



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 260420-0106]

RIN 0648-BN69

Fisheries of the Caribbean, Gulf of America, and South Atlantic; Snapper-Grouper

Fishery of the South Atlantic; Regulatory Amendment 36

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS seeks public comment on proposed regulations to implement Regulatory Amendment 36 under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (Snapper-Grouper FMP). This proposed rule would revise the recreational vessel limits for gag and black grouper. Additionally, this proposed rule would revise the transit storage requirements for commercial on-demand, also known as ropeless, black sea bass pots. The purpose of these regulatory changes is to increase biological benefits to the gag and black grouper stocks, and to allow more practical transit of vessels through certain gear restricted areas with on-demand black sea bass pots on board consistent with mandates in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-0339>. You may submit comments on this document, identified by NOAA-NMFS-2025-0339, 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 type NOAA-NMFS-2025-0339 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Rick DeVictor, NMFS, Southeast Regional Office, Sustainable Fisheries Division, 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 will not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments - enter “N/A” in the required fields if you wish to remain anonymous.

An electronic copy of Regulatory Amendment 36, 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/action/regulatory-amendment-36-fishery-management-plan-snapper-grouper-fishery-south-atlantic>.

The unique identification number for the environmental review for Regulatory Amendment 36 is: NOAA-NMFS-2025-0339.

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, telephone: 727-824-5305, or email: rick.devictor@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS, in collaboration with the South Atlantic Fishery Management Council (Council), manages the South Atlantic snapper-grouper fishery, which includes gag, black grouper, and black sea bass, in Federal waters

under the Snapper-Grouper FMP. The Snapper-Grouper FMP was prepared by NMFS and the Council, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and continually achieve the optimum yield 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 also requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

This action is proposed under the statutory authority of the Magnuson-Stevens Act, section 303(a)(1) as necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to promote the long-term health and stability of the fishery.

Background

Amendment 53 to the Snapper-Grouper FMP and its implementing final rule established vessel limits for gag and black grouper in the private and the charter vessel and headboat (for-hire) components of the recreational sector (88 FR 65135, September 21, 2023). Amendment 53 responded to the most recent stock assessment for South Atlantic gag, Southeast Data, Assessment, and Review (SEDAR) 71 (2021). Based on the results of SEDAR 71, NMFS determined that the South Atlantic gag stock is overfished and undergoing overfishing. Given the substantial reduction in harvest that was needed to end overfishing of gag immediately and to increase the likelihood of rebuilding the gag stock, the Council recommended recreational vessel limits for gag in Amendment 53. The purpose of establishing recreational vessel limits for gag was to continue to allow some level of recreational retention while helping to constrain harvest to the reduced

recreational annual catch limit (ACL). Because of their similar appearance, gag and black grouper are misidentified by recreational fishermen. Because of this misidentification issue and the need to greatly reduce the harvest of gag to end overfishing and rebuild the stock, the Council also recommended recreational vessel limits for black grouper to indirectly benefit gag.

Specifically, Amendment 53 recommended and its implementing final rule established a private recreational vessel limit for gag of two fish per vessel per day and a private recreational vessel limit for black grouper of two fish per vessel per day, not to exceed the daily recreational bag limit of one fish per person per day, whichever is more restrictive. For recreational for-hire vessels, Amendment 53 recommended and the final rule established similar separate vessel limits for gag and black grouper of two fish per vessel per trip, not to exceed the daily bag limit of one fish per person per day, whichever is more restrictive.

After NMFS implemented the final rule for Amendment 53, the Council expressed interest in revising these regulations to establish an aggregate vessel limit of two gag or black grouper in any combination, rather than the separate, species-specific limits of two gag and two black grouper per vessel, which could be up to four fish in total. The Council determined that the aggregate vessel limits recommended in Regulatory Amendment 36 would provide further biological benefits when compared to the species-specific vessel limits for gag and black grouper contained in Amendment 53. NMFS has evaluated the recommendations transmitted by the Council and concluded, pending review of public comment, that this proposed regulatory change could have beneficial biological effects to the gag and black grouper stocks if it results in reduced landings, and it could reduce the rebuilding time for the gag stock. The gag stock is currently in a rebuilding plan established through Amendment 53 and is expected to be rebuilt by 2032.

If implemented, Regulatory Amendment 36 and this proposed rule would also revise the transit provisions in marine protected areas (MPAs) and spawning special management zones (spawning SMZs) for commercial fishermen with snapper-grouper species and on-demand, or ropeless, black sea bass pots on board. Traditional black sea bass pot fishing gear includes rope attached to the pot and vertical end lines that stay in the water column connected to surface buoys while the gear is deployed, presenting an entanglement risk to protected marine species such as North Atlantic right whales. Both traditional roped and on-demand gear currently in use must comply with the same requirements for black sea bass pots (same dimensions, mesh size, escape panels, *etc.*), and pots equipped with on-demand gear are fished the same way as roped pots in terms of soak times, bait, *etc.* On-demand types of sea bass pot gear differ from roped gear by storing buoys and their retrieval devices at depth, being deployed into the water column only when fishermen are present to retrieve the gear. Further adoption of on-demand gear by commercial black sea bass fishermen using sea bass pots would be expected to lower the probability of negative interactions with protected marine species that may be vulnerable to entanglement in black sea bass pots with traditional roped gear.

Commercial fishery participants can obtain Federal permits to catch and sell certain species and endorsements authorizing them to use particular gear. Many participants use the Federal commercial vessel permit for snapper-grouper unlimited to catch a variety of species. Currently, only commercial fishermen with a black sea bass pot endorsement to that permit may fish for black sea bass using sea bass pots in the Federal waters of the South Atlantic. There are MPAs and spawning SMZs in South Atlantic Federal waters where commercial fishermen may not fish for, harvest, or possess species in the snapper-grouper fishery management unit. However, existing regulations allow commercial fishermen to possess snapper-grouper species while in transit through an MPA or spawning SMZ with a black sea bass pot on board and with fishing gear

appropriately stowed, requiring that the black sea bass pots are not baited, and all buoys must be disconnected from the gear but may remain on deck. However, commercial fishermen that use on-demand black sea bass pots have stated that the buoys attached to the pots are more difficult to disconnect from on-demand gear than from traditional roped gear, which makes compliance with the transit requirements more burdensome.

Therefore, to better accommodate commercial snapper-grouper fishermen with on-demand gear on their vessels while promoting potentially positive benefits to protected marine species through the use of on-demand black sea bass pots, the Council developed Regulatory Amendment 36 to allow buoys to remain connected to on-demand black sea bass pot gear when vessels transit through MPAs and spawning SMZs if on-demand black sea bass pots are not baited. After an initial review, NMFS concurs that this proposed regulatory change could result in the stated benefits pending additional review of public comment.

Management Measures Contained in this Proposed Rule

NMFS seeks public comment on the following management measures in this proposed rule.

Gag and Black Grouper Recreational Vessel Limits

If implemented by NMFS, this proposed rule would reduce the current recreational vessel limits for gag and black grouper as described earlier and shown in table 1. This proposed rule would establish aggregate vessel limits of two fish of gag or black grouper in any combination on a per day basis for fishermen on private recreational vessels and on a per trip basis for fishermen on recreational for-hire vessels. These regulatory changes could have beneficial biological effects on the gag and black grouper stocks and could reduce the rebuilding time for the gag stock if they reduce landings of gag and black grouper.

Table 1 -- Current and Proposed Bag and Vessel Limits by Recreational Component of Gag or Black Grouper

Recreational harvest of gag or black grouper				
Recreational component	Current limits		Proposed limits	
	Bag limit per angler	Vessel limit with 2 or more anglers	Bag limit per angler	Vessel limit with 2 or more anglers
Private	1 total per day	2 of each species per day; 4 total	1 total per day	2 total per day
For-hire	1 total per day	2 of each species per trip; 4 total	1 total per day	2 total per trip

Note: The current and proposed vessel limits apply only if there are two or more anglers on the vessel.

As shown in table 1, the proposed changes to the vessel limits would not affect the current recreational bag limits for gag and black grouper. The recreational bag limit is one gag or black grouper per person per day on private vessels and on for-hire vessels. In the same manner as the current regulations, the more restrictive of either the proposed bag limits or vessel limits would apply to the retention and landing of recreationally harvested gag and black grouper. For example, if three anglers are fishing on a private recreational vessel, the maximum number of gag and black grouper combined that may be on the vessel and landed would be two per day. In another example, if only one angler is fishing on a private recreational vessel, the maximum number of either gag or black grouper that may be on the vessel and landed would continue to be one total per day.

Transiting with On-Demand Gear

This proposed rule would revise the transit provisions in MPAs and spawning SMZs for commercial fishermen with snapper-grouper species and on-demand black sea bass pots on a vessel. Transit means direct, non-stop progression through an MPA or spawning SMZ. Currently, fishermen may possess snapper-grouper species while in transit through an MPA or spawning SMZ with on-demand (ropeless) or traditional (roped) black sea bass pots on board if such fishing gear is appropriately stowed. Fishing gear appropriately stowed currently means black sea bass pots are not baited and all buoys must be disconnected from the gear but may remain on deck. This proposed rule would modify the definition of fishing gear appropriately stowed to allow a vessel to

transit through an MPA or spawning SMZ with buoys connected to on-demand black sea bass pot gear if the on-demand black sea bass pots are not baited. On-demand black sea bass pot fishermen have stated that buoys are more difficult to disconnect from on-demand pots than from traditional pots. Therefore, NMFS expects this proposed action to reduce the burden on fishermen transiting through MPAs and spawning SMZs with on-demand black sea bass pots and snapper-grouper species on the vessel. Current transit and stowage regulations would still apply to traditional roped pots; that is, buoys would still need to be removed from traditional roped pots when transiting through an MPA or spawning SMZ, even if those pots are on the same vessel with on-demand pots. Also, this proposed action would not change regulations for transit through two nearshore areas that are seasonally closed to commercial fishing with black sea bass pots in November and April, and from December through March (50 CFR 622.183(b)(6)(i) and (ii)).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Regulatory Amendment 36, the Snapper-Grouper FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification follows. A copy of the full analysis is available from NMFS (see **ADDRESSES**).

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 or record keeping requirements are introduced in this proposed rule. This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This proposed rule, if implemented, would remove the species-specific private recreational and for-hire vessel limits for gag and black grouper and establish separate aggregate private recreational and for-hire vessel limits of two gag or black grouper in any combination per day on a private recreational vessel and per trip on a recreational for-hire vessel. This proposed rule would not change the current bag limit of one gag or black grouper per person per day on a private recreational vessel or on a recreational for-hire vessel, and whichever limit is more restrictive would apply. This proposed rule would also revise transit stowage requirements for on-demand black sea bass pots on commercial vessels. Transit means direct, non-stop progression through an MPA or spawning SMZ. Under this proposed rule, commercial fishermen transiting through an MPA or spawning SMZ would no longer be required to disconnect buoys from on-demand black sea bass pots; rather, buoys could remain connected to on-demand black sea bass pots, though the pots could not be baited.

The proposed changes to the recreational vessel limits would apply to all federally permitted for-hire vessels and recreational anglers that fish for or harvest gag or black grouper in Federal waters of the South Atlantic. The proposed modifications to the transit stowage requirements for black sea bass pots with on-demand gear would only apply to commercial vessels.

Although this proposed rule would apply to for-hire vessels, it would not be expected to have any direct effects on these entities. For-hire vessels sell fishing services to recreational anglers. NMFS does not expect the proposed management changes to gag and black grouper to 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 and would therefore be indirect. Based on the historically-minimal level of charter mode target effort for gag and black grouper in the South Atlantic, the low retention limit for these species, and the number of substitute species available, NMFS does not expect any change in for-hire trip demand to result from this proposed rule; however, should it occur, the associated indirect effects would fall outside the scope of 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 (see 5 U.S.C. 601(3) through (6)). Recreational anglers are not businesses, organizations, or governmental jurisdictions, so they are also outside the scope of this analysis. In summary, only the impacts on commercial fishing businesses will be discussed.

In 2024, there were 508 valid or renewable South Atlantic snapper-grouper unlimited permits and 86 valid or renewable 225-pound (102-kilogram) trip limited permits. In addition to a valid snapper-grouper unlimited permit, vessels that use black sea bass pots in Federal waters must have a valid South Atlantic sea bass pot endorsement. These may be transferred between any two entities that hold or simultaneously obtain a valid snapper-grouper unlimited permit. There were 32 valid or renewable black sea bass pot endorsements in 2024. On average from 2018 through 2022, there were 166 federally permitted commercial vessels with reported landings of black sea bass in the South Atlantic. Their average annual vessel-level gross revenue from all

species for 2018 through 2022 was \$67,250 (2023 dollars) and black sea bass accounted for approximately 3.5 percent of this revenue. Only 14 federally permitted commercial vessels, on average, harvested black sea bass using pot gear during this period and their average annual vessel-level gross revenue from all species was \$69,977 (2023 dollars) with 24 percent of this revenue attributed to black sea bass. For commercial vessels that harvest black sea bass in the South Atlantic, NMFS estimates that economic profits are - 1.9 percent of annual gross revenue, on average. The negative value for economic profits presented here does not necessarily mean the average business is operating at a loss in an accounting sense, rather the owner is not being fully compensated for their time or asset depreciation when compared to the next best use of their labor and capital resources. The maximum annual revenue from all species reported by a single one of the vessels that harvested black sea bass from 2018 through 2022 was \$394,668 (2023 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 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 stowage requirements for on-demand black sea bass pots on commercial vessels transiting through an MPA or spawning SMZ. Under this proposed rule, when transiting through such areas, commercial fishing businesses would need to ensure that all on-demand black sea bass pots are not baited, but it would

be permissible for buoys to be connected to the on-demand black sea bass pots. Current management measures stipulate that during transit through an MPA or spawning SMZ all black sea bass pots must not be baited and all buoys must be disconnected from the gear, including on-demand gear. The proposed relaxation of the requirement to disconnect buoys from on-demand black sea bass pots represents a time savings for commercial fishing businesses and a corresponding reduction in the opportunity cost of labor. It is not possible to quantify this potential benefit using existing data. Based on the small geographical extent of the South Atlantic spawning SMZs and the low likelihood of fishing for black sea bass at the depths of the deep-water MPAs, the effects of this proposed rule on small entities would likely be minimal. Individual fishing businesses may experience varying effects on their economic profits, depending on their fishing practices, operating characteristics, and profit maximization strategies.

In conclusion, 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.

List of Subjects in 50 CFR Part 622

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

Dated: April 20, 2026.

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 AMERICA, AND

SOUTH ATLANTIC

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

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

2. Amend § 622.183 by:

- a. Revising paragraph (a)(1)(ii)(E);
- b. Adding paragraph (a)(1)(ii)(F);
- c. Revising paragraph (a)(2)(vii)(E); and
- d. Adding paragraph (a)(2)(vii)(F).

The revisions and additions would read as follows:

§ 622.183 Area and seasonal closures.

(a) * * *

(1) * * *

(ii) * * *

(E) A crustacean trap or golden crab trap cannot be baited. All buoys must be disconnected from the gear, although buoys may remain on deck.

(F) A sea bass pot cannot be baited. For a sea bass pot fished with a deployed vertical line or rope connected to a buoy, the buoy must be disconnected from the gear, although the buoy may remain on deck. For a sea bass pot fished without a deployed vertical line connected to a buoy, referred to as an on-demand or ropeless sea bass pot, the buoy may remain connected to the gear.

(2) * * *

(vii) * * *

(E) A crustacean trap or golden crab trap cannot be baited. All buoys must be disconnected from the gear, although buoys may remain on deck.

(F) A sea bass pot cannot be baited. For a sea bass pot fished with a deployed vertical line or rope connected to a buoy, the buoy must be disconnected from the gear,

although the buoy may remain on deck. For a sea bass pot fished without a deployed vertical line connected to a buoy, referred to as an on-demand or ropeless sea bass pot, the buoy may remain connected to the gear.

* * * * *

3. Amend § 622.187 by revising paragraph (b)(2)(i) to read as follows:

§ 622.187 Bag and possession limits.

* * * * *

(b) * * *

(2) * * *

(i) No more than one fish may be a gag or a black grouper. However, the bag limit for gag and black grouper for the captain or crew of a vessel operating as a charter vessel or headboat is zero. In addition to the bag limits specified in this paragraph (b)(2)(i), the vessel limits in paragraphs (b)(2)(i)(A) and (B) of this section also apply to gag and black grouper. In the event of a conflict between a bag limit and vessel limit, the more restrictive limit will prevail.

(A) The vessel limit for gag and black grouper on a vessel operating as a private recreational vessel is two fish per day in any combination.

(B) The vessel limit for gag and black grouper on a vessel operating as a charter vessel or headboat is two fish per trip in any combination.

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