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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 260923-0004]

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: Final rule.

SUMMARY: NMFS issues regulations to implement Regulatory Amendment 36 under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (Snapper-Grouper FMP). This final rule revises the recreational vessel limits for gag and black grouper. Additionally, this final rule revises 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: This final rule is effective on [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

ADDRESSES: Regulatory Amendment 36 includes a fishery impact statement and regulatory impact review, and 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: EAXX-006-48-1SE-1743197928.

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 framework action is implemented 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 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, completed in 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 in Amendment 53, and NMFS implemented through the final rule, recreational vessel limits for gag. 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, the 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, 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 to the gag and black

grouper stocks when compared to the species-specific vessel limits contained in Amendment 53 if it results in reduced landings, and 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.

Regulatory Amendment 36 and this final rule will also revise the transit provisions in marine protected areas (MPAs) and spawning special management zones (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 in use 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, only being deployed into the water column 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.

Currently, only commercial fishermen with a black sea bass pot endorsement to the Federal commercial vessel permit for snapper-grouper unlimited 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. 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.

Management Measures Contained in this Final Rule

NMFS is implementing the following management measures in this final rule.

Gag and Black Grouper Recreational Vessel Limits

This final rule establishes recreational vessel limits for gag and black grouper as described earlier and as shown in table 1. This rule establishes 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 to the gag and black grouper stocks if they reduce landings of gag and black grouper, and could reduce the rebuilding time for the gag stock.

Table 1 -- Bag and Vessel Limits by Recreational Component for Gag or Black Grouper

	Recreational harvest of gag or black grouper	
Recreational component	Bag limit per angler	Vessel limit with 2 or more anglers

Private	1 total per day	2 total per day
For-hire	1 total per day	2 total per trip

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

As shown in table 1, the changes to the vessel limits do not change the existing recreational bag limit 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 regulations currently apply, the more restrictive of either the bag limits or the vessel limits will 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 will 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 will continue to be one total per day.

Transiting with On-Demand Gear

This final rule revises 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 the 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 rule modifies 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. NMFS expects this rule 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. The existing transit and stowage regulations still apply to traditional roped pots; that is, buoys 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. This rule does 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)).

Comments and Responses

NMFS received five comments on the proposed rule for Regulatory Amendment 36. Two comments were from non-governmental organizations who supported the revisions to the transit provisions for commercial fishermen with on-demand black sea bass pots on a vessel. One comment opposed changing the regulations generally but was not specific to which measures; therefore, NMFS is not able to directly respond to this comment. One comment received was not related to Regulatory Amendment 36 or the proposed rule and is, therefore, not responded to in this final rule. NMFS addresses one comment that opposed an action in Regulatory Amendment 36 and the proposed rule. NMFS made no changes from the proposed rule as a result of public comment.

Comment 1: It is unfair to limit for-hire vessels (headboats) that carry 40 or more people to 2 gag or black grouper per trip. These vessels should have an exemption and a higher limit.

Response: NMFS has determined that the aggregate vessel limits for gag and black grouper in Regulatory Amendment 36 and this final rule will increase the biological benefits for these stocks when compared to the previous species-specific vessel limits. Additionally, this final rule could reduce the rebuilding time for the overfished gag stock if these limits reduce landings of gag. NMFS acknowledges the potential issues with implementing vessel limits on headboats, which normally carry more anglers on

each trip than charter vessels. To potentially address this issue, the Council is developing Regulatory Amendment 39 under the Snapper-Grouper FMP that considers limits of snapper-grouper species, including gag and black grouper, on headboats with more than six anglers on a trip.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Regulatory Amendment 36, 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.

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 Executive Order 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of Executive Order 13175 also do not apply. A Tribal summary impact statement under sections (5)(b)(2)(B) and (c)(2) of Executive Order 13175 is not required and has not been prepared.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. 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.

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

The Senior Lead Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis is not required and none was prepared.

List of Subjects in 50 CFR Part 622

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

Dated: September 24, 2026.

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 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 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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