

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 17B

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 17B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This proposed rule would, for South Atlantic snapper-grouper,

The intended effects of this rule are to

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 RIN 0648-****, by any one of the following methods:

· Electronic Submissions: Submit all electronic public comments via the Federal

eRulemaking Portal <http://www.regulations.gov>

Fax: 727-824-5308, Attn: Kate Michie

Mail: Kate Michie, Southeast Regional Office, NMFS, 263 13th 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 field if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 17B 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. Amendment 17B includes a Final Environmental Impact Statement (FEIS), 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.

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.

Amendment 17B

Availability of Amendment 17B

Additional background and rationale for the measures discussed above are contained in Amendment 17B. The availability of Amendment 17B was announced in the Federal Register on [insert date], (72 FR *****). Written comments on Amendment 17B must be received by [insert date]. All comments received on Amendment 17B 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 the FMP subject to this rulemaking, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Council prepared an FEIS for Amendment 17B; a notice of availability was published on [insert date], (72 FR *****).

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. 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 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 summary of the analysis follows. A copy of this analysis is available from the Council (see ADDRESSES).

List of Subjects in 50 CFR Part 622

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

Dated:

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 § 622.2, the definitions of "Deep-water grouper (DWG)" and "Shallow-water grouper (SWG)" are revised and definitions of "Deep-water snapper-grouper (DWSG)" and "Shallow-water snapper-grouper (SWSG)" are added in alphabetical order to read as follows:

§ 622.2 Definitions.

* * * * *

Deep-water grouper (DWG) means, in the Gulf, yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind. After the shallow-water grouper (SWG) commercial quota is reached, as specified in § 622.42(a)(1)(iii), scamp is also considered a DWG for purposes of the commercial fishery.

Deep-water snapper-grouper (DWSG) means, in the South Atlantic, yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, speckled hind, blueline tilefish, queen snapper,

and silk snapper.

* * * * *

Shallow-water grouper (SWG) means, in the Gulf, gag, red grouper, black grouper, scamp, yellowfin grouper, rock hind, red hind, and yellowmouth grouper. However, after the SWG commercial quota is reached, as specified in § 622.42(a)(1)(iii), scamp is considered a Deep-Water Grouper (DWG) for the commercial fishery only.

Shallow-water snapper-grouper (SWSG) means, in the South Atlantic, gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney.

* * * * *

3. In § 622.32, paragraph (c)(3) is removed and paragraph (b)(3)(vi) is added to read as follows:

§ 622.32 Prohibited and limited-harvest species.

* * * * *

(b) * * *

(vi) Speckled hind and warsaw grouper may not be harvested or possessed in or from the South Atlantic EEZ. Such fish caught in the South Atlantic EEZ must be released immediately with a minimum of harm.

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4. In § 622.35, the first sentence of paragraph (j) is revised and paragraph (l) is added to read as follows:

§ 622.35 Atlantic EEZ seasonal and/or area closures.

* * * * *

(j) * * * During January through April each year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ any shallow-water snapper-grouper (SWSG). * * *

* * * * *

(l) Depth closure for deep-water snapper-grouper (DWSG). No person may fish for or possess DWSG in or from the South Atlantic EEZ offshore of rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
Origin		

5. In § 622.39, paragraph (d)(1)(ii)(B) is revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(B) No more than one fish per vessel may be a snowy grouper;

* * * * *

6. In § 622.42, paragraphs (e)(1), (e)(2), (e)(5), and (e)(6) are revised and paragraph (e)(8) is added to read as follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(1) Snowy grouper--82,900 lb (37,603 kg).

(2) Golden tilefish. For the fishing year that commences January 1, 2010, and for subsequent fishing years ?????? lb (???,??? kg).

* * * * *

(5) Black sea bass--309,000 lb (140,160 kg).

(6) Red porgy--190,050 lb (86,205 kg).

* * * * *

(8) Gag, black grouper, and red grouper, combined--662,403 lb (300,461 kg).

* * * * *

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

§ 622.43 Closures.

(a) * * *

(5) * * *

(iii) For gag and for gag, black grouper, and red grouper, combined, when the appropriate commercial quota is reached, the provisions of paragraphs (a)(5)(i) and (ii) of this section apply to gag and all other shallow-water snapper-grouper.

* * * * *

8. In § 622.44, paragraph (c)(3) is revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(3) Snowy grouper. Until the quota specified in § 622.42(e)(1) is reached--100 lb (45 kg).

See § 622.43(a)(5) for the limitations regarding snowy grouper after the fishing year quota is reached.

* * * * *

9. In § 622.48, paragraph (f) is revised to read as follows:

§ 622.48 Adjustment of management measures.

* * * * *

(f) South Atlantic snapper-grouper and wreckfish. Biomass levels, age-structured analyses, target dates for rebuilding overfished species, MSY, ABC, quotas, annual catch limits (ACLs), target catch levels, accountability measures, trip limits, bag limits, minimum sizes, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, definitions of essential fish habitat, essential fish habitat, essential fish habitat HAPCs or Coral HAPCs, and restrictions on gear and fishing activities applicable in essential fish habitat and essential fish habitat HAPCs.

* * * * *

10. In § 622.49, paragraph (b) is added to read as follows:

§ 622.49 Accountability measures.

* * * * *

(b) South Atlantic snapper-grouper.

(1) Golden tilefish--(i) Commercial fishery. If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(2), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year.

(ii) Recreational fishery. If recreational landings, as estimated by the SRD, exceed the recreational annual catch limit (ACL) of ?,??? fish, the AA will file a notification with the Office of the Federal Register reducing the length of the following recreational fishing season by the

amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. Recreational landings will be evaluated relative to the ACL as follows. For 2010, only 2010 recreational landings will be compared to the ACL; in 2011, the average of 2010 and 2011 recreational landings will be compared to the ACL; and in 2012 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL.

(2) Snowy grouper—(i) Commercial fishery. If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(1), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year.

(ii) Recreational fishery. If recreational landings, as estimated by the SRD, exceed the recreational annual catch limit (ACL) of 523 fish, the AA will file a notification with the Office of the Federal Register reducing the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. Recreational landings will be evaluated relative to the ACL as follows. For 2010, only 2010 recreational landings will be compared to the ACL; in 2011, the average of 2010 and 2011 recreational landings will be compared to the ACL; and in 2012 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL.

(3) Gag—(i) Commercial fishery. If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(7), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year.

(ii) Recreational fishery. (A) If recreational landings, as estimated by the SRD, reach or are projected to reach the recreational annual catch limit (ACL) of 340,060 lb (154,249 kg), gutted

weight, and gag are overfished, the AA will file a notification with the Office of the Federal Register to close the gag recreational fishery for the remainder of the fishing year.

(B) Without regard to overfished status, if gag recreational landings exceed the ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the ACL by the amount of the overage. Recreational landings will be evaluated relative to the ACL as follows. For 2010, only 2010 recreational landings will be compared to the ACL; in 2011, the average of 2010 and 2011 recreational landings will be compared to the ACL; and in 2012 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL.

(4) Gag, black grouper, and red grouper, combined--(i) Commercial fishery. If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(8), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year.

(ii) Recreational fishery. (A) If recreational landings, as estimated by the SRD, reach or are projected to reach the recreational annual catch limit (ACL) of 648,663 lb (294,229 kg), gutted weight, and gag, black grouper, or red grouper are overfished, the AA will file a notification with the Office of the Federal Register to close the recreational fishery for gag, black grouper, and red grouper for the remainder of the fishing year.

(B) Without regard to overfished status, if gag, black grouper, and red grouper recreational landings exceed the ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the ACL by the amount of the overage. Recreational landings will be evaluated relative to the ACL as follows. For 2010, only 2010 recreational landings will be compared to the ACL; in 2011, the average of 2010 and 2011

recreational landings will be compared to the ACL; and in 2012 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL.