



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 250606-0095]**

**RIN 0648-BN31**

**Snapper-Grouper Fishery of the South Atlantic; Amendment 59**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 59 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (Snapper-Grouper FMP) (Amendment 59). For South Atlantic red snapper, this final rule revises the commercial and recreational annual catch limits (ACLs). Amendment 59 also revises the fishing mortality (F) at maximum sustainable yield (MSY) proxy for determining overfishing, overfishing limit (OFL), acceptable biological catch (ABC), and total ACL and sector ACLs for red snapper. For the 2025 fishing year, this final rule also announces the red snapper commercial and recreational fishing season dates in the South Atlantic. For red snapper, this final rule is intended to end and prevent overfishing and revise the catch limits consistent with the most recent stock assessment.

**DATES:** This final rule is effective [*insert date 30 calendar days after date of publication in the **FEDERAL REGISTER***]. The 2025 red snapper commercial season opens at 12:01 a.m., local time, July 14, 2025, until 12:01 a.m., local time, January 1, 2026, unless changed by subsequent notification in the **Federal Register**. The 2025 red snapper recreational season opens at 12:01 a.m., local time, on July 11, 2025, and closes at 12:01 a.m., local time, on July 13, 2025.

**ADDRESSES:** Electronic copies of Amendment 59, which includes an environmental assessment (EA), regulatory impact review, a regulatory flexibility analysis (RFA), and the Small Entity Compliance Guide, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/secretarial-amendment-fishery-management-plan-snapper-grouper-fishery-south-atlantic-region>.

The unique identification number for the Amendment 59 environmental review is: EAXX-006-48-1SE-1746577008EISX.

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**SUPPLEMENTARY INFORMATION:** NMFS, with the advice from and the South Atlantic Fishery Management Council (Council), manages the South Atlantic snapper-grouper fishery, which includes red snapper, in the South Atlantic exclusive economic zone (EEZ) under the Snapper-Grouper FMP. The

Snapper-Grouper FMP was prepared by the Council, approved by the Secretary of Commerce (Secretary), 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).

#### **Authority for Action**

The Magnuson-Stevens Act authorizes the Secretary to prepare an amendment necessary for the conservation and management of a fishery managed under the Snapper-Grouper FMP if NMFS determines that the Council has not developed and submitted such an amendment to the Secretary after a reasonable period of time (16 U.S.C 1854(c)(1)(A)). Additionally, the Magnuson-Stevens Act authorizes the Secretary to adopt the amendment and to propose and subsequently promulgate regulations to implement any plan or amendment, consistent with the fishery management plan, national standards, other provisions of the Magnuson-Stevens Act, and any other applicable law (16 U.S.C 1854(c)(5) and (7)). As discussed below, because the Council has failed to take action to develop and submit measures to the Secretary to end and prevent overfishing of South Atlantic red snapper, NMFS, acting for the Secretary, developed Amendment 59 and its implementing regulations in this final rule to end and prevent overfishing of South Atlantic red snapper.

#### **Background**

On October 9, 2024, NMFS published a notice of intent to prepare an environmental impact statement (EIS) for Amendment 59 in the **Federal Register** and requested public comment (89 FR 81892). On January 14, 2025, NMFS published a proposed rule and notice of availability for Amendment 59 in the **Federal Register** and requested public comment (90 FR 3160). On January 17, 2025, NMFS published a draft EIS in the **Federal Register** and requested public comment (90 FR 5877). Subsequent to the end of these public comment periods, NMFS removed five actions from further consideration in Amendment 59. A new red snapper stock assessment, Southeast Data, Assessment, and Review 90 (SEDAR 90), is beginning this year, and will take into account new information about the red snapper stock from the results of the South Atlantic Red Snapper Research Program (SARSRP or the South Atlantic Red Snapper Count). The results of SEDAR 90 are expected to provide further critical information that will better inform future red snapper management decisions. In view of the fact that new stock assessment information will be available soon, and taking the substantial concerns expressed in the public comments into account, NMFS decided to move ahead with only three actions, which will provide the Council another opportunity to consider other management measures to reduce dead discards and increase red snapper fishing opportunities in a future amendment. Therefore, for South

Atlantic red snapper, this final rule revises the commercial and recreational ACLs for red snapper and Amendment 59 revises the FMSY proxy used to determine overfishing, as well as the OFL, ABC, and total ACL. NMFS determined that based on the remaining actions in the amendment, preparation of an EA versus a final EIS for Amendment 59 was more appropriate. This final rule implements and addresses the actions remaining in the amendment. The section **Changes from the Proposed Rule**, later in this document, more fully describes the actions that were removed from further consideration. Amendment 59 was approved on May 23, 2025.

Unless otherwise noted, all weights are described in round weight.

In 2021, a stock assessment for red snapper was completed (SEDAR 73, 2021) and indicated that red snapper remained overfished and undergoing overfishing, but also indicated that the stock was making adequate progress towards rebuilding. In July 2021, NMFS sent a letter to the Council notifying it of the results of the stock assessment and the Magnuson-Stevens Act requirements to end overfishing. NMFS further explained at subsequent Council meetings that although the red snapper stock was rebuilding and the existing rebuilding plan did not need to be revised, the Council needed to take action to end overfishing of red snapper. Subsequent to the stock status

notification of July 2021, the Council developed Regulatory Amendment 35 to the Snapper-Grouper FMP (Regulatory Amendment 35) which, if implemented, would have reduced the catch levels of red snapper and specified gear requirements for reducing discards, but would not have ended overfishing. After taking final action to approve Regulatory Amendment 35 for Secretarial review and implementation at their March 2023 meeting, the Council rescinded its final action at its December 2023 meeting. Since that time, the Council has taken no further action under the Magnuson-Stevens Act to end overfishing of red snapper. As a result, on June 14, 2024, NMFS implemented temporary interim measures for red snapper to reduce overfishing by reducing the catch limits for the 2024 red snapper commercial and recreational fishing seasons, and these measures were effective through December 11, 2024 (89 FR 50350). Those temporary measures, for the red snapper 2024 fishing seasons reduced the commercial ACL from 124,815 lb (56,615 kg) to 85,268 lb (38,677 kg), and the recreational ACL was reduced from 29,656 fish to 21,167 fish with a 1-day fishing season.

In the past 2 years, the Secretary and NMFS have been sued three times for the continued overfishing of South Atlantic red snapper. On August 22, 2024, a Federal District Court approved a settlement agreement between the Secretary, NMFS, and the plaintiffs in one of these

lawsuits. The settlement agreement requires the Secretary and NMFS to submit to the **Federal Register** by June 6, 2025, a final rule implementing a Secretarial Amendment to end red snapper overfishing. However, a Secretarial Amendment would not be required if the Council takes action to end overfishing and NMFS approves and submits a final rule to the **Federal Register** to implement the Council's action on or before June 6, 2025. The Council has failed to take that action.

NMFS completed an update of the SEDAR 73 (2021) assessment in December 2024 using data through 2023 (SEDAR 73 Update Assessment [2024]). The update assessment indicates that the stock is still experiencing overfishing relative to the current fishing mortality threshold in the Snapper-Grouper FMP, but the stock could continue to rebuild on schedule if fished at a higher fishing mortality rate given above-average recruitment of younger fish in recent years. In addition, the update assessment indicates the stock is still rebuilding but is no longer overfished because the red snapper spawning stock biomass is greater than the minimum stock size threshold (MSST). However, because the stock size has not reached the rebuilding target level specified in the rebuilding plan, red snapper will continue to be managed under the rebuilding plan. The rebuilding target level is the reproductive capacity of the

red snapper population at 30 percent of the spawning potential ratio (SPR) of an unfished population [ $30\%_{\text{SPR}}$ ]).

Most of the red snapper fishing mortality is attributed to dead discards in the recreational sector. The recreational sector consists of both private recreational anglers and charter vessels and headboats (for-hire). Recreational fishermen discard red snapper both during the directed red snapper recreational open fishing season and during the closed recreational season while fishers are targeting snapper-grouper species that co-occur with red snapper. As described in Amendment 59, approximately 98 percent of all red snapper discard mortalities during 2021-2023 were from the recreational sector (SEDAR 73 Update 2024). The current level of discards is removing younger fish from the population. This prevents a segment of the fish population from surviving to the older ages necessary to sustain the population in the long term, particularly if recruitment decreases back to more historical levels. Additionally, the high level of mortality from discards is limiting the amount of catch that can be landed, resulting in forgone yield and harvest opportunities.

#### **Management Measures Contained in the Final Rule**

For red snapper, this final rule revises the commercial and recreational ACLs in the South Atlantic EEZ.

*Red Snapper Commercial and Recreational ACLs*



The Council developed Amendment 43 to the Snapper-Grouper FMP (Amendment 43) in 2018 and specified the current total ACL of 42,510 fish based on landings observed during the limited red snapper season in 2014 (83 FR 35428, July 26, 2018). The total ACL is divided between the sectors using the current sector allocation ratio for red snapper in the Snapper-Grouper FMP of 28.07 percent commercial and 71.93 percent recreational. This results in the commercial ACL of 124,815 pounds (lb) (56,615 kilograms (kg)) and the recreational ACL of 29,656 fish. The commercial sector ACL is set in pounds of fish because the commercial sector reports landings in weight, and weight is a more accurate representation of commercial landings. The ACL for the recreational sector is specified in numbers of fish because numbers of fish are a more reliable estimate for the recreational sector than specifying the ACL in weight of fish.

As discussed later in this final rule, Amendment 59 increases the total ACL to 509,000 fish, separated into 34,000 fish as landings and 475,000 fish as dead discards. While the total ACL, and the ABC, is equal to 509,000 fish, the 34,000 fish from the total ACL that is used to apportion to each sector based on the current sector allocations is the result of what remains from the total ACL after accounting for the dead discards (509,000 minus 475,000). In Amendment 59, the total ACL of 509,000 fish is

derived from SEDAR Update Assessment (2024) projections of the amount of catch that is associated with fishing at 90 percent of  $F_{2021-2023}$  (FMSY proxy for maintaining rebuilding consistent with the Amendment 17A rebuilding plan) applied in Amendment 59 for 2025-2027 under the high recent average recruitment scenario. Using the current sector allocation ratio of 28.07 percent commercial and 71.93 percent recreational as applied to the 34,000 fish, this final rule specifies a commercial ACL of 102,951 lb (46,698 kg), and a recreational ACL of 22,797 fish (equivalent to 263,815 lb (119,664 kg)). The conversion of red snapper numbers of fish to pounds uses a commercial average weight of 9.19 lb (4.17 kg) per fish and a recreational average weight of 11.085 lb (5.028 kg) per fish. These landed ACL values are based on the new ABC that is derived from the SEDAR 73 Update Assessment (2024) and the existing sector allocations, and assume no additional reduction in dead discards is achieved. Management measures such as the current commercial and recreational fishing seasons and the commercial trip limit and recreational bag limit are intended to constrain catches to the sector ACLs.

**Management Measures in Amendment 59 Not Codified by this Final Rule**

In addition to the measures codified within this final rule, for red snapper, Amendment 59 revises the  $F_{MSY}$  proxy

used to determine overfishing, as well as the OFL, ABC, and total ACL.

*Fishing Mortality at Maximum Sustainable Yield Proxy for Red Snapper Overfishing*

The current MSY for South Atlantic red snapper equals the yield produced by  $F_{MSY}$ , and  $F_{30\%SPR}$  is used as the  $F_{MSY}$  proxy. If the current  $F$  is greater than the  $F_{MSY}$  or greater than the  $F_{MSY}$  proxy of  $F_{30\%SPR}$ , overfishing is occurring. Amendment 59 revises the  $F_{MSY}$  proxy from a fixed  $F_{30\%SPR}$  value to a more flexible definition that reflects the best scientific information available at the time an overfishing determination is made. If current  $F$  is greater than  $F_{MSY}$  or the  $F_{MSY}$  proxy, overfishing is occurring.

Amendment 59 would specify the  $F_{MSY}$  proxy as the fishing mortality rate consistent with maintaining the existing rebuilding plan adopted in Amendment 17A to the Snapper-Grouper FMP (75 FR 76874, December 9, 2010). Based on the SEDAR 73 Update Assessment (2024), the  $F_{MSY}$  proxy that maintains the existing rebuilding plan would be equivalent to  $F_{2021-2023}$ , and the red snapper stock would no longer be classified as undergoing overfishing ( $F_{CURRENT}/F_{2021-23} = 1.0$ ).

NMFS has determined that the use of  $F_{2021-2023}$  is a reasonable  $F_{MSY}$  proxy for the South Atlantic red snapper stock until the next stock assessment is completed in 2026 (<https://sedarweb.org/documents/sedar-90-south-atlantic->

*red-snapper-project-schedule-pdf/*). The projection results from the 2024 SEDAR 73 Update Assessment (2024) indicate this level of fishing mortality combined with recent, above-average recruitment will keep the stock on track to rebuild consistent with the red snapper rebuilding plan until the next assessment is completed.

#### *Red Snapper OFL, ABC and Total ACL*

In the Snapper-Grouper FMP, for red snapper the current OFL is 56,000 fish and the ABC is 53,000 fish, which includes both landings and dead discards and is based on SEDAR 41 (2017). As previously discussed, the Council developed Amendment 43 to the Snapper-Grouper FMP in 2018 and also specified the current total ACL of 42,510 fish and the current commercial and recreational ACLs. Amendment 59 revises the OFL and ABC and specifies an OFL of 551,000 fish (landings and discards), which is the yield at  $F_{2021-2023}$ , and an ABC equal to 92 percent of the OFL ( $F_{2021-2023}$ ) of 509,000 fish (includes both landed fish and dead discards) based on projections derived from the SEDAR 73 Update Assessment (2024). The revised ABC includes a buffer of eight percent from the OFL to account for scientific uncertainty. The revised total ACL is set equal to the revised ABC value of 509,000 fish. The total ACL of 509,000 fish is derived from SEDAR Update Assessment (2024) projections of the amount of catch that is associated with fishing at 90 percent of  $F_{2021-2023}$  (FMSY proxy for

maintaining rebuilding consistent with the Amendment 17A rebuilding plan) applied in Amendment 59 for 2025-2027 under the high recent average recruitment scenario.

As previously noted, the total ACL of 509,000 fish represents both landed catch (34,000 fish) and dead discards (475,000 fish). While both the ABC and the total ACL are 509,000 fish, the landed portion of the ABC is 71,000 fish and the landed portion of the total ACL is 34,000 fish. This difference is because the total ACL includes a higher number of dead discards than the ABC, since NMFS removed the proposed action to reduce dead discards.

By maintaining dead discards at 475,000 fish, the landed ACL for red snapper is reduced from 71,000 fish to 34,000 fish. Those 34,000 fish are then apportioned to each sector based on the existing allocation. However, the sector ACLs only represent landed catch and in-season monitoring of the sectors is based on landed catch only. The sector accountability measures (AMs) are directly related to the sector ACLs which represent landed catch. Any in-season closure or season length projection is based on landings only with respect to a sector ACL and not the dead discard estimates that are included as part of the definition of the total ACL and ABC.

## **2025 Fishing Year Commercial and Recreational Fishing**

### **Season Dates**

In addition to the measures within Amendment 59 and codified in this final rule, this final rule announces the red snapper commercial season opening date and the recreational season opening and closing dates for the 2025 fishing year. The commercial and recreational season lengths for the 2025 fishing year are determined using the revised sector ACLs in this final rule.

For the commercial sector, and consistent with the regulations in 50 CFR 622.183(b)(5), for the 2025 fishing year, the red snapper commercial season opens on July 14, 2025, and will remain open until 12:01 a.m., local time, on January 1, 2026, unless the commercial ACL is reached or projected to be reached prior to this date. NMFS will monitor commercial landings during the open season, and if commercial landings reach or are projected to reach the commercial ACL, then NMFS will file a notification with the Office of the Federal Register to close the commercial sector for red snapper for the remainder of the fishing year. On or after the effective date of a commercial closure notification, all sale or purchase of red snapper is prohibited and harvest or possession of red snapper is limited to the bag and possession limits if recreational harvest is still allowed. This bag and possession limit and the prohibition on sale/purchase apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South

Atlantic snapper-grouper has been issued without regard to where such species were harvested or possessed, *i.e.*, in state or Federal waters. On and after the effective date of a recreational closure notification, the bag and possession limits for red snapper are zero. During the commercial fishing season, the commercial trip limit is 75 lb (34 kg), gutted weight.

For the recreational sector, and consistent with the regulations in 50 CFR 622.183(b)(5), for the 2025 fishing year, the red snapper recreational season opens at 12:01 a.m., local time, on July 11, 2025, and closes at 12:01 a.m., local time, on July 13, 2025. During the recreational season, the recreational bag limit is one red snapper per person, per day. The length of the recreational fishing season serves as the AM for the recreational sector. The length of the red snapper recreational season is projected based on catch rate estimates from previous years to prevent the recreational ACL from being exceeded. After the closure of the recreational sector, the recreational bag and possession limits for red snapper are zero.

There are no red snapper minimum or maximum size limits for the commercial and recreational sectors during the open seasons.

#### **Changes from the Proposed Rule**

In addition to the Amendment 59 actions contained and being implemented in this final rule, for red snapper, the

amendment and proposed rule also contained actions to revise the fishing year, the commercial and recreational season start dates, the recreational fishing season structure, and the commercial trip limits. The amendment and proposed rule also contained an action to establish a snapper-grouper discard reduction season in the South Atlantic EEZ and an action to establish an annual experimental studies program for red snapper. Additionally, as discussed in this final rule, subsequent to the proposed rule, the preferred alternative for the sector ACLs was revised.

As discussed in the proposed rule, the fishing year would have been changed from January 1 through December 31 to May 1 through April 30. The commercial fishing season would have changed its start date from beginning on the second Monday in July to begin on May 1. The recreational fishing season would have changed its start date from beginning on the second Friday in July to begin on the second Saturday in July in 2025 and the second Saturday in June in 2026 and beyond. For the recreational fishing season, the proposed rule would have also changed the recreational fishing season from consisting of a Friday, Saturday, and Sunday to be one consisting of a Saturday and Sunday. The proposed rule had a provision changing the recreational fishing season weather flexibility that allows a change to the opening and closing dates from using the



threshold of tropical storm or hurricane conditions existing to a threshold of an issued Small Craft Advisory. The proposed rule contained an action to change the commercial trip limit from 75 lb (34 kg), gutted weight, to a trip limit of 150 lb (68 kg), gutted weight. The proposed rule contained an action to establish a discard reduction season for the South Atlantic snapper-grouper recreational sector. The discard reduction season would have created an area where no recreational fisherman could fish for, harvest, or possess any South Atlantic snapper grouper in a specified area off the northeast Florida coast using hook-and-line fishing gear from January 1 through February and from December 1 through December 31. Also, Amendment 59 contained a measure to establish an annual experimental studies program and process to support applicants to undertake research projects to reduce red snapper discards and increase fishing opportunities.

During the public comment period for Amendment 59, the draft EIS, and the proposed rule, the majority of comments received opposed many of the actions, especially all or part of the measure to establish a discard reduction season for snapper-grouper. The preferred alternative for the discard reduction season action proposed establishing a 3 month closure to recreational hook-and-line fishing in Federal waters for any species within the Snapper Grouper

FMP from Cape Canaveral, Florida, to the Florida-Georgia border.

The comments regarding the discard reduction season included issues with unfairness of a recreational closure versus a commercial one; that a recreational closure would cause significant economic harm to recreational fishermen, businesses, and their communities; that a closure as proposed would result in an effort shift to fishing inshore; that the closure was based on inaccurate data; that NMFS should not implement a closure without including the Council in the process; that the closure created an unforeseen enforcement burden that was not anticipated; that the proposed closure did not have an adequate economic analysis of impacts; and that the closure would apply to only one South Atlantic state and not any others. The intent of the discard reduction season was to reduce the overall catch of snapper-grouper species in the area and time proposed and thereby contribute to reducing discards of red snapper specifically, and co-occurring snapper-grouper species generally, while increasing fishing opportunities during the red snapper fishing seasons. Currently, 20 of the 55 managed snapper-grouper species are closed and prohibited from harvest during a portion of, or during all of, the proposed discard reduction area 3-month closure. The overall expected benefit of this discard reduction season was to allow for increased ACLs because

the overall level of recreational discards would be reduced, thereby allowing for increased fishing opportunities.

However, after the end of the public comment periods for the proposed rule and Amendment 59, NMFS decided to remove these actions from further consideration in the amendment. As discussed above, NMFS decided to remove certain actions based on the following factors: 1) The new red snapper stock assessment (SEDAR 90) beginning this year that will take into account new information about the stock from the results of the SARSRP; 2) taking into account the substantial concerns expressed in the public comments; and 3) providing the Council the results of the new information from SEDAR 90 and the opportunity to consider other management measures to reduce dead discards and increase red snapper fishing opportunities in a future amendment. NMFS also considered the beneficial and adverse impacts of these actions, particularly the discard reduction season and its associated fishing opportunities, in its decision about which actions to include in Amendment 59 and its final rule. NMFS determined that the actions to revise the fishing year, the commercial and recreational season start dates, the recreational fishing season structure, and the commercial trip limits, and the actions to establish a discard reduction season, and establish an experimental studies program are no longer management measures contained

in Amendment 59 and are not being implemented in this final rule.

As a result of the removal of these actions from the amendment, specifically the removal of the discard reduction season from further consideration, the expected reductions in recreational discards proposed in the draft of Amendment 59 and the proposed rule will not be achieved. All of the sector ACL alternatives considered in the draft EIS were based on expected reductions in discards related to the discard reduction season action and alternatives. These alternatives would have increased the ACL from the current ACL due to the expected reduction in discards, and consequently would have allowed for a higher landed portion of the ACL with increased sector ACLs. However, NMFS is no longer implementing a discard reduction season. Therefore, it was necessary for NMFS to revise the preferred alternative in Amendment 59 for the action to revise the red snapper ACLs to include a new alternative with sector ACLs that are slightly reduced from the status quo. Amendment 59 now sets the total ACL equal to the ABC and does not contain a buffer between them. The new total ACL in Amendment 59 is 509,000 fish and not 500,000 fish as was proposed. However, the new sector ACLs are lower because NMFS is no longer implementing a discard reduction season. NMFS determined that the elimination of a buffer between the total ACL and ABC will provide the highest sector ACLs

possible while remaining consistent with the results of SEDAR 73 Update Assessment (2024). In this final rule, the new commercial ACL is 102,951 lb (46,698 kg) and not 346,000 lb (156,943 kg) as was proposed, and the recreational ACL is 22,797 fish and not 85,000 fish as was proposed. As noted, the total ACL in this final rule is greater than proposed because the buffer between the ABC and the total ACL is removed to provide the greatest amount of fish to be apportioned to the sectors, but the actual sector ACLs are less than what was proposed given the lack of a reduction in dead discards.

As previously discussed in this final rule, this rule also contains the announcement of the red snapper commercial season opening date and the recreational season opening and closing dates for the 2025 fishing year. The commercial and recreational season lengths for the 2025 fishing year are determined using the revised sector ACLs in this final rule.

### **Comments and Responses**

NMFS received 523 comments on the notice of availability and proposed rule for Amendment 59. Comments were received from individuals including Congressional representatives, several recreational sportfishing organizations, commercial organizations, a non-governmental organization, the Council, two Council members, and two South Atlantic states. Most of the comments received were

in one or more of the following categories: against the actions (especially the proposed discard reduction season); flawed science used to made decisions in Amendment 59; inaccurate data; significant adverse social and economic impacts and inadequate analyses; government overreach by not following the Council process; the need to wait for more data including the new red snapper SEDAR stock assessment, the Council's Management Strategy Evaluation (MSE) project, the SARSRP, and the Florida Fish and Wildlife Conservation Commission (FWC) exempted fishing permit (EFP) processes; and consideration of different management options.

As discussed in the **Changes from the Proposed Rule** section of this final rule, subsequent to the public comment of the proposed rule and Amendment 59, NMFS decided to remove the actions discussed above. Because these actions have been removed and are not being implemented in this final rule, NMFS is not responding to the public comments specific to the removed actions as they are no longer applicable. NMFS did receive comments from the public in general support of all of the actions not being implemented in this final rule, but they were in the minority of comments received.

NMFS did receive some public comments in general support of Amendment 59 and the proposed rule and NMFS

agrees with those as appropriate given the current scope of actions.

Comments specific to the remaining actions in Amendment 59 and the proposed rule are grouped as appropriate and summarized below, each followed by NMFS' respective response.

*Comment 1:* NMFS is circumventing the Council process with Amendment 59 and will further alienate the public by implementing the amendment. Discard reductions should instead be achieved through the Council process. Despite the Council's ongoing efforts to end overfishing of red snapper, NMFS has proposed action outside the Council process solely based on the outcomes of a lawsuit settlement agreement.

*Response:* The Magnuson-Stevens Act requires conservation and management measures to prevent overfishing and to end overfishing should it occur. NMFS proposed changes to the management of red snapper through Amendment 59 because the Council, after being notified in July 2021 that it needed to end the overfishing of red snapper, has failed to develop and submit to the Secretary needed conservation and management measures to end and prevent overfishing of the South Atlantic red snapper stock. The amendment and this final rule also respond to the latest stock assessment for red snapper, SEDAR 73 Update Assessment (2024). NMFS is implementing these actions to

end overfishing as required by the Magnuson-Stevens Act, and as specified by a settlement agreement between NMFS and the plaintiffs in a lawsuit approved by a U.S. Federal District Court.

NMFS sought public input and comment in numerous ways during the development of this amendment. NMFS published a notice of intent to prepare an EIS on October 9, 2024, with a 30-day public comment period (89 FR 81892). NMFS published the draft EIS on January 17, 2025, with a 45-day public comment period (90 FR 5877). NMFS published the combined notice of availability for Amendment 59 and the proposed rule on January 14, 2025, with a 60-day public comment period (90 FR 3160). In addition, NMFS also held a series of public hearings in Florida, Georgia, South Carolina, and North Carolina, in February and March 2025 to provide more information to the public about the red snapper stock and to solicit public input about the actions in Amendment 59.

As explained above, NMFS is not implementing all of the actions described in the proposed rule. At its March 2025 meeting, the Council decided to initiate an amendment to the Snapper-Grouper FMP to consider options for an aggregate snapper-grouper recreational bag limit and other possible management actions to reduce recreational dead discards.



*Comment 2:* In Amendment 59, NMFS should only implement Action 1 to revise the red snapper  $F_{MSY}$  and the overfishing definition and not proceed with any other actions. The remainder of actions in Amendment 59 fall under the Council's purview and should not be forced upon the Council by NMFS. If NMFS moves forward with Action 1, the Council is the appropriate entity to consider any further modifications to the Snapper-Grouper FMP, including any alternative management strategies to reduce discards of South Atlantic red snapper through the standard and public facing amendment process.

*Response:* As explained above, NMFS is not implementing all of the actions in the proposed rule, and NMFS disagrees that it should only implement Action 1 of Amendment 59 to revise the red snapper  $F_{MSY}$  proxy for defining overfishing and no other actions. In accordance with Magnuson-Stevens Act National Standard 2 (16 U.S.C. 1851(a)(2)), NMFS must also update the ABC and ACL to respond to the most recent and best scientific information available from the most recent stock assessment, the SEDAR 73 Update Assessment (2024). NMFS is implementing the remaining actions in Amendment 59 with the intent to end and prevent overfishing of red snapper, as required by the Magnuson-Stevens Act and pursuant to a settlement agreement between NMFS and the plaintiffs in accordance with a lawsuit approved by a U.S. Federal District Court.

*Comment 3:* NMFS completed an internal stock assessment for South Atlantic red snapper outside of the traditional SEDAR process that allows independent expert review and public comment.

*Response:* As previously discussed in this final rule, the SEDAR 73 red snapper stock assessment was completed in 2021 using data through 2019, and using the Beaufort Assessment Model, which is a catch-at age model. SEDAR 73 (2021) was part of the traditional SEDAR process that included independent expert review and public comment. However, for Amendment 59, NMFS determined that it was appropriate to update the SEDAR 73 Assessment (2021) to include more recent data through 2023. The SEDAR 73 Update Assessment (2024) used the same methods that were used in the previous peer-reviewed stock assessment for red snapper SEDAR 73 (2021). Given the need for Amendment 59 to be in place for the 2025 fishing season, the updated assessment was internally peer-reviewed by NMFS Southeast Fisheries Science Center (e.g., 50 CFR 600.310(f)(3)). NMFS has determined that the SEDAR 73 Update Assessment (2024) and the management measures in this final rule are based on the best scientific information available, in accordance with National Standard 2 of the Magnuson-Stevens Act.

*Comment 4:* Recreational data is uncertain and the estimated discard mortality rate from the SEDAR 73 Update Assessment (2024) is severely inflated and the stock status

information and determination is based on this uncertain data. Some of the NMFS information appears to count all discards as dead discards, which is not correct and significantly overstates the actual discard mortality levels. Relying on surveys or voluntary data collection methods is not the correct way to estimate the fishery population. Amendment 59 is based on notoriously unreliable data from the Marine Recreational Information Program (MRIP), which NMFS has previously estimated to be off by 30-40 percent and as being unsuitable for management use. There is currently no reliable Federal recreational data collection system to accurately determine how significant red snapper recreational discards actually are.

*Response:* NMFS disagrees, and has determined that the SEDAR 73 Update Assessment (2024) and the management measures in this final rule are based on the best scientific information available. The 2024 Assessment includes estimates of recreational catch, effort, and discards. Recreational catch is estimated through a combination of different state and Federal survey methods, including dockside intercepts of anglers, mail surveys, and logbooks. Estimates of discard mortality rates are based on numerous scientific studies and fishery observer data. Both recreational red snapper catch estimates and discard mortality rates were peer-reviewed during the SEDAR 73 red snapper stock assessment (2021). Additionally, during the

recent SEDAR 73 Update Assessment (2024), sensitivity runs were completed that assumed recreational catch was 20 percent and 40 percent less than current estimates of the total recreational catch. Despite these lower estimates of catch, the results of these sensitivity runs are similar to the base stock assessment run. Recreational data also represents only a portion of the data used in a stock assessment. Numerous sources of data, including but not limited to, commercial catch, fishery independent indices, and biological information, are also used in the red snapper stock assessments, including the SEDAR 73 Update Assessment (2024), to determine the red snapper stock status.

The MRIP-FES method is considered more reliable by the Council's Scientific and Statistical Committee (SSC), the Council, and NMFS and more robust when compared to earlier MRIP survey methods. NMFS continues to evaluate and incorporate improvements to its recreational catch and effort data estimation processes (including MRIP). In addition, NMFS is continuing collaborative work on alternative approaches for data gaps caused by imprecise and outlier catch and effort estimates.

In May 2023, NMFS developed a Fishing Effort Survey (FES) pilot studies report that described two studies that identified potential sources of bias in the FES. NMFS is now conducting a large scale study to address the issues

identified by the pilot study for (MRIP-FES). The intent is to produce a public report outlining key findings and estimate comparisons in summer 2025 followed by a facilitated peer review of the revised design and updated calibration model, and then determine if a new design will be able to be implemented in 2026. Contingent on the study results and peer review, the anticipated result of this would be to have calibrated historical effort estimates updated to reflect outputs from the revised design in spring 2026 for use in subsequent stock assessments and fisheries management decisions.

*Comment 5:* NMFS is using an inaccurate conversion of the recreational ACL to numbers of fish. When the proposed recreational ACL was stated in numbers (85,000 fish), it is unclear what conversion factor NMFS has used to calculate that result. In Amendment 59, NMFS uses a recreational average weight from 2021-2023 of 11.085 lb (5.028 kg)/fish, presumably for landings. But this does not correspond to 85,000 fish. It is unclear why NMFS will use a hindcast weight-per-fish value from past years, when the projections provide a forward-looking conversion value that corresponds to the underlying quantities of fish that are being manipulated. It appears NMFS is overstating the amount of landings—in numbers of fish—that are available to the recreational sector.

*Response:* NMFS has explained above that the recreational ACL of 85,000 fish is not being implemented in this final rule, as that ACL was connected to a discard reduction action that is no longer being considered in Amendment 59. However, NMFS did not use the 2021-23 average recreational weight in determining the 85,000 fish recreational ACL. As dead discards are reduced and the landed recreational ACL is correspondingly increased, the average weight of landed catch is estimated to decline. Thus, the estimated average weight for landed red snapper based on an ACL of 85,000 fish is 8.840 lb (4.010 kg)/fish.

*Comment 6:* NMFS is inaccurately depicting the recreational landings component of the red snapper total ACL as the landings component (139,000 fish) appears misleading and overstates the amount of available catch in at least two ways. The total ACL should only represent landings and it is not accurate to say that 139,000 fish are available to be landed, when only 71,000 of those fish are actual "landed" fish and the remainder are "dead discard" fish from the proposed time and area closure, for which the unit weight is less than half of a landed fish. Both sectors will be landing, as described in Amendment 59 projections, fish with an average weight of 12.79 lb (5.80 kg)/fish for the years 2025-2027. For example, it appears that if 139,000 fish are available to be landed per year, and the average weight of a landed fish is expected to be

12.79 lb (5.80 kg)/fish, then around 1,778,000 lb (806,487 kg) of red snapper are available to be landed each year. This is far in excess of the actual available amount.

*Response:* NMFS disagrees that the amount of fish that can be landed is overstated in Amendment 59. If dead discards would have been reduced by 24 percent as was initially proposed in the Amendment 59 proposed rule, then the landed portion of the ACL would have been increased from 71,000 to 139,000 fish. Additionally, as discussed above, the average weight of landed catch is estimated to decline as dead discards are reduced and the landed recreational ACL is correspondingly increased. The average weight of landed fish is not expected to be 12.79 lb (5.80 kg)/fish if less fish are discarded dead and more fish are landed. NMFS has determined that the total ACL and the sector ACLs in this final rule and Amendment 59 are accurately described, both in terms of landed fish (34,000 fish) and in consideration of dead discards (475,000 fish) and that the average fish weights used in Amendment 59 are an accurate calculation.

*Comment 7:* NMFS excluded data from Florida's State Reef Fish Survey (SRFS) in the SEDAR 73 Update Assessment (2024). Florida's SRFS is more precise and does not rely on MRIP-FES which is flawed. Also, it is irresponsible not to include SRFS data as 87 percent of the recreational

proportion of red snapper discards by state (2021-2023) come from Florida.

*Response:* The SEDAR 73 (2021) and SEDAR 73 Update Assessment (2024), and the management measures in this final rule are based on the best scientific information available. The SRFS expanded to the east coast of Florida in July 2020 and was not considered as part of the SEDAR 73 (2021) assessment. Consequently, NMFS did not consider SRFS data in the SEDAR 73 Update Assessment (2024) since the update followed the same methodology used in SEDAR 73 (2021) and only updated landings data through 2023. However, Florida's East Coast Red Snapper (ECRS) Survey results were incorporated into both SEDAR 73 (2021) and the SEDAR 73 Update Assessment (2024). The survey estimates landings from the recreational sector during the red snapper season openings off Florida.

*Comment 8.* The information used by NMFS in Amendment 59 is flawed and, therefore, the resulting mortality estimates, catch limits, and proposed regulations are not using the best scientific information available. The stock assessment did not fully utilize current descending device and venting practices. The amendment appears to consider all discards as dead discards, which is not correct and significantly overstates the actual discard mortality. This results in inaccurate catch limits and the incorrect belief red snapper are overfished. Yet while fishery observers did



not record witnessing any dead discards, the SEDAR 73 Update Assessment (2024) concludes the red snapper discard mortality is at least 28 percent. The red snapper discard mortality rate in SEDAR 73 Update Assessment (2024) is inaccurate. The mortality estimates used to inform Amendment 59 were determined from a model using Gulf of America information for groupers.

*Response:* NMFS disagrees, and has determined that the SEDAR 73 Update Assessment (2024) is the best scientific information available, and includes data through 2023. When estimating dead discard mortality rates, the stock assessment incorporates changes in fishing gear types used and the increasing use of descending devices over time. Evaluation of the red snapper stock status relies on the mortality associated with both landed catch and dead discards, and there are clear distinctions between discarded fish that survive or fish that die from release. The discard mortality rates for South Atlantic red snapper used in South Atlantic red snapper stock assessments, including the SEDAR 73 Update Assessment (2024), are based on studies and research conducted in the South Atlantic, and are not based on a model that was developed for Gulf of America groupers.

*Comment 9:* NMFS should not take action through Amendment 59 until updated research and more reliable information through the new red snapper stock assessment,

the MSE, the South Atlantic Great Red Snapper Count, and the FWC EFP processes are completed. The EFPs could also provide improved discard mortality data, enhanced effort assessments, and alternative management strategies that may allow for less restrictive regulations to be implemented. Waiting for the results of these actions will also present a clearer picture of red snapper stock health and confirm the condition of the population status.

*Response:* NMFS has explained previously why five of the eight actions proposed in the draft EIS for Amendment 59 are no longer being considered, and why the three remaining actions are being implemented in this final rule. NMFS acknowledges the multiple future sources of potential additional data and information and expects the results of these experimental projects, plus the congressionally-funded SARSRP, and other surveys to provide valuable insights into ways to improve management of red snapper and all snapper-grouper species. However, these studies will not be completed by June 6, 2025. NMFS must end the overfishing of red snapper and submit this final rule to end the overfishing to the **Federal Register** by June 6, 2025, due to a court settlement. In addition, NMFS was able to update the most recent red snapper assessment in 2024 and the assessment and the current rulemaking are based on the best scientific information available.

In 2024, NMFS provided funding support for 5 research projects, of which 3 were FWC EFPs, which aim to identify and test new strategies to improve the status of red snapper and test innovative ways to increase fishing opportunities in the snapper-grouper fishery. The SARSRP project is being done in collaboration with several university scientists, NMFS, and state fisheries agencies from North Carolina, South Carolina, Georgia, and Florida. The program will provide two different types of abundance estimates that are being investigated for optimal use within the next South Atlantic red snapper stock assessment. In addition, the first round of the Council's MSE process is complete and the Council is continuing development of an MSE for the snapper-grouper fishery to evaluate management alternatives.

*Comment 10:* Removing the designation that red snapper is undergoing overfishing while at the same time prohibiting access to the stock is counterintuitive. Because the red snapper population is rebuilding, NMFS should redefine overfishing to exclude when the stock is clearly recovering in the recreational sector. The proposed MSY proxy change is improper and counter to the Council's SSC advice. The proposed revision to the MSY proxy is unclear, violates statutory rebuilding requirements under the Magnuson-Stevens Act, and artificially ends overfishing of the red snapper stock.

*Response:* NMFS disagrees. The National Standard 1 guidelines discuss overfishing and note that overfishing occurs whenever a stock or stock complex is subjected to a level of fishing mortality or total catch that jeopardizes the capacity of a stock or stock complex to produce MSY on a continuing basis. Amendment 59 proposes to revise the red snapper overfishing proxy to a more flexible definition that reflects the best scientific information available. Amendment 59 will specify the  $F_{MSY}$  proxy as the fishing mortality rate consistent with maintaining the existing rebuilding plan adopted in Amendment 17A to the Snapper-Grouper FMP (75 FR 76874, December 9, 2010). Projection results from the SEDAR 73 Update Assessment (2024) indicate this level of fishing mortality combined with recent, above-average recruitment will keep the stock on track to rebuild, thus not jeopardizing the stock's ability to rebuild and produce MSY.

Since implementing the rebuilding plan for red snapper in 2010, fishing mortality has exceeded the Council's recommended maximum fishing mortality threshold (MFMT) of  $F_{30\%SPR}$  in every year except one (2013). Despite MFMT being exceeded, the stock is rebuilding on schedule, and in fact is slightly ahead of schedule. Spawning stock biomass (SSB) in 2024 was at 78 percent of the SSB associated with achieving MSY, whereas the Amendment 17A rebuilding plan predicted SSB to be at 74 percent in 2024. Although NMFS

has determined that the stock is no longer undergoing overfishing, it is not yet rebuilt and will continue to be managed subject to its rebuilding plan, and new management measures should not create additional risk of achieving the rebuilding timeline.

*Comment 11:* Setting the MSY proxy at  $F_{2021-2023}$  will enshrine overfishing and the proposed MSY proxy will need to be changed in a few years.

*Response:* The MSY proxy for overfishing is not  $F_{2021-2023}$ , but rather the fishing mortality consistent with maintaining rebuilding the stock under the existing rebuilding plan adopted in Amendment 17A to the Snapper-Grouper FMP. NMFS has clarified how the proxy is described in Amendment 59 to address this comment. Specifying the MSY proxy as the fishing mortality consistent with maintaining the existing rebuilding plan will not enshrine overfishing. Rather, this level of fishing mortality allows for continued rebuilding progress consistent with achieving MSY. The definition of the overfishing proxy also provides flexibility and can be changed in the future based on the availability of new data that is also the best scientific information available. As stated in Amendment 59, this proxy will be used until at least the next red snapper assessment is completed in 2026.

*Comment 12:* The MSY proxy must be adjusted after these red snapper current productive juvenile-year classes mature

in a few years. The SEDAR 73 Update Assessment (2024) states that under the proposed scenario, the stock will never rebuild to the target biomass proxy if recruitment does not remain optimistically high. The Council's SSC determined that there is no apparent stock-recruitment relationship, and there is not the ability to predict future recruitment, indicating that there is a high degree of uncertainty in any assumption made regarding future recruitment.

*Response:* The average recruitment for South Atlantic red snapper in the last 10 years has been substantially higher than long-term average recruitment, and the short-term projections through 2028 indicate the stock will continue to rebuild consistent with the Amendment 17A rebuilding plan. If recruitment increases or decreases in the future, NMFS, with the advice of the Council will have the flexibility to modify the overfishing limit as necessary, and the relevant ABC and ACLs may be revised to ensure overfishing is prevented and stock rebuilding remains on schedule. Despite the high degree of recruitment uncertainty as noted in the comment, red snapper have been very resilient and experienced very high levels of recruits entering the fishery in recent years. This has reinforced the size of the stock and led to the stock no longer being classified as overfished, though not yet rebuilt.

*Comment 13:* Amendment 59 and the proposed rule is unclear on the distinction between  $F_{\text{current}}$  and  $F_{2021-2023}$ , yet both are flawed. Amendment 59 and the proposed rule's language suggests that  $F_{\text{current}}$  is interchangeable with  $F_{2021-2023}$  and should be revised to clarify this distinction.

*Response:* NMFS clarified the language in Amendment 59 and this final rule regarding usage of  $F_{\text{current}}$  and  $F_{2021-2023}$ . As clarified,  $F_{\text{current}}$  from the SEDAR 73 Update Assessment (2024) is the most recent 3-year average fishing mortality rate and is equivalent to  $F_{2021-2023}$ . Amendment 59 specifies the  $F_{\text{MSY}}$  proxy as the fishing mortality rate consistent with maintaining the existing rebuilding plan adopted in Amendment 17A to the Snapper-Grouper FMP, which corresponds with current fishing mortality rates. It is a flexible definition that can be changed over time as new science becomes available, as long as it is determined to be the best scientific information available.

*Comment 14:* Are the red snapper landed from Florida state waters counted in the red snapper ABC as described in Amendment 59?

*Response:* Florida has both commercial and recreational fishing for red snapper in its state waters. Landings caught in Florida state waters off the east coast of Florida were included in the SEDAR 73 Update Assessment (2024) for determining the new ABC.

*Comment 15:* No other South Atlantic fishery separates landed fish versus those fish assumed to be discarded dead to propose establishing a *de facto* ACL for red snapper for each estimated removal component is unprecedented, inherently difficult, and inappropriate. Discard estimates are an estimate of an estimate, and with the current challenges of MRIP to accurately estimate landed catch currently being investigated by NMFS, applying a catch limit for discards that are estimated from MRIP information will produce an ACL value with exceptionally low confidence and subject to large variability. The ABC for South Atlantic red snapper should continue to be set in a singular whole number. In Amendment 59, NMFS has taken a new and different approach in setting the ACLs and decided that discards, which are self-reported and unvalidated, should be included with landed fish as part of the ACL. NMFS has only applied this method for including discards as part of the ACL for South Atlantic red snapper.

*Response:* NMFS is not proposing to establish a *de facto* red snapper ACL for both landings and dead discards, particularly for the sector ACLs. Amendment 59 establishes an ABC that is expressed in terms of total catch. The Magnuson-Stevens Act National Standard 1 Guidelines allow an ABC to be expressed in terms of catch, and provide that ACLs cannot exceed the ABC. Although it is correct that no other South Atlantic fisheries include total removals when



setting ACLs, this is an approach NMFS uses in other U.S. regions and which allows NMFS and stakeholders an opportunity to better understand the tradeoffs between reducing dead discards and increases in the ACL. Amendment 59 specifies an ACL in total catch (landings and discards), but as with other Snapper Grouper FMP species, this final rule specifies only the sector's landed ACL for management purposes and in the regulatory text of this final rule.

*Comment 16:* NMFS should propose different ACLs. Both the commercial and recreational sectors are in need of increased ACLs to improve access to red snapper. The proposed ACL increases are too large and can only occur if accompanied by the snapper-grouper discard reduction season that was proposed.

*Response:* NMFS has developed a new preferred ACL alternative in Amendment 59 that is being implemented in this final rule. The proposed rule contained eight actions, and NMFS removed five actions from further consideration that were in the proposed rule, draft amendment, and draft EIS, including the action that would have implemented a discard reduction season (see **Changes from the Proposed Rule**). Subsequent to the end of the public comment periods, NMFS added a new preferred ACL alternative to Action 3 in Amendment 59 that was not in the draft EIS or proposed rule. The new ACL alternative is also based on the results of the SEDAR 73 Update Assessment (2024), but is not

dependent on a specific reduction in the level of dead discards, as was expected to have resulted from the proposed snapper-grouper discard reduction season action. The new ACL preferred alternative sets the total ACL for red snapper equal to the ABC of 509,000 fish. The total ACL of 509,000 fish includes 34,000 fish (landings) and 475,000 fish (dead discards). Retaining the current red snapper sector allocation percentages of 28.07 percent for the commercial sector and 71.93 percent for the recreational sector, the new commercial ACL is 102,951 lb (46,698 kg), and the recreational ACL is 22,797 fish (equivalent to 263,815 lb (119,664 kg)).

The most recent stock assessment for red snapper is the SEDAR 73 Update Assessment (2024), using data through 2023, indicated that the South Atlantic red snapper stock was not overfished and overfishing was occurring, but that the stock was rebuilding (though not yet rebuilt). Despite the overfishing determination, the assessment indicated substantial increases in stock abundance and recruitment, as well as total biomass and spawning biomass. In Amendment 59, for red snapper NMFS is modifying the OFL, ABC, and the total, commercial, and recreational ACLs in response to the latest stock assessment.

*Comment 17:* In the regulatory text of the Amendment 59 proposed rule, only the red snapper sector ACLs are codified and the total ACL is not. The proposed rule's

regulatory text provides management measures (such as, a seasonal closure) intended to create accountability to the sector ACLs, but there are no measures serving to create accountability or constrain catch to the total ACL. Given this, in Amendment 59 the total ACL cannot be considered as an ACL as defined at 16 U.S.C. 1853(a)(15). To be consistent with the statute, the total ACL will have to function as a limit on catch but in Amendment 59 it does not. If NMFS intends the total ACL to actually be an ACL within the meaning of the statute, then specific management measures need to be in place to ensure total catch (landings and dead discards combined) does not exceed the total ACL. If NMFS does not intend the total ACL to be an ACL within the meaning of the statute, then NMFS should explicitly state that and rename the value since referring to it as an ACL is incorrect and creates confusion.

*Response:* NMFS disagrees that the total ACL as described in this final rule and Amendment 59 should not be referred to as an ACL and that the red snapper ACLs do not serve as a measure to constrain the catch. While the total ACL of 509,000 fish represents both landed catch (34,000 fish) and dead discards (475,000 fish), the sector ACLs only represent landed catch. In-season monitoring of the sectors is based on landed catch and any in-season closure or length of a sector's fishing season is based on landings and not the discard estimates that are included as part of

the total ACL and ABC. Each sector has an ACL representing landed catch and each sector's AM serves to constrain catch to their respective ACL. In addition, while 16 U.S.C. 1853(a)(15) requires the establishment of ACLs to prevent overfishing and ensure accountability, this provision does not preclude the use of sector ACLs to ensure these requirements.

*Comment 18:* In 2024, reduction of the red snapper recreational fishing season to a single day created serious safety concerns on the water, as highlighted by both the Florida Fish and Wildlife Commission and the U.S. Coast Guard comments to the Council after the season about safety concerns with the 1-day season.

*Response:* NMFS is aware of public comments to the Council regarding concerns about a short recreational fishing season for red snapper. As discussed previously in this final rule, the length of the recreational season serves as the AM for the sector. NMFS determines the length of the recreational season based on the revised recreational ACL in this final rule and when it is projected to be met. Also, NMFS may modify the opening and closing dates of the fishing season if tropical storm or hurricane conditions exist, or are projected to exist, in the South Atlantic, during a commercial or recreational fishing season.

NMFS notes that the decision of whether a not a vessel trip should be taken, based on weather conditions, vessel condition, or other factors, is ultimately the decision of the vessel operator. No vessel will be forced to participate in any South Atlantic fisheries under weather or ocean conditions an operator determines to be unsuitable as a result of the management regulations as contained in Amendment 59 or this final rule.

*Comment 19:* Saltwater commercial and recreational fishing contribute billions of dollars annually to Florida's economy and Amendment 59 and the proposed rule will dramatically reduce business activity associated with fishing and tourism and affect millions of dollars in revenue for the State of Florida.

*Response:* NMFS understands that the actions considered in the draft EIS for Amendment 59 and the proposed rule, namely the recreational discard reduction season and closed area, would have had the potential to reduce commercial and for-hire business revenue and business activity in nearshore Florida communities, and as a result, reduce the sales and revenue generated for the state of Florida. However, this final rule will not implement a discard reduction season and closed area for the recreational sector. This final rule will reduce the red snapper commercial and recreational ACLs; however, the economic effects are expected to be much lower than those associated

with the proposed rule and will likely not have a substantial impact on revenue for the state of Florida or the solvency of individual businesses.

*Comment 20:* Headboat businesses will not increase prices to individuals for a headboat trip or generate additional revenue as a result of a longer recreational fishing season for red snapper and so the benefits of the proposed red snapper recreational ACL are inflated and should not be used to offset the costs of the discard reduction season and closed area that was contained in the proposed rule.

*Response:* In Amendment 59, NMFS presented lower and upper bound net economic benefit estimates that reflected the uncertainty in how demand for headboat trips and resultant net revenue will change. NMFS assumes the true change in headboat trips and net revenue will likely fall somewhere between the lower and upper bound estimates, based on the highly prized nature of red snapper. This final rule will no longer implement a discard reduction season and closed area, nor will it increase the red snapper recreational ACL; however, NMFS has considered the range of potential economic effects that the new, lower recreational ACL will have on headboat businesses in Amendment 59 and presented the upper bound cost estimate in the **Classification** section of this final rule.

#### **Classification**

Pursuant to section 305(c)(7) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Amendment 59, the Snapper-Grouper FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 is not required and has not been prepared.

A final regulatory flexibility analysis (FRFA) was prepared, as required by section 604 of the RFA (5 U.S.C. 604). The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the

IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows. All monetary estimates in the following analysis are in 2023 dollars.

The Magnuson-Stevens Act provides the statutory basis for this final rule. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule. Public comments specific to the IRFA were received by NMFS. These comments contested that NMFS failed to include the economic impacts on recreational anglers and shoreside fishing support businesses in the IRFA, and thus violated the RFA. NMFS acknowledges that the proposed red snapper recreational discard reduction season and closed area would be impactful to these groups; however, NMFS disagrees that their exclusion from the IRFA violates the RFA. The RFA requires NMFS to describe the impact of the proposed rule on small entities (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, so they are outside the scope of such analysis. Additionally, the RFA and NMFS guidance require an IRFA to address the effects of a proposed rule



only on entities subject to the regulation (*i.e.*, entities to which the rule will directly apply) and not on all entities that are affected by the regulation (*i.e.*, entities to which the rule will indirectly apply). NMFS agrees that it is prudent to consider Amendment 59's impacts on recreational anglers and indirectly affected businesses. The analyses conducted in Amendment 59 to satisfy the National Environmental Policy Act and the Magnuson-Stevens Act requirements and in the Regulatory Impact Review to satisfy the requirements of Executive Order 12866 provide such consideration by detailing the expected economic effects on recreational anglers resulting from Amendment 59. However, NMFS agrees, as suggested by public comments, that these documents would have benefited from a more thorough discussion of the impacts to local fishing support businesses and regional business activity, to the extent practicable. Partially based on a review of the comments specific to the IRFA and other general public comments (see **SUPPLEMENTARY INFORMATION** section), NMFS decided to remove the actions for red snapper to revise the fishing year, the commercial and recreational season start dates, the recreational fishing season structure, and the commercial trip limits, and for snapper-grouper to establish a recreational discard reduction season from further consideration in the amendment and this final rule.

No comments were received from the Office of Advocacy for the Small Business Administration.

This final rule decreases the South Atlantic red snapper commercial and recreational landed-catch ACLs based on the new total ACL of 509,000 fish set in Amendment 59 (34,000 fish as landings and 475,000 fish as dead discards) using existing sector allocations. The commercial ACL will be reduced from 124,815 lb (56,615 kg) to 102,951 lb (46,698 kg) and the recreational ACL will be reduced from 29,656 fish to 22,797 fish. This rule will apply to all commercial fishing businesses, recreational fishers (anglers), and for-hire fishing businesses (charter vessels and headboats) that fish for red snapper in Federal waters of the South Atlantic. None of the measures in this final rule will directly apply to federally-permitted dealers. Any change in the supply of red snapper available for purchase by dealers as a result of this final rule, and associated economic effects, would be an indirect effect of this final rule and would therefore fall outside the scope of the RFA.

A valid South Atlantic snapper-grouper unlimited permit (SG1) or 225-lb Trip-limited permit (SG2) is required in order to legally harvest red snapper commercially in the South Atlantic. At the end of 2020, 535 vessels possessed a valid commercial South Atlantic SG1 permit, and 104 vessels possessed a valid SG2 permit. From

2016 through 2020, an average of 660 commercial vessels possessed one of these permits each year. NMFS does not possess complete ownership data regarding businesses that harvest South Atlantic red snapper. Therefore, it is not currently feasible to accurately determine affiliations between commercial fishing vessels and the businesses that own them. As a result, for purposes of this analysis, NMFS assumes each commercial fishing vessel is independently owned by a single business, which is expected to result in an overestimate of the actual number of commercial fishing businesses regulated by this regulatory action. Thus, this analysis assumes that 660 commercial fishing businesses will be regulated by this final rule.

This final rule will also regulate and directly affect recreational anglers and for-hire fishing businesses. Again, the RFA does not consider recreational anglers to be entities, so they are 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.

A valid charter vessel/headboat South Atlantic snapper-grouper vessel permit is required in order for for-hire vessels to legally harvest snapper-grouper species in the South Atlantic. NMFS does not possess complete ownership data regarding vessels that hold charter

vessel/headboat South Atlantic snapper-grouper vessel permits, and thus potentially harvest snappers or groupers. Therefore, it is not currently feasible to accurately determine affiliations between these vessels and the businesses that own them. As a result, for purposes of this analysis, NMFS assumes each for-hire vessel is independently owned by a single business, which is expected to result in an overestimate of the actual number of for-hire fishing businesses regulated by this final rule. Further, NMFS also does not currently possess data on the number of for-hire fishing vessels that harvest or target South Atlantic red snapper or snapper and grouper species in general. However, from 2016 through 2020, the average number of for-hire fishing vessels with charter vessel/headboat South Atlantic snapper-grouper vessel permits was 2,059. Because these permits are open access and thus not limited, this analysis assumes that as many as 2,059 for-hire fishing businesses could be directly regulated by this final rule.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (80 FR 81194, December 29, 2015). In addition to this gross revenue standard, a business primarily involved in commercial

fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates). From 2019 through 2023, the maximum annual gross revenue earned by a single commercial snapper-grouper vessel was approximately \$457,418, while the average annual gross revenue for a vessel commercially harvesting red snapper in the South Atlantic was \$70,028. Based on this information, all commercial fishing businesses directly regulated by this final rule are determined to be small entities for the purpose of this analysis.

For other industries, the Small Business Administration 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 for-hire fishing 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 annual receipts (revenue) not in excess of \$14 million for all its affiliated operations worldwide. The average annual gross revenue for a headboat in the South Atlantic is estimated at \$355,255, based on data from 2017. The average annual charter vessel gross revenue is estimated at \$146,438, based on data from 2009. Information on the maximum annual gross revenue earned by an individual headboat or charter vessel is not available; however, NMFS

assumes that no such businesses earned in excess of \$14 million. Based on this information, all for-hire fishing businesses regulated by this final rule are determined to be small businesses for the purpose of this analysis.

On average from 2019 through 2023, there were 192 federally-permitted commercial vessels with reported landings of red snapper in the South Atlantic. Their average annual vessel-level gross revenue from all species for 2019 through 2023 was \$70,028 and red snapper accounted for approximately six percent of this revenue. For commercial vessels that harvest red snapper in the South Atlantic, NMFS estimates that economic profits are approximately eight percent of annual gross revenue, on average, or \$5,602 per vessel per year. This final rule will reduce the commercial ACL from 124,815 lb (56,615 kg) to 102,951 lb (46,698 kg). This is expected to reduce commercial landings by 21,864 lb (9,917 kg) per year, worth an estimated \$136,896. Average annual gross revenue and economic profits per affected commercial fishing business are expected to decrease by approximately one percent or \$713 and \$57, respectively.

For the average South Atlantic charter vessel, annual gross revenue is estimated to be approximately \$146,438. For the average South Atlantic headboat, annual gross revenue is estimated to be approximately \$355,255. This final rule will reduce the recreational ACL from 29,656

fish to 22,797 fish. If current relative sector usage persists, the decrease of 6,859 fish to the red snapper recreational ACL is expected to decrease the number of targeted for-hire angler trips. In the long-term, factors of production, such as labor and capital, can be used elsewhere in the economy, and so only short-term changes to economic profits are expected. In the South Atlantic, headboat trips take a diverse set of anglers on a single vessel, generally advertising a diverse range of species to be caught. Therefore, economic profits for headboats are estimated separately from charter vessels. The expected decrease in directed red snapper recreational angler trips is expected to decrease net revenue for charter vessels and headboats by up to \$31,574 and \$37,048, respectively, per year on average. The estimates will depend on how many fewer for-hire trips are booked as a result of the decreased red snapper recreational ACL and corresponding recreational fishing season length. Given that there are approximately 2,059 for-hire fishing businesses that are eligible to recreationally harvest South Atlantic red snapper each year and 61 of those are considered headboat businesses, the average decrease in annual net revenue per charter and headboat business is approximately \$16 and \$607, respectively. Because not all permitted charter vessels may be active and many permitted charter vessels fish in areas where red snapper are less abundant (e.g.,

southeast Florida), the change in net revenue per active charter vessel is likely underestimated and may be greater than presented here.

Four alternatives, including the status quo, were considered for the action to specify a total red snapper ACL of 509,000 fish, with a commercial ACL of 102,951 lb (46,698 kg) and a recreational ACL of 22,797 fish.

The status quo alternative would have retained the total ACL equal to 42,510 fish, with a commercial ACL equal to 124,815 lb (56,615 kg), and a recreational ACL of 29,656 fish, and with the total ACL based on landings only. The status quo total ACL of 42,510 fish was specified in the final rule for Amendment 43 to the Snapper-Grouper FMP and is based on the landings observed during the limited red snapper season in 2014. Under the status quo ACL, no changes in landings, effort, or direct economic effects would have been expected on any small entities. The status quo ACL is based on outdated data that no longer represents the best scientific information available, and thus was not selected as preferred.

The second alternative would have reduced dead discards 16 percent from the baseline and used this discard reduction achievement to increase the total ACL to 505,000 fish. The commercial and recreational South Atlantic red snapper sector ACLs would equal 300,000 lb (136,078 kg) and 64,000 fish respectively. The second alternative would have



resulted in approximately \$1.23 million more total ex-vessel revenue for the commercial sector and approximately \$412,000 more total net revenue for the for-hire component of the recreational sector compared to the ACLs specified in this final rule. This alternative was not selected because, although it would increase red snapper ACLs and harvest opportunities relative to this final rule, it would require a 16 percent reduction in dead discards. Specific discard reduction seasons for all snapper grouper species were considered for the recreational sector at the proposed rule stage to achieve this red snapper discard reduction; however, because new stock assessment information will be available soon, and taking the substantial concerns expressed in the public comments into account, NMFS decided to remove discard reductions seasons from further consideration. This will afford the Council another opportunity to consider other management measures to reduce dead discards and increase red snapper fishing opportunities in a future amendment.

The third alternative would have reduced dead discards 24 percent from the baseline and used this discard reduction achievement to increase the total ACL to 500,000 fish. The commercial and recreational South Atlantic red snapper sector ACLs would equal 346,000 lb (156,943 kg) and 85,000 fish respectively. The third alternative would have resulted in approximately \$1.5 million more total ex-vessel

revenue for the commercial sector and approximately \$622,000 more total net revenue for the for-hire component of the recreational sector compared to the ACLs specified in this final rule. This alternative was not selected because, although it would increase red snapper ACLs and harvest opportunities relative to this final rule, it would require a 24 percent reduction in dead discards. Specific discard reduction seasons for all snapper grouper species were considered for the recreational sector at the proposed rule stage to achieve this red snapper discard reduction; however, because new stock assessment information will be available soon, and taking the substantial concerns expressed in the public comments into account, NMFS decided to remove discard reductions seasons from further consideration. This will afford the Council another opportunity to consider other management measures to reduce dead discards and increase red snapper fishing opportunities in a future amendment.

The fourth alternative would have reduced dead discards 32 percent from the baseline and used this discard reduction achievement to increase the total ACL to 496,000 fish. The commercial and recreational South Atlantic red snapper sector ACLs would equal 390,000 lb (176,901 kg) and 105,000 fish respectively. The third alternative would have resulted in approximately \$1.8 million more total ex-vessel revenue for the commercial sector and approximately

\$822,000 more total net revenue for the for-hire component of the recreational sector compared to the ACLs specified in this final rule. This alternative was not selected because, although it would increase red snapper ACLs and harvest opportunities relative to this final rule, it would require a 32 percent reduction in dead discards. Specific discard reduction seasons for all snapper grouper species were considered for the recreational sector at the proposed rule stage to achieve this red snapper discard reduction; however, because new stock assessment information will be available soon, and taking the substantial concerns expressed in the public comments into account, NMFS decided to remove discard reductions seasons from further consideration. This will afford the Council another opportunity to consider other management measures to reduce dead discards and increase red snapper fishing opportunities in a future amendment.

NMFS notes that this final rule will announce the red snapper commercial season opening date and the recreational season opening and closing dates for the 2025 fishing year (see **DATES**) in accordance with the new commercial and recreational ACLs specified in this final rule. The economic effects of the reduction in sector ACLs on small entities, which will be realized through the commercial and recreational fishing seasons, are described earlier and no

additional economic effects are anticipated as a result of this component of the final rule.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule and will designate such publications as "small entity compliance guides." The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a fishery bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.*, bulletin) will be available on the Southeast Regional Office website (see **ADDRESSES**). Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting or recordkeeping compliance requirements are introduced in this final rule.

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

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

Commercial, Fisheries, Fishing, Recreational, Red snapper, Snapper-grouper, South Atlantic.

**Dated:** June 6, 2025.

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**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory*

*Programs,*

*National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS amends  
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 § 622.193, revise paragraph (y) to read as  
follows:

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

\* \* \* \* \*

(y) *Red snapper*—(1) *Commercial sector*. The commercial  
ACL for red snapper is 102,951 lb (46,698 kg), round  
weight. See § 622.183(b)(5) for details on the commercial  
fishing season. NMFS will monitor commercial landings  
during the season, and if commercial landings, as estimated

by the SRD, reach or are projected to reach the commercial ACL, the AA will file a notification with the Office of the Federal Register to close the commercial sector for red snapper for the remainder of the year. On and after the effective date of the closure notification, all sale or purchase of red snapper is prohibited and harvest or possession of red snapper is limited to the recreational bag and possession limits and only during such time as harvest by the recreational sector is allowed as described in § 622.183(b) (5). This bag and possession limit and the prohibition on sale/purchase apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested or possessed, *i.e.*, in state or Federal waters.

(2) *Recreational sector.* The recreational ACL for red snapper is 22,797 fish. The AA will file a notification with the Office of the Federal Register to announce the length of the recreational fishing season for the current fishing year. The length of the recreational fishing season for red snapper serves as the in-season accountability measure. See § 622.183(b) (5) for details on the recreational fishing season. On and after the effective date of the recreational closure notification, the bag and possession limits for red snapper are zero.

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