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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230629-0159]

RIN 0648-BL93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 49

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 49 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For greater amberjack, this proposed rule would revise the sector annual catch limits (ACLs), the commercial minimum size limit, the commercial seasonal trip limits, and the April spawning season closure. In addition,

Amendment 49 would revise the overfishing limit (OFL), acceptable biological catch (ABC), annual optimum yield (OY), and sector allocations of the total ACL, as well as remove the recreational annual catch targets (ACTs) for species in the FMP. The purpose of this proposed rule and Amendment 49 is to ensure catch limits are based on the best scientific information available and to ensure overfishing does not occur for the South Atlantic greater amberjack stock, while increasing social and economic benefits.

DATES: Written comments 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-2023-0061", by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter "NOAA-NMFS-2023-0061" in the Search box. Click the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Mary Vara, NMFS Southeast Regional Office, 263 13th Avenue South,

St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments - enter "N/A" in the required fields if you wish to remain anonymous.

An electronic copy of Amendment 49, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at

<https://www.fisheries.noaa.gov/node/150641>.

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

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery includes greater amberjack and is managed under the FMP. The FMP was prepared by the Council and is implemented by NMFS through regulations

at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires that NMFS and the regional fishery management councils prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

In 2008, a stock assessment for greater amberjack was completed through the Southeast Data, Assessment, and Review (SEDAR) process (SEDAR 15), and it was determined that the stock was not overfished or undergoing overfishing. As a result of that stock status, the Comprehensive ACL Amendment to the FMP (77 FR 15915, March 16, 2012) established the current total ACL and annual OY.

The most recent SEDAR stock assessment for South

Atlantic greater amberjack (SEDAR 59) was completed in 2020. The assessment included data through 2018. The assessment used revised estimates for recreational catch from the Marine Recreational Information Program (MRIP) based on the Fishing Effort Survey (FES). In 2018, the MRIP fully transitioned its estimation of recreational effort from the Coastal Household Telephone Survey (CHTS) to the mail-based FES. Estimates of recreational catch for greater amberjack included in the previous assessment were made using the Marine Recreational Fisheries Statistics Survey (MRFSS) methodology. As explained in Amendment 49, total recreational fishing effort estimates generated from MRIP FES are different than those from the MRIP CHTS and MRFSS. This difference in estimates is because MRIP FES is designed to more accurately measure fishing activity, not because there was a sudden change in fishing effort. The MRIP FES is considered a more reliable estimate of recreational effort by the Council's Scientific and Statistical Committee (SSC), the Council, and NMFS, and more robust compared to the MRFSS method previously used to estimate recreational catches for greater amberjack. The SSC reviewed SEDAR 59 (2020) and found that the

assessment was conducted using the best scientific information available, and was adequate for determining stock status and supporting fishing level recommendations. The findings of the assessment indicated that the South Atlantic greater amberjack stock is not overfished or undergoing overfishing.

Updated catch and data changes incorporated in the assessment provided information to update the OFL, ABC, annual OY, and ACLs. In response to the results of SEDAR 59 (2020), the Council subsequently developed Amendment 49.

In addition to the proposed revisions to the sector ACLs and seasonal commercial quotas, the Council determined that further modifications to greater amberjack management measures are needed to ensure that overfishing does not occur, while increasing social and economic benefits through sustainable harvest of greater amberjack in the South Atlantic exclusive economic zone (EEZ). The proposed rule would reduce the commercial minimum size limit, increase the season 2 (September 1 through the end of February) commercial trip limit, and revise the April spawning closure for greater amberjack. Amendment 49 would also make changes to the FMP by removing

recreational ACTs from the FMP to make administrative efforts more efficient, since the Council has not used, and does not anticipate using, recreational ACTs for management.

Management Measures Contained in this Proposed Rule

This proposed rule would revise the sector annual ACLs, seasonal commercial quotas, commercial minimum size limit, commercial Season 2 trip limit, and the April spawning closure for South Atlantic greater amberjack.

Total ACLs

As implemented through the final rule for the Comprehensive ACL Amendment, the current total ACL and annual OY for greater amberjack are equal to the current ABC of 1,968,001 lb (892,670 kg) round weight. The current ABC includes recreational estimates from the MRFSS. In Amendment 49, the Council revised the ABC based on SEDAR 59 and the recommendation of their SSC.

The fishing year for greater amberjack is March 1 through the end of February, requiring that ACL values are described as a combination of years. The proposed rule would revise the total ACL equal to the recommended ABC of 3,233,000 lb (1,466,464), round

weight, for 2023-2024; 2,818,000 lb (1,278,223 kg) , round weight, for 2024-2025; 2,699,000 lb (1,224,246) , round weight, for 2025-2026; and 2,669,000 lb (1,210,638) , round weight, for 2026-2027 and subsequent fishing years.

Sector Allocations and ACLs

Amendment 49 would revise the commercial and recreational allocations of the total ACL for greater amberjack. The current sector ACLs for greater amberjack are based on the current commercial and recreational allocations of the total ACL at 40.66 percent and 59.34 percent, respectively. The current allocations were established by applying the formula of sector ACL = ((mean landings 2006-2008)*0.5) + ((mean landings 1986-2008)*0.5) to the landings dataset that were used in the Comprehensive ACL Amendment.

The revised greater amberjack sector allocations in Amendment 49 would result in commercial and recreational allocations of 35.00 percent and 65.00 percent, respectively. After considering various allocation alternatives, the Council proposed allocations based on their current allocation equation, updated estimates of recreational landings

from the MRIP FES method, and a consideration of economic and social impacts to the commercial and recreational sectors. The proposed sector allocations are approximate midpoints between the current allocations, and the allocations that result from applying the current allocation formula to a revised dataset that is inclusive of MRIP-FES, which results in commercial and recreational allocations of the total ACL at 29.84 percent and 70.16 percent, respectively. While the Council increased the recreational allocation percentage to account for the increase in recreational catch estimates under the new MRIP FES estimation method, the Council chose to increase the recreational allocation to 65.00 percent, instead of 70.16 percent to account for potential adverse economic and social impacts to the commercial sector. Several recently completed stock assessments for other snapper-grouper species have indicated poor stock status and necessitated reduced harvest of these stocks, making greater amberjack potentially more important to the commercial sector. The proposed greater amberjack sector allocation percentages also approximate the average annual total landings percentages for each sector from 2010-2019.

The Council determined that the sector allocations in Amendment 49 would result in the most appropriate balance between the needs of both sectors to maximize harvest opportunities. The Council considers this revised allocation to be fair and equitable to fishery participants in both the commercial and recreational sectors. The Council determined that this allocation is also reasonably calculated to promote conservation and is a wise use of the resource, since it achieves OY and is based upon an ABC recommendation from their SSC that incorporates the best scientific information available. The Council acknowledged that the recreational sector would benefit with an increase to their allocation, and that the recreational sector management measures and accountability measures (AMs) are in place to prevent overages of the recreational ACL.

The commercial quota for greater amberjack is equivalent to the commercial ACL. The final rule for Regulatory Amendment 27 to the FMP established two commercial fishing seasons and divided the commercial quota between the seasons to 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 (85 FR 4588, January 27, 2020). Regulatory Amendment 27 allocated 60 percent of the commercial quota to Season 1 from March through August, and 40 percent of the quota to Season 2 from September through February. Any remaining commercial quota from Season 1 is added to the commercial quota in Season 2. Any remaining quota from Season 2 is not carried forward into the next fishing year. This proposed rule would not alter the current fishing seasons or seasonal allocations of the commercial ACL.

Currently, the commercial ACL is 769,388 lb (348,989 kg), gutted weight. The commercial Season 1 quota is 461,633 lb (209,393 kg), gutted weight. The commercial Season 2 quota is 307,755 lb (139,595 kg), gutted weight.

This proposed rule would revise the commercial ACLs to be 1,088,029 lb (493,522 kg), gutted weight, for 2023-2024; 948,365 lb (430,171 kg), gutted weight, for 2024-2025; 908,317 lb (412,006 kg), gutted weight, for 2025-2026; and 898,221 lb (407,426 kg), gutted weight, for 2026-2027 and subsequent fishing years.

The commercial Season 1 quotas would be 652,817

lb (296,113 kg), gutted weight, for 2023-2024; 569,019 lb (258,103 kg), gutted weight), for 2024-2025; 544,990 lb (247,203 kg), gutted weight, for 2025-2026; and 538,933 lb (244,456 kg), gutted weight, for 2026-2027 and subsequent fishing years.

The commercial Season 2 quotas would be 435,212 lb (197,409 kg), gutted weight, for 2023-2024; 379,346 lb (172,068 kg), gutted weight, for 2024-2025; 363,327 lb (164,802 kg), gutted weight, for 2025-2026; and 359,288 lb (162,970 kg), gutted weight, for 2026-2027 and subsequent fishing years.

The current recreational ACL is 1,167,837 lb (529,722 kg), round weight. The recreational ACLs in the proposed rule would be 2,101,450 lb (953,202 kg), round weight, for 2023-2024; 1,831,700 lb (830,845 kg), round weight, for 2024-2025; 1,754,350 lb (795,760 kg), round weight, for 2025-2026; and 1,734,850 lb (786,915 kg), round weight, for 2026-2027 and subsequent fishing years.

Commercial Minimum Size Limit

The final rule for Amendment 4 to the FMP (56 FR 56016, October 31, 1991) implemented the current minimum size limit for the commercial sector of 36 inches (91.4 cm) fork length (FL).

This proposed rule would reduce the commercial minimum size limit to 34 inches (86.4 cm), FL. Consideration of a reduced commercial minimum size limit was recommended during public scoping (April 2021) and from the Council's Snapper-Grouper Advisory Panel (AP) at their April 2021 meeting. For similar reasons as those provided through public and AP comments, the Council determined that reducing the minimum size limit would reduce regulatory discards, reduce the risk of shark depredation, and more align with the greater commercial desirability for smaller fish. Additionally, the Council decided that a reduction to 34 inches (86.4 cm), FL, is not likely to jeopardize the current positive stock status, given other management constraints on the commercial sector such as in-season AMs, trip limits, and split season quotas.

Seasonal Commercial Trip Limits

The final rule for Regulatory Amendment 27 revised the commercial trip limit for greater amberjack to the current limits of 1,200 lb (544 kg) during Season 1, and 1,000 lb (454 kg) during Season 2 (in round or gutted weight).

This proposed rule would increase the Season 2

trip limit for greater amberjack to 1,200 lb (544 kg). After hearing a recommendation for this change from the Snapper-Grouper AP, the Council selected this option to have more regulatory consistency by having the same commercial trip limit throughout the year. Additionally, the Council acknowledged that the analyses considered in Amendment 49 indicate that under the 1,200 lb (544 kg) trip limit, the commercial sector is not expected to experience a closure in Season 2. The Council decided that having the same trip limit throughout the fishing year would best meet the purpose of revising the commercial trip limit to increase efficiency of commercial fishing for greater amberjack, while minimizing adverse social and economic effects.

April Spawning Closure

The peak spawning month for greater amberjack is during April and spawning aggregations are vulnerable to fishing effort during that time of the year. Due to the concerns of high catch rates of greater amberjack in spawning aggregations, the final rule for Amendment 4 to the FMP (56 FR 56016, October 31, 1991) implemented a spawning season closure for the commercial harvest of greater amberjack during April

in which commercial fishermen were restricted to a 3 fish per person per day limit (the same as the recreational bag limit at the time). To further enhance the protection to spawning greater amberjack, the final rule for Amendment 9 to the FMP revised those commercial possession limits and sale/purchase restrictions (64 FR 3624, February 24, 1999). Currently, during April each year, for both the commercial and recreational sectors, no person may sell or purchase a greater amberjack harvested from the South Atlantic EEZ and the harvest and possession limit is one per person per day or one per person per trip, whichever is more restrictive.

This proposed rule would revise the April spawning closure restrictions for both the commercial and recreational sectors from April 1 through April 30, and not allow any person to fish for, harvest, or possess a greater amberjack from the South Atlantic EEZ and the harvest and possession limits would be zero. The sale or purchase of greater amberjack would continue to be prohibited in April. The Council determined that additional protections were needed for greater amberjack during this portion of their peak spawning period (April-May), and that both sectors

should fully participate in this effort by not allowing either sector to harvest greater amberjack.

Management Measures in Amendment 49 Not Codified by This Proposed Rule

In addition to the measures within this proposed rule, Amendment 49 would revise the OFL for greater amberjack and set the total ACL and annual OY equal to the ABC. The amendment would also revise the sector allocations as described above. Additionally, the use of the recreational ACT would also be removed for species managed under the FMP.

OFL, ABC, and Annual OY

As implemented through the Comprehensive ACL Amendment, the current OFL for greater amberjack is 2,005,000 lb (909,453 kg), round weight. The current total ACL and annual OY are equal to the ABC of 1,968,001 lb (892,670 kg), round weight. All of these current values include recreational landings for greater amberjack tracked using MRFSS estimation methods, and the Council's choice of these values was based on the recommendations of their SSC from the SEDAR 15 stock assessment (2008).

In 2021, the Council's SSC recommended to the Council new OFL and ABC levels based on SEDAR 59

(2020). As discussed above, SEDAR 59 and the associated OFL and ABC recommendations for greater amberjack incorporated the revised estimates for recreational catch and effort from the MRIP FES. The Council accepted the SSC's recommendations, and the Council's choice of new OFL and ABC values within Amendment 49 also represent the best scientific information available as determined by the Council's SSC and NMFS.

The Council chose to specify OY for greater amberjack on an annual basis and set it equal to the ABC and total ACL, in accordance with the guidance provided in the Magnuson-Stevens Act National Standard 1 Guidelines at 50 CFR 600.310(f)(4)(iv).

Recreational ACTs

Recreational ACTs for the species in the FMP, were established through the Comprehensive ACL Amendment to account for uncertainty in recreational catch estimates. They are calculated using the formula: $ACT = ACL * [(1 - PSE) \text{ OR } 0.5, \text{ whichever is greater}]$, where ACL is the recreational ACL and PSE is the average of percent standard errors for recreational harvest estimates from the 5 most recent years of data. Recreational ACTs are not codified in

the regulations, and are not currently used for management purposes. However, because the recreational ACT is derived from the recreational ACL, the recreational ACT values have continued to be updated in the FMP when ACLs are changed.

This proposed rule would remove recreational ACTs for species managed under the FMP, from both individual species and complexes. Removing recreational ACTs from the FMP would make administrative efforts by the Council more efficient, since the Council has not actively used the ACTs, and does not anticipate using them for management in the FMP.

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 Amendment 49, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for

Regulation of the Department of Commerce has 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 determination follows.

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this proposed rule. 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, record-keeping, or other compliance requirements are introduced by this proposed rule.

For greater amberjack, this proposed rule, if implemented, would 1) increase the total ACL, 2) increase the sector ACLs, 3) reduce the commercial minimum size limit, 4) increase the Season 2 commercial trip limit, and 5) revise the April spawning season closure. This proposed rule would also remove reference to ACTs within the FMP at 50 CFR 622.193. The proposed changes to the ACL, the sector

ACLs, and the spawning closure would apply to all federally-permitted commercial vessels, federally-permitted charter vessels and headboats (for-hire vessels), and recreational anglers that fish for or harvest greater amberjack in Federal waters of the South Atlantic. The proposed changes to the commercial minimum size limit and commercial trip limits would only apply to commercial vessels. This proposed rule would not directly apply to federally-permitted dealers. Any change in the supply of greater amberjack available for purchase by dealers as a result of this proposed rule, and associated economic effects, would be an indirect effect of the proposed rule and would therefore fall outside the scope of the RFA.

Although several components of this proposed rule would apply to for-hire vessels, they would not be expected to have any direct effects on these entities. For-hire vessels sell fishing services to recreational anglers. The proposed changes to the greater amberjack management measures would not directly alter the services sold by these vessels. Any change in demand for these fishing services, and associated economic effects, as a result of this proposed rule would be a consequence of a change in anglers' behavior,

secondary to any direct effect on anglers and, therefore, an indirect effect of this proposed rule. Because the effects on for-hire vessels would be indirect, they fall outside the scope of the RFA. Furthermore, for-hire captains and crew are allowed to retain greater amberjack under the recreational bag limit; however, they cannot sell these fish. As such, for-hire captains and crew are only affected as recreational anglers. The RFA does not consider recreational anglers to be small entities, so they are also outside the scope of this analysis (5 U.S.C. 603). Small entities include small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601(6) and 601(3)-(5)). Recreational anglers are not businesses, organizations, or governmental jurisdictions. In summary, only the impacts on commercial vessels will be discussed.

As of August 26, 2021, there were 579 valid or renewable South Atlantic snapper-grouper unlimited permits and 112 valid or renewable 225-lb (102.1 kg) trip-limited permits. On average from 2015 through 2019, there were 242 federally-permitted commercial vessels with reported landings of greater amberjack in the South Atlantic. Their average annual vessel-level

gross revenue from all species for 2015 through 2019 was \$68,449 (2020 dollars) and greater amberjack accounted for approximately 7 percent of this revenue. For commercial vessels that harvest greater amberjack in the South Atlantic, NMFS estimates that economic profits are \$2,738 (2020 dollars) or approximately 4 percent of annual gross revenue, on average. The maximum annual revenue from all species reported by a single one of the vessels that harvested greater amberjack from 2015 through 2019 was approximately \$632,000 (2020 dollars).

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 (North American Industry Classification System 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 of 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. No other small entities that would be directly affected by this proposed rule have been identified.

This proposed rule would revise the total ACL for greater amberjack, based on the Council accepting their SSC's recommendations in response to the SEDAR 59 stock assessment. This catch limit would reflect a shift in recreational reporting units from the MRFSS, which was used in the previous stock assessment (SEDAR 15), to the MRIP FES. The proposed total ACL would be set equal to the ABC or 3,233,000 lb (1,466,464 kg), round weight, in the 2023-2024 fishing year, 2,818,000 lb (1,278,223 kg), round weight, in the 2024-2025 fishing year, 2,699,000 lb (1,224,246 kg), round weight, in the 2025-2026 fishing year, and 2,669,000 lb (1,210,638 kg), round weight, in the 2026-2027 and subsequent fishing years. Based on the current sector allocation percentages of 40.66 percent commercial and 59.34 percent recreational, the proposed total ACLs would represent an increase in the allocated commercial ACL for greater amberjack of 514,374 lb (233,316 kg), round weight, in the 2023-2024 fishing year, 345,635 lb (156,777 kg), round weight, in the 2024-2025 fishing year, 297,250 lb (134,830 kg), round

weight, in the 2025-2026 fishing year, and 285,052 lb (129,297 kg), round weight, in the 2026-2027 and subsequent fishing years. However, as discussed below, this proposed rule would also modify the percentage of the total ACL that is allocated to the commercial sector and therefore economic effects to small entities are quantified as part of that discussion.

This proposed rule would decrease the commercial sector allocation from 40.66 percent of the total greater amberjack ACL to 35 percent. This, in conjunction with the proposed changes to the ACL, would result in a commercial ACL for greater amberjack of 1,088,029 lb (493,522 kg), gutted weight, in the 2023-2024 fishing year, 948,365 lb (430,171 kg), gutted weight, in the 2024-2025 fishing year, 908,317 lb (412,006 kg), gutted weight, in the 2025-2026 fishing year, and 898,221 lb (407,426 kg), gutted weight, in the 2026-2027 and subsequent fishing years. The commercial ACL in each fishing year would continue to be allocated 60 percent to Season 1 (March-August) and 40 percent to Season 2 (September-February) with any unharvested quota from Season 1 being carried over to Season 2. Relative to the status quo commercial ACL of 769,388 lb (348,989 kg), gutted weight, the

proposed commercial ACLs would result in an increase in the commercial catch limit of 318,641 lb (144,533 kg), gutted weight, in the 2023-2024 fishing year, 178,977 lb (81,183 kg), gutted weight, in the 2024-2025 fishing year, 138,929 lb (63,017 kg), gutted weight, in the 2025-2026 fishing year, and 128,833 lb (58,438 kg), gutted weight, in the 2026-2027 and subsequent fishing years. If these increases in the ACL are fully harvested each year, they would result in an estimated increase in aggregate ex-vessel revenue of \$570,367 (2020 dollars) in the 2023-2024 fishing year, \$320,370 in the 2024-2025 fishing year, \$248,683 in the 2025-2026 fishing year, and \$230,611 in the 2026-2027 and subsequent fishing years. These benefits are changing over time and the time value of money concept suggests money earned sooner is more valuable than money earned later because of its earning potential. Therefore, when calculating an average annual effect, it is important to discount the future stream of benefits back to present time to account for an assumed rate of return on capital. The average annual net present value (NPV) of the potential increases in ex-vessel revenue from this proposed rule over a 5-year timeframe, using discount

rates of 3 percent and 7 percent, would be approximately \$306,000 (2020 dollars) and \$290,000, respectively. Divided by the average annual number of commercial vessels that harvested greater amberjack during 2015 through 2019, the average annual NPV of changes in ex-vessel revenue would be \$1,266 or \$1,199 per vessel per year (approximately 1.8 percent of average annual per vessel gross revenue). The estimated average annual increase in economic profits per vessel would be approximately \$50 (2020 dollars). NMFS notes, however, that based on recent 5-year average commercial greater amberjack landings (2015-2016 through 2019-2020 fishing years), which are less than the existing ACL, these benefits might not materialize unless commercial effort targeting greater amberjack increases. Also, individual vessels may experience varying levels of economic effects, depending on their fishing practices, operating characteristics, and profit maximization strategies.

This proposed rule would also decrease the commercial minimum size limit from 36 inches (91.4 cm), FL, to 34 inches (86.4 cm), FL. In general, a lower minimum size limit would be expected to increase overall greater amberjack harvest in the short-term

and increase economic benefits received from such harvest. Due to a lack of sufficient data related to the size of discarded fish, these economic benefits cannot be quantified. NMFS does, however, expect that the proposed minimum size limit would facilitate greater utilization of the proposed commercial ACLs, thereby helping to realize the economic benefits described earlier.

In addition, this proposed rule would increase the September 1 through the end of February (Season 2) commercial trip limit for greater amberjack from 1,000 lb (454 kg) to 1,200 lb (544 kg) (in round or gutted weight). The March 1 through August 31 (Season 1) commercial trip limit, which currently is 1,200 lb (544 kg), would not change. The proposed increase of 200 lb (91 kg) to the Season 2 commercial trip limit would be expected to increase aggregate annual landings by 45,980 lb (20,856 kg), gutted weight, worth an estimated \$82,304 (2020 dollars) in aggregate ex-vessel revenue (approximately \$340 per vessel) and \$3,292 in economic profits (approximately \$14 per vessel). These expected increases in landings, ex-vessel revenue, and economic profits would not be additive to the overall potential economic effects

described for the changes to the commercial ACL above, but rather they represent short-term expectations based on current conditions and recent landings history.

Finally, this proposed rule would revise the April spawning season closure for greater amberjack such that during April of each year, no person may sell, purchase, harvest, or possess a greater amberjack from the South Atlantic EEZ and the harvest and possession limits are zero. This closure would apply to both the commercial and recreational sectors. Because the current April spawning season closure already prohibits the sale or purchase of greater amberjack harvested from the South Atlantic EEZ, this proposed change would only affect recreational anglers (including any commercial vessel operators or crew that harvest greater amberjack under the possession limit during the existing spawning season closure). Again, recreational anglers are outside the scope of the RFA.

In summary, the information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an

initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Greater amberjack, Recreational, South Atlantic.

Dated: June 29, 2023.

Samuel D. Rauch, III,

*Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 622 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 § 622.183, add paragraph (b) (10) to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(10) *Greater amberjack spawning season closure.*

From April 1 through April 30, each year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ any greater amberjack. For a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, these prohibitions against fishing, harvesting, or possessing apply in the South Atlantic, *i.e.*, in state or Federal waters. Such greater amberjack are also subject to the prohibition on sale or purchase, as specified in § 622.192 (g) .

§ 622.184 [Removed and Reserved]

3. Remove and reserve § 622.184.

4. In § 622.185, revise paragraph (c) (5) to read as follows:

§ 622.185 Size limits.

* * * * *

(c) * * *

(5) *Greater amberjack* - 28 inches (71.1 cm), fork length, for a fish taken by a person subject to the bag limit specified in § 622.187(b)(1) and 34 inches (86.4 cm), fork length, for a fish taken by a person not subject to the bag limit.

* * * * *

5. In § 622.190, revise paragraph (a)(3) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(3) *Greater amberjack* - (i) For the period of March 1 through August 31 each year.

(A) For the 2023-2024 fishing year, 652,817 lb (296,113 kg).

(B) For the 2024-2025 fishing year, 569,019 lb (258,103 kg).

(C) For the 2025-2026 fishing year, 544,990 lb (247,203 kg).

(D) For the 2026-2027 and subsequent fishing years, 538,933 lb (244,456 kg).

(ii) For the period of September 1 through the end of February each year.

(A) For the 2023-2024 fishing year, 435,212 lb

(197,409 kg) .

(B) For the 2024-2025 fishing year, 379,346 lb
(172,068 kg) .

(C) For the 2025-2026 fishing year, 363,327 lb
(164,802 kg) .

(D) For the 2026-2027 and subsequent fishing
years, 359,288 lb (162,970 kg) .

* * * * *

6. In § 622.191, revise paragraph (a) (5) to read
as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(5) Until the applicable commercial quota
specified in § 622.190(a) (3) is reached - 1,200 lb
(544 kg) . See § 622.190(c) (1) for the limitations
regarding greater amberjack after the applicable
commercial quota is reached.

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7. In § 622.193, revise the section heading and
paragraph (k) to read as follows:

**§ 622.193 Annual catch limits (ACLs) and
accountability measures (AMs) .**

* * * * *

(k) *Greater amberjack* -

(1) *Commercial sector.*

(i) If commercial landings for greater amberjack, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL (commercial quota) specified in § 622.190(a)(3), the AA will file a notification with the Office of the Federal Register to close the commercial sector for that portion of the fishing year applicable to the respective quota. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for greater amberjack, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL as specified in paragraph (k)(3) of this section is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year. The total commercial ACL is 1,088,029 lb (493,522 kg), gutted weight, for the 2023-2024 fishing year; 948,365 lb

(430,171 kg), gutted weight, for the 2024-2025 fishing year; 908,317 lb (412,006 kg), gutted weight, for the 2025-2026 fishing year; and 898,221 lb (407,426 kg), gutted weight, for the 2026-2027 and subsequent fishing years.

(2) *Recreational sector.*

(i) If recreational landings for greater amberjack, as estimated by the SRD, reach or are projected to reach the recreational ACL, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for greater amberjack in or from the South Atlantic EEZ are zero. The recreational ACL is 2,101,450 lb (953,202 kg), round weight, for the 2023-2024 fishing year; 1,831,700 lb (830,845 kg), round weight, for the 2024-2025 fishing year; 1,754,350 lb (795,760 kg), round weight, for the 2025-2026 fishing year; and 1,734,850 lb (786,915 kg), round weight, for the 2026-2027 and subsequent fishing years.

(ii) If recreational landings for greater amberjack, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL specified in paragraph (k)(3) of this section, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for greater amberjack in or from the South Atlantic EEZ are zero.

(3) *Combined commercial and recreational ACLs.*

The combined commercial and recreational ACL for greater amberjack is 3,233,000 lb (1,466,464 kg),

round weight, for the 2023-2024 fishing year;
2,818,000 lb (1,278,223 kg), round weight, for the
2024-2025 fishing year; 2,699,000 lb (1,224,246 kg),
round weight, for the 2025-2026 fishing year; and
2,669,000 lb (1,210,638 kg), round weight, for the
2026-2027 and subsequent fishing years.

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