



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 201102-0285]

RIN 0648-BJ93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 34

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 34 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). If implemented, this proposed rule would create 34 special management zones (SMZs) around artificial reefs in the exclusive economic zone (EEZ) off North Carolina and South Carolina. The purpose of this proposed rule is to designate new SMZs and to restrict fishing gear with greater potential to result in high exploitation rates. The restrictions are expected to reduce adverse effects to snapper-grouper species and enhance recreational fishing opportunities at these SMZs.

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-2020-0123," 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-2020-0123>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Rick DeVictor, 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 34 to the Snapper-Grouper FMP (Regulatory Amendment 34) may be

obtained from *www.regulations.gov* or the Southeast Regional Office website at

<https://www.fisheries.noaa.gov/action/regulatory-amendment-34-special-management-zones-smz>. Regulatory Amendment 34 includes an environmental assessment, regulatory impact review, and Regulatory Flexibility Analysis (RFA).

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: *rick.devictor@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

The Council specified the SMZ designation process in 1983, and since that time SMZs have been designated in the EEZ off South Carolina, Georgia, and Florida and as recently as in 2000. There are no SMZs designated off North Carolina currently. Twenty-eight artificial reef sites in the EEZ off South Carolina have been designated as SMZs since the 1980s. The purpose of the SMZ designation process, and the subsequent specification of SMZs, is to protect snapper-grouper populations at the relatively small artificial reef sites in the EEZ and to create fishing opportunities that would not otherwise exist without their

designation. Prior to the SMZ designation process, for example, black sea bass pots were used by commercial fishermen to efficiently remove black sea bass from artificial reefs off South Carolina. At the time of the SMZ designation process, the Council determined that because artificial reefs sites are small in area (because of the limited amount of suitable reef-building material), the sites are vulnerable to overexploitation by more efficient fishing gear that has the potential to result in localized depletion. In addition, the Council wanted to enhance fishing opportunities for the recreational sector through the designation of SMZs. The Council has determined that the harvest and gear restrictions will increase the abundance and size of snapper-grouper species at the sites, thereby increasing available catch for fishermen, such as those fishing under recreational harvest limits.

The North Carolina Division of Marine Fisheries (NCDMF) and the South Carolina Department of Natural Resources (SCDNR) requested that the Council designate artificial reefs located in the EEZ off their respective coasts as SMZs. Following a review of the requests, the Council developed Regulatory Amendment 34 that would create 34 new SMZs (30 off North Carolina and 4 off South Carolina). The Council determined that the proposed actions in Regulatory Amendment 34 would enhance the fishing experience at the artificial reef sites for recreational fishermen and that would further promote the original intent of North Carolina and South Carolina for placing the

artificial reefs at the sites. The purpose of Regulatory Amendment 34 and this proposed rule is to designate these sites as SMZs and to restrict fishing gear that could result in high exploitation rates to reduce potential adverse biological effects to federally managed snapper-grouper species and enhance recreational fishing opportunities at these sites.

Management Measures Contained in this Proposed Rule

This proposed rule would create SMZs in the EEZ off North Carolina and South Carolina. Authorized gear and harvest levels for snapper-grouper species at these new SMZs would be specified to reduce potential adverse biological effects and enhance recreational fishing opportunities.

SMZs off North Carolina

There are currently no artificial reefs in the EEZ off North Carolina designated as SMZs. The proposed rule would designate 30 SMZs off North Carolina in the EEZ. The NCDMF requested that the Council designate 30 artificial reefs located in the EEZ off North Carolina as SMZs in a letter dated March 12, 2019. The 30 sites are existing artificial reefs permitted by the Army Corps of Engineers. The proposed SMZs would match the sizes of the permitted artificial reefs, and would range from 0.24 to 0.76 square nautical miles or 0.25 to 1.01 square miles (0.82 to 2.6 square km). The NCDMF letter also requested that within the SMZs all harvest of snapper-grouper species would be allowed only with handline, rod and reel, and spear.

Further, in the proposed SMZs off North Carolina, all commercial and recreational harvest of snapper-grouper species by spear would be limited to the applicable, existing recreational bag limits, as requested by the NCDMF.

SMZs off South Carolina

There are currently 28 artificial reef sites in the EEZ off South Carolina that the Council has designated as SMZs. This proposed rule would designate four additional SMZs off the coast of South Carolina in the EEZ. The SCDNR requested that the Council designate additional artificial reefs located in the EEZ off the South Carolina as SMZs in a letter dated March 1, 2019. The four additional sites are existing artificial reefs permitted by the Army Corps of Engineers. The proposed SMZs would match the sizes of the permitted artificial reefs, and would range from 0.031 to 0.25 square nautical miles or 0.041 to 0.33 square miles (0.11 to 0.86 square km). The SCDNR letter also requested that within the SMZs all harvest of snapper-grouper species would be allowed only with handline, rod and reel, and spear in the SMZs. Further, in the proposed SMZs off South Carolina, all commercial and recreational harvest of snapper-grouper species would be limited to the applicable, existing recreational bag limits, as requested by the SCDNR. If implemented, these restrictions would match the regulations in the current SMZs off South Carolina.

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 34, the Snapper-Grouper FMP, 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 proposed rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration 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 certification is as follows. A copy of the full analysis is available from NMFS (see **ADDRESSES**).

A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting or record keeping compliance requirements are introduced in this proposed rule.

This proposed rule directly affects small businesses that operate commercial fishing vessels that harvest snapper-grouper species within the 30 proposed SMZs in the EEZ off North Carolina and the 4 proposed SMZs in the EEZ off South Carolina.

Any commercial fishing vessel that harvests and sells snapper-grouper from the South Atlantic EEZ must have a valid Federal commercial permit for South Atlantic snapper-grouper. It is expected that any of the federally permitted vessels that may harvest snapper-grouper in any of the proposed SMZs land their catch in North Carolina or South Carolina.

From 2014 through 2018, an annual average of 173 federally permitted vessels reported landing snapper-grouper in the Carolinas: 120 in North Carolina and 53 in South Carolina. Average annual dockside revenue of the 120 permitted vessels that landed snapper-grouper in North Carolina was \$42,619 (2018 dollars), and average annual dockside revenue of the 53 permitted vessels that landed snapper-grouper in South Carolina was \$72,259 (2018 dollars). Those annual averages represent the baseline revenues of the directly affected vessels. An estimated 128 businesses operate these 173 federally permitted vessels.

All of the businesses that operate the above federally permitted vessels are expected to operate primarily in the commercial fishing industry (NAICS code 11411). For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose

primary industry is commercial fishing (50 CFR 200.2). A business primarily involved in the commercial 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 its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. Examination of annual dockside revenues of the vessels owned by the businesses indicates the total annual revenue of each business to be less than \$11 million. Consequently, all of the estimated 128 businesses directly affected by the proposed action are classified as small.

The proposed rule would designate 30 SMZs in the EEZ off North Carolina and 4 SMZs in the EEZ off South Carolina. Within the proposed SMZs, all harvest of snapper-grouper species would only be allowed with handline, rod and reel, and spear. Within the proposed SMZs off North Carolina, all harvest by spear would be limited to the applicable recreational bag limit, whereas within the proposed SMZs off South Carolina, all harvest would be limited to the applicable recreational bag limit.

For the purpose of monitoring landings through the Coastal Logbook Program, NMFS divides the South Atlantic into statistical grids that follow lines of latitude and longitude. The maximum area of a reporting grid in the South Atlantic EEZ is 3,600 square nautical miles or 4,767 square miles (12,347.6 square km) while grids closer to

shore cover less area due to truncation of the water area by coastline.

The proposed 30 SMZs in the EEZ off the North Carolina lie within seven statistical reporting grids and collectively those SMZs would cover 9 square nautical miles or 11.9 square miles (30.9 square km). That combined area represents approximately 0.25 percent of the combined areas of the seven statistical grids. The four proposed SMZs in the EEZ off South Carolina lie within two statistical reporting grids, collectively cover 0.45 square nautical miles or 0.6 square miles (1.5 square km), and represent approximately 0.0125 percent of the combined area of the two statistical reporting grids. Because of their very small size, there is insufficient information to determine precise numbers of landings of snapper-grouper that are harvested from the proposed SMZs.

If the proportion of the area covered by the 30 proposed SMZs off North Carolina (0.25 percent) is consistent with the proportion of snapper-grouper landings in North Carolina, then on average 2,637 lb (1,196.1 kg) gutted weight of snapper-grouper with a dockside value of \$9,223 (2018 dollars) are harvested from the 30 proposed SMZs annually. When divided across the 120 permitted vessels that landed snapper-grouper annually in North Carolina, the 30 proposed SMZs would reduce annual landings by 22 lb (9.9 kg) gutted weight and reduce annual dockside revenue by \$77 (2018 dollars). That reduction represents

0.18 percent of the average annual revenue of those 120 permitted vessels.

If the proportion of the area covered by the four proposed SMZs off South Carolina (0.0125 percent) is consistent with the proportion of snapper-grouper landings in South Carolina, then on average 111 lb (50.3 kg) gutted weight of snapper-grouper with a dockside value of \$472 (2018 dollars) is harvested annually from the combined four proposed SMZs. When divided across the 53 permitted vessels that annually landed snapper-grouper in South Carolina, the four proposed SMZs would reduce annual landings by 2 lb (0.9 kg) gutted weight and annual dockside revenue by \$9 (2018 dollars). That reduction represents 0.012 percent of the average annual revenue of those 53 vessels.

From those figures and percentages, it is expected that this proposed rule would not have a significant economic impact on the average annual 128 commercial fishing businesses and their combined 173 federally permitted fishing vessels that harvest snapper-grouper from the South Atlantic EEZ and make their landings in North Carolina and South Carolina. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Grouper, Snapper, South Atlantic.

Dated: November 2, 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 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 § 622.182, add paragraphs (e) and (f) to read as
follows:

§ 622.182 Gear-restricted areas.

* * * * *

(e) *SMZs off North Carolina.* (1) The center of each
SMZ in Table 3 to this paragraph (e) is located at the
given point with a radius extending the applicable distance
in every direction laterally from that point to form a
circle around the center point.

(2) Harvest of South Atlantic snapper-grouper while in
the SMZs in this paragraph (e) is permitted only by
handline, rod and reel, and spearfishing gear. All harvest
of South Atlantic snapper-grouper by spearfishing gear in
the SMZs in this paragraph (e) is limited to the applicable

recreational bag and possession limits in § 622.187.

Table 3 to paragraph (e)

Reef name	North lat.	West long.	Radius in ft (m)
AR-130	36°00.296'	75°31.957'	1,500 (457)
AR-140	35°56.718'	75°31.965'	1,500 (457)
AR-145	35°54.017'	75°23.883'	1,500 (457)
AR-220	35°08.117'	75°40.633'	3,000 (914)
AR-225	35°06.768'	75°39.322'	1,500 (457)
AR-230	35°06.133'	75°42.933'	1,500 (457)
AR-250	34°56.900'	75°54.860'	1,500 (457)
AR-255	34°55.483'	75°57.910'	1,500 (457)
AR-285	34°33.383'	76°26.350'	1,500 (457)
AR-300	34°18.517'	76°24.133'	1,500 (457)
AR-302	34°10.265'	76°13.703'	1,500 (457)
AR-305	34°16.683'	76°38.650'	1,500 (457)
AR-330	34°33.634'	76°51.267'	3,000 (914)
AR-340	34°34.319'	76°58.345'	1,500 (457)
AR-345	34°32.266'	76°58.508'	1,500 (457)
AR-355	34°21.318'	77°19.877'	1,500 (457)
AR-362	34°15.657'	77°30.392'	1,500 (457)
AR-366	34°12.950'	77°25.250'	1,500 (457)
AR-368	34°09.514'	77°25.782'	1,500 (457)
AR-372	34°06.295'	77°44.917'	1,500 (457)
AR-376	34°03.283'	77°39.633'	1,500 (457)
AR-382	33°58.581'	77°41.172'	1,500 (457)
AR-386	33°57.517'	77°33.400'	1,500 (457)
AR-400	33°29.267'	77°35.227'	1,500 (457)
AR-420	33°51.050'	78°06.710'	1,500 (457)
AR-440	33°49.800'	78°13.083'	1,500 (457)
AR-445	33°44.783'	78°14.100'	1,500 (457)
AR-455	33°47.033'	78°17.883'	1,500 (457)
AR-460	33°50.089'	78°22.022'	1,500 (457)
AR-465	33°23.423'	78°11.052'	1,500 (457)

(f) *Additional SMZs off South Carolina.* (1) The center of each SMZ in Table 4 to this paragraph (f) is located at the given point with a radius extending the applicable distance in every direction laterally from that point to form a circle around the center point.

(2) Harvest of South Atlantic snapper-grouper while in the SMZs in this paragraph (f) is permitted only by handline, rod and reel, and spearfishing gear (excludes a

powerhead). All harvest of South Atlantic snapper-grouper by the allowable gear in the SMZs in this paragraph (f) is limited to the applicable recreational bag and possession limits in § 622.187.

(3) *PA-04 - Ron McManus Memorial Reef*. This SMZ is bounded by lines connecting the following corner points:
 northwest corner point at 33°46.400' N, 78°36.200' W;
 northeast corner point at 33°46.400' N, 78°35.600' W;
 southeast corner point at 33°45.900' N, 78°35.600' W; and
 southwest corner point at 33°45.900' N, 78°36.200' W.

Table 4 to paragraph (f)

Reef name	North lat.	West long.	Radius in ft (m)
PA-07 Pop Nash	33°34.510'	78°51.000'	600 (183)
PA-28 Lowcountry Anglers	32°34.300'	79°55.100'	600 (183)
PA-34 CCA- McClellanville	32°51.800'	79°22.500'	600 (183)