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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No.            ]

RIN 0648-

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper  
Fishery off the Southern Atlantic States; Amendment 16

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 16 to the  
Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic  
Region (FMP)(Amendment 16), as prepared and submitted by the South Atlantic  
Fishery Management Council (Council). This proposed rule would establish a seasonal  
closure of the recreational and commercial fisheries for gag and associated grouper  
species; establish a seasonal closure of the recreational fishery for vermilion snapper;  
reduce the aggregate bag limit for grouper and tilefish; reduce the bag limit for gag or  
black grouper combined; reduce the bag limit for vermilion snapper; prohibit captain and  
crew of a vessel operating as a charter vessel or headboat from retaining any fish under  
the aggregate bag limit for grouper and tilefish or the vermilion snapper bag limit;  
establish semiannual quotas for the commercial vermilion snapper fishery; establish a  
quota for the commercial gag fishery; establish restrictions on the possession, sale, and

purchase of gag and associated grouper species after the gag commercial quota is reached; and require use of a venting tool and dehooking device when fishing for South Atlantic snapper-grouper and use of non-stainless steel circle hooks when fishing for South Atlantic snapper-grouper with natural baits. In addition, Amendment 16 proposes, for both gag and vermilion snapper, to revise the definitions of maximum sustainable yield (MSY) and optimum yield (OY), specify total allowable catch (TAC), and establish interim allocations of TACs for the recreational and commercial sectors. Amendment 16 also proposes to establish a minimum stock size threshold (MSST) for gag and, when available from the pending assessment, for vermilion snapper. Finally, Amendment 16 proposes a framework measure to authorize the NMFS Southeast Regional Administrator (RA) to make adjustments, within ranges specified by the Council, to quotas, size limits, bag limits, and seasonal closures for the vermilion snapper fishery based on results of the upcoming vermilion snapper benchmark assessment. The intended effect of this proposed rule is to end overfishing of gag and vermilion snapper in the South Atlantic.

DATES: Written comments on this proposed rule must be received no later than 5 p.m., eastern time, on [insert date 45 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by "0648- ", by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>.
- Fax: 727-824-5308; Attention: Kate Michie.

- Mail: Kate Michie, Southeast Regional Office, NMFS, 263 13<sup>th</sup> Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 16 may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone: 843-571-4366 or 866-SAFMC-10 (toll free); fax: 843-769-4520; e-mail: [safmc@safmc.net](mailto:safmc@safmc.net). Amendment 16 includes a Final Environmental Impact Statement (FEIS), a Biological Assessment, an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement. FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727-824-5305, fax: 727-824-5308, e-mail: [Kate.Michie@noaa.gov](mailto:Kate.Michie@noaa.gov).

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

**[Insert background and description of need for proposed actions and intended effects.]**

#### Availability of Amendment 16

Additional background and rationale for the measures discussed above are contained in Amendment 16. The availability of Amendment 16 was announced in the Federal Register on [Insert date], (72 FR \*\*\*\*\*). Written comments on Amendment 16 were accepted through [Insert date]. All comments received on Amendment 16 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 16, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Council prepared an FEIS for Amendment 16; a notice of availability was published on [Insert date], (72 FR \*\*\*\*\*).

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility

Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A copy of the full analysis is available from the Council (see ADDRESSES). A summary of the IRFA follows.

**[Insert IRFA summary.]**

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated:

  

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For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF, 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 § 622.35, paragraphs (j) and (k) are added to read as follows:

§ 622.35 Atlantic EEZ seasonal and/or area closures.

\* \* \* \* \*

(j) Seasonal closure of the recreational and commercial fisheries for gag and associated grouper species. During January through April each year, no person may harvest fish for or possess in or from the South Atlantic EEZ gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, or coney. In addition, for a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, the provisions of this closure apply in the South Atlantic, regardless of where such fish are harvested, i.e., in state or Federal waters.

(k) Seasonal closure of the recreational fishery for vermilion snapper. The recreational fishery for vermilion snapper in or from the South Atlantic EEZ is closed from October 1 through May 15, each year. In addition, for a person on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, this closure applies in the South Atlantic, regardless of where the fish are harvested, i.e., in state or Federal waters. During the closure, the bag and possession limit for vermilion snapper in or from the South Atlantic EEZ is zero.

§ 622.36 [Amended]

3. In § 622.36, paragraph (b)(4) is removed and reserved.

4. In § 622.39, paragraphs (d)(1)(ii) introductory text, (d)(1)(ii)(A), and (d)(1)(v) are revised to read as follows:

§ 622.39 Bag and possession limits.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) Grouper and tilefish, combined--3. However, no grouper or tilefish may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero. In addition, within the 3-fish aggregate bag limit:

Note: In amendment 16, the captain and crew action only pertains to shallow water grouper species and vermilion snapper. It does not apply to tilefish and the deep water groupers.

(A) No more than one fish may be gag or black grouper, combined;

\* \* \* \* \*

(v) Vermilion snapper--4. However, no vermilion snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

\* \* \* \* \*

5. In § 622.41, paragraph (n) is added to read as follows:

§ 622.41 Species specific limitations.

\* \* \* \* \*

(n) Required gear in the South Atlantic snapper-grouper fishery. For a person on board a vessel to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, the vessel must possess on board and such person must use the gear as specified in paragraphs (n)(1) and (n)(2) of this section.

(1) Dehooking device. At least one dehooking device is required and must be used, if necessary, to remove hooks embedded in South Atlantic snapper-grouper with

minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fisheries.

(2) Venting tool. At least one venting tool is required and must be used as needed to deflate the swim bladders of South Atlantic snapper-grouper to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle in a forward direction approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

6. In § 622.42, paragraph (e)(4) is revised, and paragraph (e)(7) is added to read as follows:

§ 622.42 Quotas.

\* \* \* \* \*

(e) \* \* \*

(4) Vermilion snapper. (i) For the period January through June each year—  
168,501 lb (76,431 kg).

(ii) For the period July through December each year—155,501 lb (70,534 kg).

(iii) Any unused portion of the quota specified in paragraph (e)(4)(i) of this section



will be added to the quota specified in paragraph (e)(4)(ii) of this section. Any unused portion of the quota specified in paragraph (e)(4)(ii) of this section, including any addition of quota specified in paragraph (e)(4)(i) that was unused, will become void and will not be added to any subsequent quota.

\* \* \* \* \*

(7) Gag—352,940 lb (160,091 kg).

\* \* \* \* \*

7. In § 622.43, paragraph (a)(5) is revised to read as follows:

§ 622.43 Closures.

\* \* \* \* \*

(a) \* \* \*

(5) South Atlantic gag, greater amberjack, snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy. (i) The appropriate bag limits specified in § 622.39(d)(1) and the possession limits specified in § 622.39(d)(2) apply to all harvest or possession of the applicable species in or from the South Atlantic EEZ, and the sale or purchase of the applicable species taken from or possessed in the EEZ is prohibited.

(ii) The bag and possession limits for the applicable species 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, i.e., in state or Federal waters.

(iii) For gag only, when the commercial quota for gag is reached, the provisions

of paragraphs (a)(5)(i) and (ii) of this section apply to gag and the following associated grouper species: black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney.

\* \* \* \* \*

8. In § 622.45, paragraph (d)(8) is revised to read as follows:

§ 622.45 Restrictions on sale/purchase.

\* \* \* \* \*

(d) \* \* \*

(8) During January through April, no person may sell or purchase a gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, or coney harvested from or possessed in the South Atlantic EEZ or, if harvested or possessed by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic, i.e., state or Federal waters. The prohibition on sale/purchase during January through April does not apply to such species that were harvested, landed ashore, and sold prior to January 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of such species harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

- (ii) The official number, name, and home port of the vessel harvesting such fish;
- (iii) The port and date of offloading from the vessel harvesting such fish, and;
- (iv) A statement signed by the dealer attesting that such fish was harvested from an area other than the South Atlantic.

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