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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200528-0150]

RIN 0648-BI81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic Region; Regulatory Amendment 29

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Regulatory Amendment 29 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Regulatory Amendment 29), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule requires descending devices to be on board vessels and requires the use of specific fish hook types while fishing for or possessing snapper-grouper species. This rule also allows the use of powerheads in Federal waters off South Carolina to harvest snapper-grouper

species. The purpose of this rule is to modify fishing gear requirements to promote best fishing practices and to ensure consistent regulations for the dive component of the snapper-grouper fishery.

DATES: This final rule is effective on [*insert date 30 dates after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Electronic copies of Regulatory Amendment 29 may be obtained from *www.regulations.gov* or the NMFS Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/regulatory-amendment-29-gear-requirements-south-atlantic-snapper-grouper-species>. Regulatory Amendment 29 includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review.

FOR FURTHER INFORMATION, CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: *frank.helies@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the snapper-grouper fishery under the FMP. The 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) (16 U.S.C. 1801 *et seq.*).

On April 21, 2020, NMFS published a proposed rule for Regulatory Amendment 29 in the **Federal Register** and requested public comment (85 FR 22118, April 21, 2020). The proposed rule and Regulatory Amendment 29 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Regulatory Amendment 29 and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule requires: descending devices be on board all commercial, charter vessels and headboats (for-hire), and private recreational vessels while fishing for or possessing snapper-grouper species; the use of non-offset, non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N latitude; and all hooks be non-stainless steel when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout South Atlantic Federal waters. This rule also allows the use of powerheads in Federal waters off South Carolina to harvest snapper-grouper species. This rule and Regulatory Amendment

29 encourage the use of best fishing practices that aim to reduce the negative impacts to live fish released after capture to improve the survivorship of the released snapper-grouper species. This rule and Regulatory Amendment 29 also increase the consistency of regulations for the dive component of the snapper-grouper fishery.

Descending Devices

This final rule requires at least one descending device to be on board and ready for use on any commercial, for-hire, or private recreational vessel while fishing for or possessing South Atlantic snapper-grouper. As described in Regulatory Amendment 29, studies have shown that if properly used and maintained, descending devices may relieve symptoms of barotrauma and can decrease discard mortality of released fish. Barotrauma is the injury caused by internal gas expansion when a fish is retrieved from depth. This final rule defines a descending device as an instrument capable of releasing the fish at the depth from which the fish was caught, and to which is attached a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (18.3-m) length of line. A 16-ounce weight is available at many tackle shops and is heavy enough to

descend a majority of snapper-grouper species subject to barotrauma. A minimum line length of 60 ft (18.3 m) attached to a descending device will better ensure fish are released at a minimum depth of 50 ft (15.2 m) while fishermen using the descending device are standing on the deck of a vessel, as well as to account for possible ocean current or swell.

The descending device may either attach to the fish's mouth or it may be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish at depth automatically, by actions of the device operator, or by allowing the fish to escape on its own when at depth.

This final rule does not specifically require the use of a descending device because it may not be needed every time a fish is caught; however, the device is required to be readily available on a vessel for use when a fish may be experiencing barotrauma.

Non-offset, Non-stainless Steel Circle Hooks

This final rule requires the use of non-offset and non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits

north of 28° N latitude, which is approximately 25 miles (40 km) south of Cape Canaveral, Florida. A non-offset hook has the point and barb in-line with the hook shank. Commercial and recreational fishermen in the South Atlantic have reported to the Council that some released snapper-grouper die due to foul-hooking, e.g., when hooked in the stomach or outside of the mouth. Previous to this rule, offset circle hooks were allowed under the same conditions; however, the Council determined that non-offset circle hooks can reduce the occurrence of hooking-related mortality when compared to offset circle hooks and J-hooks, and can improve survivorship of released snapper-grouper species.

Non-stainless Steel Hooks

This final rule requires the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout Federal waters in the South Atlantic region. Similar to the requirement to use non-offset, non-stainless steel circle hooks north of 28° N latitude, this measure is expected to provide biological benefits to snapper-grouper species in South Atlantic Federal waters. Because non-stainless steel

hooks degrade faster than stainless steel hooks, any fish released with an embedded non-stainless steel hook could have a greater chance of survival.

Powerhead Use off South Carolina

This final rule removes the powerhead prohibition in Federal waters off South Carolina, allowing a powerhead to be used to harvest South Atlantic snapper-grouper. A powerhead is a type of fishing gear that includes any device with an explosive charge, usually attached to a spear gun, spear, pole, or stick that fires a projectile upon contact with the fish. Fishermen previously expressed concern to the Council at public meetings regarding inequitable access for the dive component of the snapper-grouper fishery off South Carolina because they were prohibited from using a powerhead, while that was an allowable gear to harvest snapper-grouper species in the exclusive economic zone (EEZ) off the other South Atlantic states. The Council determined that because the commercial and recreational dive components of the snapper-grouper fishery only constitute approximately 5 percent of the landings from South Atlantic Federal waters, any impacts on snapper-grouper species from removing the powerhead

prohibition would be minimal. This rule increases consistency in regulations throughout South Atlantic Federal waters, reduces regulatory confusion among commercial and recreational dive fishermen, and aids in compliance and enforcement efforts.

Comments and Responses

NMFS received 27 comments from individuals, commercial and recreational fishermen, environmental non-governmental organizations, and fishing organizations during the public comment period on the proposed rule for Regulatory Amendment 29. Most comments supported the actions in the proposed rule and Regulatory Amendment 29, particularly the descending device action. NMFS acknowledges the comments in favor of all or part of the actions in the proposed rule and agrees with them. Comments that were beyond the scope of the proposed rule are not responded to in this final rule. Comments that opposed an action contained in Regulatory Amendment 29 and the proposed rule are summarized below, along with NMFS' responses.

Comment 1: Requiring descending devices to be on board vessels will cost fishermen more money with little benefit to the snapper-grouper fishery, and the use of descending

devices will increase predation by predator fish and dolphins as released fish are descended.

Response: NMFS agrees that requiring descending devices to be on board vessels could result in additional cost to participants. However, a range of cost options are available to purchase or fabricate a descending device, including some low cost options. As discussed in the proposed rule, NMFS estimated the lower bound cost per vessel to purchase a descending device, based on advertised retail prices, plus the cost of a qualifying weight and line, would be approximately \$19 (2018 dollars). Fishermen that already own a suitable descending device would not need to purchase a new one.

NMFS disagrees that descending devices will result in little benefit to the species in the snapper-grouper fishery. The use of descending devices may reduce predation on released snapper-grouper species by allowing a more rapid return to depth, thereby making them less vulnerable to predators. Discarded fish stranded at the surface may become prey for marine mammals, sea birds, and other large predators, such as amberjack, barracuda, and sharks. Studies referenced in Regulatory Amendment 29 have shown

that relieving the symptoms of barotrauma of released snapper-grouper species reduced discard mortality rates when compared to fish released with the use of descending devices.

Comment 2: Because of the ease of use and their historical use in the snapper-grouper fishery, venting tools should be required instead of descending devices.

Response: NMFS disagrees. Recent studies referenced in Regulatory Amendment 29 have recommended the use of descending devices over venting tools for treating fish experiencing symptoms of barotrauma. Though faster to use, venting tools also have the potential to damage vital organs and cause additional stress to a fish if not used correctly. Also, this final rule does not prohibit the use of venting tools for those individuals that know how to use them properly (e.g., trained crew on for-hire vessels).

Comment 3: Extensive outreach on the new gear requirements should be conducted in conjunction with this final rule.

Response: NMFS will work with the Council to conduct an education and outreach effort to ensure fishermen participating in the fishery understand the new regulations

and how to properly use descending devices. The Council will utilize information already developed by other entities (state-agencies, non-profits) about descending devices to avoid duplication in effort or conflicting information. Web-based outreach materials designed to educate recreational and commercial snapper-grouper fishermen on barotrauma, descending devices, and the proper technique for releasing snapper-grouper species, as well as other best fishing practices, has been posted to the Council website, <https://safmc.net>.

Comment 4: NMFS should proceed with approval of the final rule for Regulatory Amendment 29 without delay to ensure the regulations are in place for the 2020 summer fishing season.

Response: NMFS is proceeding to implement Regulatory Amendment 29 as quickly as possible. In the proposed rule for Regulatory Amendment 29, NMFS requested public comment on an appropriate effective date for a final rule because new gear requirements were proposed. NMFS typically applies a 30-day delay in the effective date for management actions published in a final rule. However, NMFS has used longer delays in some other final rules that contain gear

requirements, particularly when requiring new types of gear. NMFS wants to ensure fishermen have sufficient time to construct or purchase the required devices given potential supply issues, and specifically asked the public in the proposed rule for Regulatory Amendment 29 whether a delay of 30 days would provide sufficient time to comply with the new requirements. NMFS received no other comment about an alternative effective date, therefore this final rule is effective as stated in the **DATES** section, *i.e.*, 30 days after publication in the **Federal Register**.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with Regulatory Amendment 29, the FMP, the Magnuson-Stevens Act, and other applicable laws.

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

A Final Regulatory Flexibility Analysis (FRFA) was prepared pursuant to 5 U.S.C. 604(a) of the RFA. The FRFA

incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this final rule. 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.

Public comments relating to socio-economic implications and potential impacts on small businesses are addressed in the response to *Comment 1* in the **Comments and Responses** section of this final rule. No changes to this final rule were made in response to these public comments. No comments were received from the Office of Advocacy for the Small Business Administration (SBA).

This final rule applies to all commercial vessels, for-hire vessels, and private recreational anglers that fish for or harvest snapper-grouper species in Federal waters of the South Atlantic. The RFA does not consider recreational anglers to be small entities, so they are

outside the scope of this analysis and only the impacts on commercial and for-hire fishing businesses will be discussed.

As of May 8, 2020, there were 525 valid or renewable South Atlantic snapper-grouper unlimited permits and 102 valid or renewable 225-lb (102-kg) trip-limited permits. On average from 2013 through 2017, there were 568 federally permitted commercial vessels with reported landings of snapper-grouper species in the South Atlantic. Their average annual vessel-level gross revenue from all species for 2013 through 2017 was approximately \$47,000 (2018 dollars) and snapper-grouper species accounted for 68 percent of this revenue. The maximum annual revenue from all species reported by a single one of the commercial vessels that landed South Atlantic snapper-grouper species from 2013 through 2017 was approximately \$1.5 million (2018 dollars).

As of May 8, 2020, there were 1,680 vessels with valid Federal charter vessel/headboat permits for South Atlantic snapper-grouper. Although the NMFS for-hire permit application collects information on the primary method of operation, the permit itself does not identify the

permitted vessel as either a charter vessel or a headboat. Operation as either a charter vessel or headboat is not restricted by permitting regulations and vessels may operate in both capacities on separate trips. However, only selected headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the NMFS Southeast Fisheries Science Center (SEFSC) that the vessel primarily operates as a headboat. As of February 18, 2020, 65 South Atlantic headboats were registered in the SRHS. As a result, of the 1,680 vessels with Federal snapper-grouper for-hire permits, up to 65 may primarily operate as headboats and the remainder as charter vessels. The average South Atlantic charter vessel is estimated to receive approximately \$123,000 (2018 dollars) in annual gross revenue. The average South Atlantic headboat is estimated to receive approximately \$218,000 (2018 dollars) in annual gross revenue.

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 (NAICS 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 that will be directly regulated by this final rule are believed to be small entities based on the NMFS size standard.

The SBA has established size standards for all major industry sectors in the U.S. including for-hire businesses (NAICS code 487210). A business primarily involved in the for-hire fishing industry 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 \$8 million for all its affiliated operations worldwide. All of the for-hire fishing businesses that will be directly regulated by this final rule are believed to be small entities based on the SBA size criteria.

No other small entities that will be directly affected by this final rule have been identified.

This final rule will require owners or operators of commercial and for-hire vessels to have a descending device on board when fishing for or possessing species in the snapper-grouper fishery management unit (FMU). It also requires that commercial fishermen and for-hire anglers use non-offset, non-stainless steel circle hooks when fishing for species in the snapper-grouper FMU with hook-and-line gear and natural baits in the South Atlantic EEZ north of 28° N latitude. Finally, it requires that commercial fishermen and for-hire anglers use non-stainless steel hooks when fishing for species in the snapper-grouper FMU with hook-and-line gear and natural baits throughout the South Atlantic EEZ. To the extent that for-hire fishing businesses supply fishing tackle such as hooks to their customers, this final rule will require for-hire businesses to purchase, and ensure the use of, such hooks as described previously. No special professional skills are necessary for compliance with this final rule.

The estimated lower bound cost per vessel to purchase a descending device, based on advertised retail prices, plus the cost of a qualifying weight and line, is approximately \$19 (2018 dollars). Commercial and for-hire

businesses that already own suitable descending devices will not need to purchase new ones.

The requirement for commercial fishermen and for-hire anglers to use non-offset, non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits in the EEZ north of 28° N latitude will require some commercial fishing businesses and potentially some for-hire vessels to purchase these hooks. The cost of purchasing circle hooks is highly variable and will depend on how many hooks each commercial or for-hire fishing business needs, as well as the quantity of hooks included in each purchase. In general, the cost per hook may vary from approximately \$0.30 per hook to \$1.00 per hook. If for-hire anglers supply their own hooks, then the impact to for-hire fishing businesses would be reduced. Additionally, non-offset circle hooks may reduce the catchability of some species, which could negatively affect catch efficiency on some fishing trips. In turn, this could lead to a reduction in commercial ex-vessel revenue or increased trip costs. It is not possible to estimate the specific costs that each business would face as a result of the circle hook requirement. Any change in for-hire

anglers' demand for for-hire fishing trips (and associated economic effects) as a result of the new hook requirement would be secondary to any direct effect on anglers and, therefore, would be an indirect effect of this final rule. Indirect effects are not relevant to the RFA.

In addition, this final rule will require the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout the South Atlantic EEZ. Commercial and for-hire vessels fishing north of 28° N latitude will not be affected because there is already a non-stainless steel hook requirement in place there. The cost of purchasing non-stainless steel hooks is highly variable and will depend on how many hooks each commercial or for-hire fishing business needs as well as the quantity of hooks in each purchase. In general, the cost per non-stainless steel hook may vary from approximately \$0.30 per hook to \$1.00 per hook. Switching from stainless to non-stainless steel would likely decrease the useful lifespan of hooks, leading to a small increase in operating costs in the long term for commercial and for-hire businesses. If for-hire anglers supply their own hooks, then the impact to for-hire fishing

businesses would be reduced. Changing from stainless to non-stainless steel hooks is not be expected to affect the harvest of snapper-grouper species and, therefore, no reduction in commercial ex-vessel revenue is expected.

Finally, this final rule will allow federally permitted commercial fishermen and for-hire anglers to use powerheads to harvest snapper-grouper species in the EEZ off South Carolina. This will increase the opportunity for harvest in some circumstances, potentially leading to greater commercial ex-vessel revenue or lower harvest costs. It is not possible to meaningfully estimate these potential economic effects with available data. Any economic effects on for-hire fishing businesses would be indirect and would depend on how anglers' demand for for-hire trips changes as a result of removing the restriction on powerhead usage. Again, indirect effects are not relevant to the RFA.

The following discussion describes the alternatives that were not selected as preferred by the Council.

Three alternatives were considered for the action to specify requirements for the use of descending devices or venting devices when fishing for or possessing snapper-

grouper species. The first alternative, the no action alternative, would not require descending or venting devices to be on board when fishing for or possessing snapper-grouper species. This alternative would not be expected to result in direct costs to any small entities. It was not selected by the Council because it would forgo any improvements to snapper-grouper fish stocks that could be achieved through the increased usage of descending or venting devices and resultant decreases in release mortality.

The second alternative and three sub-alternatives, which were all selected as preferred by the Council, will require a descending device be on board private recreational, for-hire, and commercial vessels, respectively, when fishing for or possessing snapper-grouper species.

The third alternative would require a venting device be on board a vessel when fishing for or possessing snapper-grouper species. The third alternative contained three sub-alternatives that would apply the venting device requirement to private recreational vessels, for-hire vessels, and commercial vessels, respectively. The

estimated lower bound cost of purchasing a venting device, based on advertised retail prices, would be \$6 (2018 dollars). This is slightly cheaper than the estimated cost of the preferred alternative. The third alternative was not selected by the Council because of the higher mortality risk to released fish associated with using venting devices incorrectly, versus using descending devices.

Four alternatives were considered for the action to modify the requirement for the use of non-stainless steel circle hooks when fishing for or possessing snapper-grouper species with hook-and-line gear. The first alternative, the no action alternative, would not modify current gear requirements and therefore would not be expected to result in direct costs to any small entities. This alternative was not selected by the Council because it would forgo any improvements to snapper-grouper fish stocks that could be achieved through the use of non-offset, non-stainless steel circle hooks north of 28° N latitude or increased usage of non-stainless steel hooks in general and resultant decreases in release mortality.

The second alternative, selected as preferred by the Council, will require the use of non-offset, non-stainless

steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits within certain areas of the South Atlantic EEZ. The second alternative contained two sub-alternatives. The first sub-alternative, which was selected as preferred, applies the non-offset, non-stainless steel circle hook fishing requirement to South Atlantic Federal waters north of 28° N latitude. The second sub-alternative would apply the non-offset, non-stainless steel circle hook fishing requirement throughout the extent of the Council's jurisdiction (from the North Carolina and Virginia border through Key West, Florida), except that other non-stainless steel hook types would be allowed to be used when fishing for yellowtail snapper with natural baits. The second sub-alternative would be expected to affect a greater number of commercial and for-hire fishing businesses because of the larger area to which it would apply and because there is currently no circle hook requirement in place when fishing for snapper-grouper species south of 28° N latitude. As discussed under the effects of the preferred sub-alternative, the cost of purchasing circle hooks would depend on how many hooks each commercial or for-hire fishing business would need, as well

as the quantity of hooks included in each purchase. The effect of switching to circle hooks in the area south of 28° N latitude may have a more pronounced effect on catch efficiency there than in the rest of the South Atlantic EEZ. Stakeholders have indicated that a circle hook requirement would negatively affect their ability to catch snapper-grouper species when drift fishing, which is a common practice in South Florida and the Florida Keys. The second sub-alternative was not selected because it would be expected to result in substantial negative economic and social effects, specifically to the for-hire industry that operates south of 28° N latitude.

The third alternative would require non-offset, non-stainless steel circle hooks be on board a vessel possessing snapper-grouper species when fishing with hook-and-line gear and natural baits within certain areas of the EEZ. The third alternative contained two sub-alternatives. The first sub-alternative would apply the non-offset, non-stainless steel circle hook on board requirement to vessels in Federal waters north of 28° N latitude. Under this sub-alternative, some commercial and for-hire fishing businesses that fish for snapper-grouper species north of

28° N latitude would need to purchase non-offset, non-stainless steel circle hooks to have on board. This sub-alternative would be expected to result in lower direct costs to fishing businesses than the preferred alternative, as non-offset, non-stainless steel circle hooks would only need to be on board the vessel and would likely not be used to the same extent as under the preferred alternative. Under such circumstances, multiple circle hook types and sizes would not be necessary to satisfy the circle hook requirement. Additionally, J-hooks or treble hooks could be used to harvest snapper-grouper species, which may increase the catchability of some species in comparison to circle hooks. To the extent that catch efficiency increases on commercial fishing trips, this could result in an increase in commercial trip profitability. The second sub-alternative would apply the non-offset, non-stainless steel circle hook on board requirement throughout the extent of the Council's jurisdiction, except that other non-stainless steel hook types would be allowed to be used when fishing for yellowtail snapper with natural baits. The second sub-alternative would require that commercial and for-hire fishing businesses that fish for snapper-grouper species

anywhere in the South Atlantic EEZ purchase non-offset, non-stainless steel circle hooks to have on board. Because J-hooks and treble hooks may already be used while fishing for snapper-grouper species with natural bait south of 28° N latitude, the second sub-alternative would be expected to have comparable effects on catch efficiency as the first sub-alternative. The third alternative and two sub-alternatives were not selected by the Council, because they were expected to be less likely than the preferred alternative to reduce release mortality.

The fourth alternative, also selected as preferred, requires the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits in the South Atlantic EEZ.

Three alternatives were considered for the action to modify powerhead prohibitions in the South Atlantic region. The first alternative, the no action alternative, would not modify existing powerhead regulations or restrictions, and therefore, would not be expected to have direct economic effects on any small entities. Under the no action alternative, the harvest of snapper-grouper species by powerhead in the EEZ off South Carolina would continue to

be prohibited. This alternative was not selected by the Council because it would fail to ensure consistent regulations for the dive component of the South Atlantic snapper-grouper fishery.

The second alternative and two sub-alternatives were selected as preferred and will allow private recreational, for-hire, and commercial vessels to use powerheads for the harvest of snapper-grouper species in the EEZ off South Carolina.

The third alternative would prohibit the use of a powerhead for the harvest of snapper-grouper species in the EEZ of the entire South Atlantic region. The third alternative contained two sub-alternatives. The first sub-alternative would apply the prohibition of powerheads in the EEZ to private recreational and for-hire vessels. This sub-alternative would remove some opportunities to recreationally harvest snapper-grouper species in the EEZ of the South Atlantic, but would not be expected to have any direct effects on for-hire fishing businesses. Any effects on for-hire fishing businesses would be indirect and would depend on how anglers' demand for for-hire trips changes as a result of powerhead restrictions. The second

sub-alternative would apply the prohibition of powerheads in the EEZ to commercial vessels. This would remove some opportunities to commercially harvest snapper-grouper species in the EEZ of the South Atlantic, which may lead to decreased trip profits for some commercial businesses. Using the average annual ex-vessel revenue estimates from powerhead fishing in the South Atlantic EEZ from 2013 through 2017, NMFS estimates the upper bound cost of this sub-alternative would be \$261,000 (2018 dollars) per year or approximately \$460 per commercial vessel. The true cost of this sub-alternative would likely be much less, because commercial fishermen could substitute powerhead landings with landings by other gear types or in other areas. The third alternative and two sub-alternatives were not selected by the Council because they would unnecessarily reduce fishing opportunities in the South Atlantic EEZ and potentially result in negative economic effects to fishermen.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more

guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all interested parties.

This final rule does not establish any new reporting or record-keeping requirements. Accordingly, the Paperwork Reduction Act does not apply to this final rule.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Grouper, Snapper, South Atlantic.

Dated: May 28, 2020.

Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory
Programs,
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.*

§ 622.182 [Amended]

2. In § 622.182, remove and reserve paragraph (c).

3. In § 622.188, revise paragraph (a)(2) and add paragraphs (a)(3) and (4) to read as follows:

§ 622.188 Required gear, authorized gear, and unauthorized gear.

(a) * * *

(2) *Non-offset, non-stainless steel circle hooks.* Non-offset, non-stainless steel circle hooks are required to be used when fishing for South Atlantic snapper-grouper with hook-and-line gear and natural baits north of 28° N. lat.

(3) *Non-stainless steel hooks.* Non-stainless steel hooks are required to be used when fishing for South Atlantic snapper-grouper with hook-and-line gear and

natural baits south of 28° N. lat.

(4) *Descending device.* At least one descending device is required to be on board a vessel and be ready for use while fishing for or possessing South Atlantic snapper-grouper. Descending device means an instrument capable of releasing the fish at the depth from which the fish was caught, and to which is attached a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (15.2-m) length of line. The descending device may either attach to the fish's mouth or be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

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