposed rule must be received by [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2020-0008," 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-2020-0008>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Frank Helies, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.),

confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of Regulatory Amendment 29 may be obtained from *www.regulations.gov* or the Southeast Regional Office website at

https://www.fisheries.noaa.gov/action/regulatory-amendment-29-gear-requirements-south-atlantic-snapper-grouper-species includes an environmental assessment, regulatory impact review, and Regulatory Flexibility Analysis (RFA).

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: *frank.helies@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the snapper-grouper fishery under the Snapper-Grouper FMP. 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) (16 U.S.C. 1801 *et seq.*).

Background

Commercial and recreational fishermen have expressed concern to the Council at their public meetings about regulations that result in released snapper-grouper species that do not survive, particularly South Atlantic red snapper. Fishermen have reported that some released fish die due to foul-hooking, e.g., when hooked in the stomach or outside of the mouth, or through barotrauma, which is injury caused by internal gas expansion when reeled up from depth. To improve the survivorship of released snapper-grouper species, the Council considered measures that would encourage the use of best fishing practices that aim to reduce the negative impacts to live fish released after capture. An example of a best fishing practice considered by the Council includes utilizing a barotrauma mitigation device such as a descending device or venting tool. Though venting tools may be faster to use than descending devices, venting tools have the potential to damage vital organs because they penetrate the abdomen of the fish, and therefore because it could cause additional stress to fish if not used correctly, the Council chose not to require venting tools in Regulatory Amendment 29.

Regulatory Amendment 29 proposes measures that would apply to any commercial or recreational fishermen fishing for or possessing South Atlantic snapper-grouper, and

include requiring that descending devices be on board vessels and encouraging their use when appropriate, as well as requiring the use of fish hooks that reduce or minimize gut-hooking or foul-hooking and increase the survivability of fish after release.

As described in Regulatory Amendment 29, studies have shown that if properly used and maintained, descending devices relieve symptoms of barotrauma, and can decrease potential discard mortality of released fish. The proposed rule would not require the use of a descending device because it may not be needed every time; however, the gear would be required to be readily available on a vessel for use when fishing for or possessing snapper-grouper species. It is the Council's intent that fishermen use a descending device only when a fish may be experiencing barotrauma.

Currently, fishermen must use non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N latitude, which is the latitude line running east to west approximately 25 miles south of Cape Canaveral, Florida; fishermen are allowed to use either offset or non-offset circle hooks (50 CFR 622.188(a)(2)). A fish hook is offset if the front of the hook, which includes the hook point and barb, is not in-line with the hook shank. A non-offset hook

has the point and barb in-line with the hook shank. The existing regulations require that circle hooks must be made of non-stainless steel, but other hook types, such as J-hooks, may be either stainless steel or non-stainless steel. Non-offset circle hooks can reduce the occurrence of hooking-related mortality (when compared to offset circle hooks and J-hooks) and can improve survivorship of released fish. Requiring their use as opposed to just requiring them to be on board ensures that full potential benefits of using this gear type are realized. Also, non-stainless steel hooks degrade faster than stainless steel hooks, so any fish released with an embedded non-stainless steel hook would likely have a greater chance of survival.

The final rule implementing Amendment 7 to the Snapper-Grouper FMP prohibited the use of powerheads to harvest snapper-grouper species in Federal waters off South Carolina due to concern for potential localized depletion of these species from divers using powerheads (59 FR 66270, December 23, 1994); however, the use of powerheads is allowed in Federal waters off North Carolina, Georgia, and the east coast of Florida. A powerhead is a type of fishing gear that includes any device with an explosive charge, usually attached to a spear gun, spear, pole, or stick that fires a projectile upon contact with the fish. Fishermen

have expressed concern to the Council at public meetings regarding inequitable access for the dive component of the snapper-grouper fishery off South Carolina because they are prohibited from using powerheads. The Council determined that because the commercial and recreational dive components of the snapper-grouper fishery only constitute approximately 5 percent landings from South Atlantic Federal waters, any impacts on snapper-grouper species from removing the powerhead prohibition would be minimal.

Management Measures Contained in this Proposed Rule

This proposed rule would require descending devices be on board all commercial, charter vessels and headboats (for-hire), and private recreational vessels while fishing for or possessing snapper-grouper species, require the use of non-offset, non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N latitude, require all hooks be non-stainless steel when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout the South Atlantic Federal waters, and allow the use of powerheads in Federal waters off South Carolina to harvest snapper-grouper species.

Descending Devices

This proposed rule would require at least one descending device to be on board and ready for use on commercial, for-hire, and private recreational vessels while fishing for or possessing snapper-grouper species. Regulatory Amendment 29 describes a descending device as a tool to release a fish at the depth from which the fish was caught or at a minimum depth of 50 ft (15.2 m). Additionally, a 16-ounce (454-g) or heavier weight must be attached to the descending device. Because releasing a fish at a specific minimum depth would be difficult to comply with and enforce, this proposed rule defines a descending device as an instrument capable of releasing the fish at the depth from which the fish was caught and to which is attached a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (18.3-m) length of line. A 16-ounce weight is available at many tackle shops and is heavy enough to descend a majority of snapper-grouper species subject to barotrauma. A minimum line length of 50 ft (15.2-m) was discussed by the Council because 50 ft is the standard minimum release depth setting on commercially available descending devices. After further consideration, and to achieve the Council's intent for depth of release, NMFS proposes that a minimum of 60 ft (18.3 m) of line be attached to a descending device to ensure fish are released

at a minimum depth of 50 ft (15.2-m) while someone using the descending device is standing on the deck of a vessel, as well as to account for possible ocean current or swell.

The descending device may either attach to the fish's mouth or it may be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish at depth automatically, by actions of the device operator, or by allowing the fish to escape on its own when at depth.

Non-offset, Non-stainless Steel Circle Hooks

Currently, the use of non-stainless steel circle hooks is required when fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N latitude. This proposed rule would prohibit the use of offset circle hooks north of 28° N latitude, and require the use of non-offset and non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N latitude.

As a result of public comment during the development of Regulatory Amendment 29, the Council determined that requiring non-offset circle hooks south of 28° N latitude would result in negative economic and social effects to the for-hire industry because of the fishing methods in that area that rely on using J-hooks. For-hire fishermen were

concerned that a requirement to use circle hooks south of 28° N latitude would hinder their ability to produce fish for customers.

Non-stainless Steel Hooks

This proposed rule would require the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout Federal waters in the South Atlantic region. Similar to the proposed requirement to use non-offset, non-stainless steel circle hooks north of 28° N latitude, this proposed measure is expected to provide biological benefits as stated earlier to snapper-grouper species in South Atlantic Federal waters.

Powerhead Use off South Carolina

Currently, a powerhead may not be used to harvest snapper-grouper in Federal waters off South Carolina, but is allowed in Federal waters off North Carolina, Georgia, and the east coast of Florida. This proposed rule would remove the powerhead prohibition in Federal waters off South Carolina. The proposed rule would increase consistency in regulations throughout South Atlantic Federal waters, would be expected to reduce regulatory confusion among commercial and recreational dive fishermen, and aid in compliance and enforcement efforts.

NMFS is also seeking public comment on an appropriate effective date for the measures proposed in this rule, if implemented via final rule. NMFS usually has the measures implemented in a final rule effective 30 days after publication of the rule in the **Federal Register**, and is seeking comment on whether this same delay in effectiveness would provide sufficient time to comply with the requirements as proposed in this rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Regulatory Amendment 29, the Snapper-Grouper FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

NMFS prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule, as required by section 603 of the RFA (5 U.S.C. 603). The IRFA describes

the economic impact this proposed rule, if adopted, would have on small entities. A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble. The Magnuson-Stevens Act provides the statutory basis for this proposed rule. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

This proposed rule would apply to all commercial vessels, for-hire vessels, and private recreational anglers that fish for or harvest snapper-grouper species in Federal waters of the South Atlantic. The RFA does not consider recreational anglers to be small entities, so they are outside the scope of this analysis and only the impacts on commercial and for-hire fishing businesses will be discussed.

As of October 2, 2019, there were 527 valid or renewable South Atlantic snapper-grouper unlimited permits and 104 valid or renewable 225-lb trip-limited permits. On average from 2013 through 2017, there were 568 federally permitted commercial vessels with reported landings of snapper-grouper species in the South Atlantic. Their average annual vessel-level gross revenue from all species for 2013 through 2017 was approximately \$47,000 (2018 dollars) and snapper-grouper species accounted for 68

percent of this revenue. The maximum annual revenue from all species reported by a single one of the commercial vessels that landed South Atlantic snapper-grouper species from 2013 through 2017 was approximately \$1.5 million (2018 dollars).

As of October 2, 2019, there were 1,751 vessels with valid Federal charter vessel/headboat permits for South Atlantic snapper-grouper. Although the for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a charter vessel or a headboat. Operation as either a charter vessel or headboat is not restricted by permitting regulations and vessels may operate in both capacities on separate trips. However, only selected headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the NMFS Southeast Fisheries Science Center (SEFSC) that the vessel primarily operates as a headboat. As of August 20, 2019, 65 South Atlantic headboats were registered in the SRHS. As a result, of the 1,751 vessels with Federal snapper-grouper for-hire permits, up to 65 may primarily operate as headboats and the remainder as charter vessels. The average South

Atlantic charter vessel is estimated to receive approximately \$123,000 (2018 dollars) in annual gross revenue. The average South Atlantic headboat is estimated to receive approximately \$218,000 (2018 dollars) in annual gross revenue.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this proposed rule are believed to be small entities based on the NMFS size standard.

The Small Business Administration (SBA) has established size standards for all major industry sectors in the U.S. including for-hire businesses (NAICS code 487210). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has

combined annual receipts not in excess of \$8 million for all its affiliated operations worldwide. All of the for-hire fishing businesses that would be directly regulated by this proposed rule are believed to be small entities based on the SBA size criteria.

No other small entities that would be directly affected by this propose rule have been identified.

This proposed rule would not establish any new reporting or record-keeping requirements. It would, however, require owners or operators of commercial and for-hire vessels to have a descending device on board when fishing for or possessing species in the snapper-grouper fishery management unit (FMU). It would also require that commercial fishermen and for-hire anglers use non-offset, non-stainless steel circle hooks when fishing for species in the snapper-grouper FMU with hook-and-line gear and natural baits in the South Atlantic exclusive economic zone (EEZ) north of 28° N latitude (which is the latitude line running east to west approximately 25 miles south of Cape Canaveral, Florida). Finally, it would require that commercial fishermen and for-hire anglers use non-stainless steel hooks when fishing for species in the snapper-grouper FMU with hook-and-line gear and natural baits throughout the South Atlantic EEZ. To the extent that for-hire fishing

businesses supply fishing tackle such as hooks to their customers, this proposed action would require for-hire businesses to purchase, and ensure the use of, such hooks as described above. No special professional skills would be necessary for compliance with this proposed rule.

The estimated lower bound cost per vessel to purchase a descending device, based on advertised retail prices, plus the cost of a qualifying weight and line, would be approximately \$19 (2018 dollars). Commercial and for-hire businesses that already own suitable descending devices would not need to purchase new ones.

The proposed requirement for commercial fishermen and for-hire anglers to use non-offset, non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits in the EEZ north of 28° N latitude (approximately 25 miles south of Cape Canaveral, Florida) would require some commercial fishing businesses and potentially some for-hire vessels to purchase these hooks. The cost of purchasing circle hooks is highly variable and would depend on how many hooks each commercial or for-hire fishing business would need, as well as the quantity of hooks included in each purchase. In general, the cost per hook may vary from approximately \$0.30 per hook to \$1.00 per hook. If for-hire anglers

supply their own hooks, then the impact to for-hire fishing businesses would be reduced. Additionally, non-offset circle hooks may reduce the catchability of some species, which could negatively affect catch efficiency on some fishing trips. In turn, this could lead to a reduction in commercial ex-vessel revenue or increased trip costs. It is not possible to estimate the specific costs that each business would face as a result of the proposed circle hook requirement. Any change in for-hire anglers' demand for for-hire fishing trips (and associated economic effects) as a result of the proposed circle hook requirement would be secondary to any direct effect on anglers and, therefore, would be an indirect effect of the proposed rule. Indirect effects are not relevant to the RFA.

In addition, this proposed rule would require the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout the South Atlantic EEZ. Commercial and for-hire vessels fishing north of the 28° N latitude would not be affected because there is already a non-stainless steel hook requirement in place there. The cost of purchasing non-stainless steel hooks is highly variable and would depend on how many hooks each commercial or for-hire fishing business would need as well as the quantity of

hooks in each purchase. In general, the cost per non-stainless steel hook may vary from approximately \$0.30 per hook to \$1.00 per hook. Switching from stainless to non-stainless steel would likely decrease the useful lifespan of hooks, leading to a small increase in operating costs in the long term for commercial and for-hire businesses. If for-hire anglers supply their own hooks, then the impact to for-hire fishing businesses would be reduced. Changing from stainless to non-stainless steel hooks would not be expected to affect the harvest of snapper-grouper species and, therefore, no reduction in commercial ex-vessel revenue would be expected.

Finally, this proposed rule would allow federally permitted commercial fishermen and for-hire anglers to use powerheads to harvest snapper-grouper species in the EEZ off South Carolina. This would increase the opportunity for harvest in some circumstances, potentially leading to greater commercial ex-vessel revenue or lower harvest costs. It is not possible to meaningfully estimate these potential economic effects with available data. Any economic effects on for-hire fishing businesses would be indirect and would depend on how anglers' demand for for-hire trips changes as a result of removing the restriction

on powerhead usage. Again, indirect effects are not relevant to the RFA.

The following discussion describes the alternatives that were not selected as preferred by the South Atlantic Council.

Three alternatives were considered for the action to specify requirements for the use of descending devices or venting devices when fishing for or possessing snapper-grouper species. The first alternative, the no action alternative, would not require descending or venting devices to be on board when fishing for or possessing snapper-grouper species. This alternative would not be expected to result in direct costs to any small entities. It was not selected by the Council because it would forgo any improvements to snapper-grouper fish stocks that could be achieved through the increased usage of descending or venting devices and resultant decreases in release mortality.

The second alternative and three sub-alternatives, which were all selected as preferred by the Council, would require a descending device be on board private recreational, for-hire, and commercial vessels, respectively, when fishing for or possessing snapper-grouper species.

The third alternative would require a venting device be on board a vessel when fishing for or possessing snapper-grouper species. The third alternative contained three sub-alternatives that would apply the venting device requirement to private recreational vessels, for-hire vessels, and commercial vessels, respectively. The estimated lower bound cost of purchasing a venting device, based on advertised retail prices, would be \$6 (2018 dollars). This is slightly cheaper than the estimated cost of the preferred alternative. The third alternative was not selected by the Council because of the higher mortality risk to released fish associated with using venting devices incorrectly, versus using descending devices.

Four alternatives were considered for the action to modify the requirement for the use of non-stainless steel circle hooks when fishing for or possessing snapper-grouper species with hook-and-line gear. The first alternative, the no action alternative, would not modify current gear requirements and therefore would not be expected to result in direct costs to any small entities. This alternative was not selected by the Council because it would forgo any improvements to snapper-grouper fish stocks that could be achieved through the use of non-offset, non-stainless steel circle hooks north of 28° N latitude or increased usage of

non-stainless steel hooks in general and resultant decreases in release mortality.

The second alternative, selected as preferred by the Council, would require the use of non-offset, non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits within certain areas of the South Atlantic EEZ. The second alternative contained two sub-alternatives. The first sub-alternative, which was selected as preferred, would apply the non-offset, non-stainless steel circle hook fishing requirement to South Atlantic Federal waters north of 28° N latitude. The second sub-alternative would apply the non-offset, non-stainless steel circle hook fishing requirement throughout the extent of the Council's jurisdiction (from the North Carolina and Virginia border through Key West, Florida), except that other non-stainless steel hook types would be allowed to be used when fishing for yellowtail snapper with natural baits. The second sub-alternative would be expected to affect a greater number of commercial and for-hire fishing businesses because of the larger area to which it would apply and because there is currently no circle hook requirement in place when fishing for snapper-grouper species south of 28° N latitude. As discussed under the effects of the preferred sub-alternative, the cost of

purchasing circle hooks would depend on how many hooks each commercial or for-hire fishing business would need, as well as the quantity of hooks included in each purchase. The effect of switching to circle hooks in the area south of 28° N latitude may have a more pronounced effect on catch efficiency there than in the rest of the South Atlantic EEZ. Stakeholders have indicated that a circle hook requirement would negatively affect their ability to catch snapper-grouper species when drift fishing, which is a common practice in South Florida and the Florida Keys. The second sub-alternative was not selected because it would be expected to result in substantial negative economic and social effects, specifically to the for-hire industry that operates south of 28° N latitude.

The third alternative would require non-offset, non-stainless steel circle hooks be on board a vessel possessing snapper-grouper species when fishing with hook-and-line gear and natural baits within certain areas of the EEZ. The third alternative contained two sub-alternatives. The first sub-alternative would apply the non-offset, non-stainless steel circle hook on board requirement to vessels in Federal waters north of 28° N latitude. Under this sub-alternative, some commercial and for-hire fishing businesses that fish for snapper-grouper species north of

28° N latitude would need to purchase non-offset, non-stainless steel circle hooks to have on board. This sub-alternative would be expected to result in lower direct costs to fishing businesses than the preferred alternative, as non-offset, non-stainless steel circle hooks would only need to be on board the vessel and would likely not be used to the same extent as under the preferred alternative. Under such circumstances, multiple circle hook types and sizes would not be necessary to satisfy the circle hook requirement. Additionally, J-hooks or treble hooks could be used to harvest snapper-grouper species, which may increase the catchability of some species in comparison to circle hooks. To the extent that catch efficiency increases on commercial fishing trips, this could result in an increase in commercial trip profitability. The second sub-alternative would apply the non-offset, non-stainless steel circle hook on board requirement throughout the extent of the Council's jurisdiction, except that other non-stainless steel hook types would be allowed to be used when fishing for yellowtail snapper with natural baits. The second sub-alternative would require that commercial and for-hire fishing businesses that fish for snapper-grouper species anywhere in the South Atlantic EEZ purchase non-offset, non-stainless steel circle hooks to have on board. Because

J-hooks and treble hooks may already be used while fishing for snapper-grouper species with natural bait south of 28° N latitude, the second sub-alternative would be expected to have comparable effects on catch efficiency as the first sub-alternative. The third alternative and two sub-alternatives were not selected by the Council, because they were expected to be less likely than the preferred alternative to reduce release mortality.

The fourth alternative, also selected as preferred, would require the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits in the South Atlantic EEZ.

Three alternatives were considered for the action to adjust powerhead prohibitions in the South Atlantic region. The first alternative, the no action alternative, would not modify existing powerhead regulations or restrictions, and therefore, would not be expected to have direct economic effects on any small entities. Under the no action alternative, harvest of snapper-grouper species by powerhead in the EEZ off South Carolina would continue to be prohibited. This alternative was not selected by the Council because it would fail to ensure consistent regulations for the dive component of the South Atlantic snapper-grouper fishery.

The second alternative and two sub-alternatives were selected as preferred and would allow private recreational, for-hire, and commercial vessels to use powerheads for harvest of snapper-grouper species in the EEZ off South Carolina.

The third alternative would prohibit the use of a powerhead for harvest of snapper-grouper species in the EEZ of the entire South Atlantic region. The third alternative contained two sub-alternatives. The first sub-alternative would apply the prohibition of powerheads in the EEZ to private recreational and for-hire vessels. This sub-alternative would remove some opportunities to recreationally harvest snapper-grouper species in the EEZ of the South Atlantic, but would not be expected to have any direct effects on for-hire fishing businesses. Any effects on for-hire fishing businesses would be indirect and would depend on how anglers' demand for for-hire trips changes as a result of powerhead restrictions. The second sub-alternative would apply the prohibition of powerheads in the EEZ to commercial vessels. This would remove some opportunities to commercially harvest snapper-grouper species in the EEZ of the South Atlantic, which may lead to decreased trip profits for some commercial businesses. Using the average annual ex-vessel revenue estimates from

powerhead fishing in the South Atlantic EEZ from 2013 through 2017, NMFS estimates the upper bound cost of this sub-alternative would be \$261,000 (2018 dollars) per year or approximately \$460 per commercial vessel. The true cost of this sub-alternative would likely be much less, because commercial fishermen could substitute powerhead landings with landings by other gear types or in other areas. The third alternative and two sub-alternatives were not selected by the Council because they would unnecessarily reduce fishing opportunities in the South Atlantic EEZ and potentially result in negative economic effects to fishermen.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, because no new reporting or record-keeping requirements are introduced by this proposed rule, the Paperwork Reduction Act does not apply to this proposed rule.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Grouper, Snapper, South Atlantic.

Dated: April 13, 2020.

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, AND SOUTH
ATLANTIC**

1. The authority citation for part 622 continues to
read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 622.182 [Amended]

2. In § 622.182, remove and reserve paragraph (c).

3. In § 622.188, revise paragraph (a)(2) and add
paragraphs (a)(3) and (4) to read as follows:

**§ 622.188 Required gear, authorized gear, and unauthorized
gear.**

(a) * * *

(2) *Non-offset, non-stainless steel circle hooks.* Non-offset, non-stainless steel circle hooks are required to be used when fishing for South Atlantic snapper-grouper with hook-and-line gear and natural baits north of 28° N. lat.

(3) *Non-stainless steel hooks.* Non-stainless steel hooks are required to be used when fishing for South Atlantic snapper-grouper with hook-and-line gear and natural baits south of 28° N. lat.

(4) *Descending device.* At least one descending device is required to be on board a vessel and be ready for use while fishing for or possessing South Atlantic snapper-grouper. Descending device means an instrument capable of releasing the fish at the depth from which the fish was caught and to which is attached a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (15.2-m) length of line. The descending device may either attach to the fish's mouth or be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

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