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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200220-0060]

RIN 0648-BI33

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 26

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

ACTION: Final rule.

SUMMARY: NMFS implements management measures described in Vision Blueprint Recreational Regulatory Amendment 26 (Regulatory Amendment 26) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For the recreational sector, this final rule removes the minimum size limits for queen snapper, silk snapper, and blackfin snapper, reduces the minimum size limit for gray triggerfish in the exclusive economic zone (EEZ) off the east coast of Florida, and modifies the 20-fish snapper-grouper aggregate bag limit. The purpose of this final rule

is to minimize regulatory discards to the extent practicable, improve regulatory compliance among fishers, and increase consistency among regulations.

DATES: This final rule is effective on March 30, 2020.

ADDRESSES: Electronic copies of Regulatory Amendment 26 may be obtained from *www.regulations.gov* or the NOAA Fisheries website at

https://www.fisheries.noaa.gov/action/regulatory-amendment-26-vision-blueprint-recreational-measures. Regulatory Amendment 26 includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: *mary.vara@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region is managed under the Snapper-Grouper FMP and includes queen snapper, silk snapper, blackfin snapper, and gray triggerfish, along with other snapper-grouper species. The Snapper-Grouper FMP was prepared by the Council 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).

On October 25, 2019, NMFS published a proposed rule for Regulatory Amendment 26 in the **Federal Register** and requested public comment (84 FR 57378). Regulatory Amendment 26 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measures described in Regulatory Amendment 26 and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

For the recreational sector, this final rule removes the minimum size limits for silk snapper, queen snapper, and blackfin snapper, reduces the minimum size limit for gray triggerfish in the EEZ off the east coast of Florida, and modifies the snapper-grouper aggregate bag limit for the 20-fish aggregate.

Minimum Size Limit for Queen Snapper, Silk Snapper, and Blackfin Snapper

Queen snapper, silk snapper, and blackfin snapper are part of the deep-water complex. Prior to this final rule, the recreational minimum size limit for queen snapper, silk snapper, and blackfin snapper was 12 inches (30.5 cm) total length (TL), although the remaining species in the deep-water complex do not have a specified minimum size limit requirement. Because these species have a high discard mortality as a result of the effects of barotrauma from

being harvested in deep water, the Council determined that removing the commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper would reduce discards and discard mortality for these species.

Therefore, this final rule removes the recreational minimum size limit for queen snapper, silk snapper, and blackfin snapper.

Minimum Size Limit for Gray Triggerfish

This final rule reduces the recreational minimum size limit from 14 inches (35.6 cm) fork length (FL) to 12 inches (30.5 cm) FL for gray triggerfish in the EEZ off the east coast of Florida. In 2015, the 12 inch (30.5 cm) FL minimum size limit was implemented for gray triggerfish in the EEZ off North Carolina, South Carolina, and Georgia, and a minimum size limit of 14 inches (35.6 cm) FL was implemented in the EEZ off the east coast of Florida (80 FR 30947: June 1, 2015). However, after the minimum size limit went into effect on July 1, 2015, stakeholders in Florida expressed concern to the Florida Fish and Wildlife Conservation Commission (FWC) regarding increasing discards of gray triggerfish in south Florida where the average size of gray triggerfish is less than that off northeast Florida. In response to that concern, the FWC reduced the recreational minimum size limit of gray triggerfish in

state waters to 12 inches (30.5 cm) FL in 2015 (incorrectly stated in the preamble of the proposed rule as 2017), and requested that the Council develop consistent size limit regulations in Federal waters for gray triggerfish.

Therefore, reducing the recreational minimum size limit to 12 inches (30.5 cm) FL in the EEZ off the east coast of Florida will make these state and Federal regulations for gray triggerfish consistent throughout the Council's jurisdiction.

20-Fish Snapper-Grouper Aggregate Bag Limit

This final rule modifies the 20-fish snapper-grouper aggregate bag limit by specifying that no more than 10 fish can be of any one species within the 20-fish aggregate. There are 14 snapper-grouper species included in the 20-fish aggregate bag limit for the recreational sector. Recreational fishers in the South Atlantic EEZ may retain 20 total fish per person per day for the following species: whitebone porgy, jolthead porgy, knobbed porgy, saucereye porgy, scup, gray triggerfish, bar jack, almaco jack, banded rudderfish, lesser amberjack, white grunt, margate, sailor's choice, and Atlantic spadefish. These species do not have individual recreational bag limits. The Council determined that modifying the 20-fish aggregate bag limit in this way would allow recreational anglers to catch the

same number of fish overall as within the current limit, while limiting the number of any one species within the 20-fish aggregate to 10 fish. Because of stakeholder concerns over the status of the South Atlantic gray triggerfish stock and large catches of Atlantic spadefish in recent years, the Council chose to be proactive and limit the harvest of these two species, as well as the remainder of the species in the 20-fish aggregate. In addition, the state of Florida currently limits harvest of gray triggerfish to 10 fish, per person, per day in state waters off its east coast.

Therefore, this action to revise the snapper-grouper 20-fish aggregate bag limit also simplifies the regulatory environment by creating consistent regulations for recreational fishing for and retention of gray triggerfish in state and Federal waters off the east coast of Florida. In both cases (the size limits for gray triggerfish, and the bag limits applicable to gray triggerfish), the changes in this final rule align the state and Federal regulations for gray triggerfish off the east coast of Florida for the benefit of fishers and law enforcement.

Comments and Responses

NMFS received eight comments from individuals during the public comment period on the proposed rule for

Regulatory Amendment 26. Five of the comments offered were in general support of the actions in the proposed rule. NMFS acknowledges the comments in favor of all or part of the actions in the proposed rule and agrees with them. Three comments that were beyond the scope of the proposed rule are not responded to in this final rule. Three comments opposed an action contained in Regulatory Amendment 26 and the proposed rule; these comments are grouped into two categories and summarized below, along with NMFS' responses.

Comment 1: The recreational minimum size limit should not be removed for blackfin, queen, or silk snapper. This action will negatively impact the fish population by allowing harvest of juvenile fish. These species are struggling to recover from overfishing and they are rarely caught above the minimum size limit. Instead, there should be larger size restrictions.

Response: NMFS disagrees that the minimum size limit for these species should not be removed. These three deep-water snapper species are the only deep-water snapper-grouper species for which there is a minimum size limit in Federal waters of the South Atlantic. The minimum size limit was put in place early in the management of these species before estimates of discard mortality were available and

before the designation of the various species complexes. Snapper-grouper species that inhabit deep-water are typically associated with very high discard mortality when caught and brought to the vessel due to the effects from barotrauma (the expansion of gas in a fish's swim bladder, which causes bloating and prevents the fish from regulating its buoyancy). These deep-water species include blueline tilefish, golden tilefish, snowy grouper, wreckfish, and fish in the in the Deep-water Complex (yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, and blackfin snapper). Because most of these fish that are discarded will subsequently die, the Council determined that removing the minimum size limit requirements for queen snapper, silk snapper, and blackfin snapper will minimize discard mortality in the snapper-grouper fishery.

Comment 2: The minimum size limit for gray triggerfish should either remain at 14 inches (35.6 cm) FL or should be increased. Adults can grow up to 28 inches (71.1 cm) FL, so reducing the minimum size limit to 12 inches (30.5 cm) FL will allow juvenile fish and young adults to be caught, which is harmful to the population. Stock status is a concern, as we are not catching adult-sized gray triggerfish.

Response: NMFS disagrees that reducing the minimum size limit will be harmful to the gray triggerfish population. NMFS acknowledges that this action would allow the removal of smaller fish, which could reduce the number of times a fish spawns. However, the most recent stock assessment (SEDAR 41, 2016) shows that the species is not undergoing overfishing and that gray triggerfish have opportunities to spawn before reaching the revised minimum size limit.

In addition, from 1995 to 2015, the minimum size limit for gray triggerfish in the EEZ off Florida was 12 inches (30.5 cm) FL. That minimum size limit was modified in 2015 through the implementation of Amendment 29 to the Snapper-Grouper FMP to 12 inches (30.5 cm) FL in the EEZ off North Carolina, South Carolina, and Georgia, and to 14 inches (35.6 cm) FL in the EEZ off the east coast of Florida (80 FR 30947; June 1, 2015). The 2015 modification to the minimum size limit in Amendment 29 was a precautionary action taken by the Council and NMFS to respond to concerns about the status of the gray triggerfish stock in the South Atlantic, to align the east coast of Florida regulations with those in the Gulf of Mexico, and to achieve consistency between state and Federal regulations off the east coast of Florida.

However, after the revised minimum size limit went into effect on July 1, 2015, stakeholders in Florida voiced concern to the FWC regarding increasing discards of gray triggerfish in south Florida where the average size of gray triggerfish is less than that off northeast Florida. In response, the FWC reduced the recreational minimum size limit of gray triggerfish to 12 inches (30.5 cm) FL later in 2015, and requested that the Council implement consistent gray triggerfish minimum size limit regulations.

The Council chose to reduce the minimum size limit to 12 inches (30.5 cm) FL to be consistent with the current Florida state regulation and the regulations in place in the EEZ off the rest of the South Atlantic states. Because annual catch limits and accountability measures are in place to prevent overfishing, NMFS has determined that the action will not jeopardize the sustainability of the stock, and that will reduce discards and promote a more consistent regulatory environment for stakeholders and enforcement agencies.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with the Regulatory Amendment 26, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (EO) 12866. This rule is not an EO 13771 regulatory action because this rule is not significant under EO 12866.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments from the public or SBA's Chief Counsel for Advocacy were received regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Bag limits, Deep-water, Fisheries, Fishing, Florida,

Fork Length, Grouper, Size limits, Snapper, South Atlantic.

Dated: February 20, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended 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 § 622.185, revise paragraphs (a) (3) and (c) (2) to read as follows:

§ 622.185 Size limits.

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(a) * * *

(3) *Cubera, gray, and yellowtail snappers*—12 inches (30.5 cm), TL.

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(c) * * *

(2) *Gray triggerfish*—12 inches (30.5 cm), FL.

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3. In § 622.187, revise paragraph (b) (8) to read as follows:

§ 622.187 Bag and possession limits.

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(8) *South Atlantic snapper-grouper (whitebone porgy, jolthead porgy, knobbed porgy, saucereye porgy, scup, almaco jack, banded rudderfish, lesser amberjack, white grunt, margate, sailor's choice, Atlantic spadefish, gray triggerfish, bar jack)*, combined—20. However, excluded from this 20-fish bag limit are tomtate, South Atlantic snapper-grouper ecosystem component species (specified in table 4 of appendix A to part 622), and those specified in paragraphs (b) (1) through (7) and paragraphs (b) (9) and (10) of this section. Within the 20-fish bag limit, no more than 10 fish can be of any one of these single snapper-grouper species.

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