

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA has forwarded to the Secretary of the United States Department of Agriculture (USDA) two draft final rules. The first final rule is entitled: "Pesticides; Microbial Pesticide Definitions and Applicability; Clarification and Availability of Test Guideline"; and the second is entitled: "Synchronizing the Expiration Dates of the Pesticide Applicator Certificate with the Underlying State or Tribal Certificate Final Rule". The draft regulatory documents are not available to the public until after they have been signed and made available by EPA.

ADDRESSES: EPA has established a docket for the corresponding proposed rules under docket identification (ID) numbers EPA-HQ-OPP-2010-0670 and EPA-HQ-OPP-2011-0049. All documents in the docket are listed in the docket index available in <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Rose Kyprianou, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: 703 305-5354; email address: kyprianou.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

Section 25(a)(2)(B) of FIFRA, 7 U.S.C. 136w, requires EPA to provide the Secretary of USDA with a copy of any draft final rule at least 30 days before signing it in final form for publication in the **Federal Register**. The draft final rules are not available to the public

until after they have been signed by EPA. If the Secretary of USDA comments in writing regarding the draft final rules within 15 days after receiving them, EPA shall include the comments of the Secretary of USDA, if requested by the Secretary of USDA, and EPA's response to those comments with the final rule that publishes in the **Federal Register**. If the Secretary of USDA does not comment in writing within 15 days after receiving the draft final rules, the EPA Administrator may sign the final rules for publication in the **Federal Register** any time after the 15-day period.

II. Do any statutory and Executive Order reviews apply to this notification?

No. This document is merely a notification of submissions to the Secretary of USDA. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Parts 158 and 171

Environmental protection, Administrative practice and procedure; Agricultural commodities, Indian—lands, Intergovernmental relations, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 12, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120309176-2174-01]

RIN 0648-BB56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 18A

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 18A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18A), as prepared and submitted by the South

Atlantic Fishery Management Council (Council). If implemented, this rule would update the current rebuilding strategy for black sea bass, modify the current system of accountability measures for black sea bass, limit effort in the black sea bass segment of the snapper-grouper fishery, and improve fisheries data in the for-hire sector of the snapper-grouper fishery. The intent of this rule is to reduce overcapacity in the black sea bass segment of the snapper-grouper fishery.

DATES: Written comments must be received on or before April 23, 2012.

ADDRESSES: You may submit comments on the proposed rule identified by "NOAA-NMFS-2011-0282" by any of the following methods:

- **Electronic submissions:** Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **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.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment," then enter "NOAA-NMFS-2011-0282" in the keyword search and click on "search". To view posted comments during the comment period, enter "NOAA-NMFS-2011-0282" in the keyword search and click on "search". NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of Amendment 18A may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm>. Amendment 18A includes an Environmental Impact Statement, an Initial Regulatory Flexibility Act Analysis (IRFA), a Regulatory Impact Review, and a Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by email at *OIRA Submission@omb.eop.gov*, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Kate Michie, 727-824-5305.

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

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) for federally managed fish stocks. These mandates are intended to ensure 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 requires fishery managers to end overfishing of stocks while achieving OY from the fishery, and to minimize bycatch and bycatch mortality to the extent practicable.

The black sea bass segment of the snapper-grouper fishery in the South Atlantic is managed through a variety of measures to achieve OY. These measures include restrictions on the total harvest, recreational and commercial allocations, recreational and commercial annual catch limits (ACLs), and accountability measures (AMs). A new stock assessment for black sea bass was completed in October 2011, and indicates the stock is no longer overfished but is not yet fully rebuilt. As overfishing ends for black sea bass, and biomass increases, the sector specific ACLs are likely to be met earlier each fishing season as a result of the increased availability of the stock for harvest. This can increase the likelihood of derby-style harvesting, which is undesirable from economic, vessel safety, and social perspectives. Derby-style harvesting, also termed “the race for fish,” consists of a short duration of increased effort where harvest is maximized prior to reaching an ACL. Additionally, effort shifting into the

black sea bass segment of the snapper-grouper fishery increased as more stringent restrictions were placed on other snapper-grouper species. This resulted in sector ACLs being reached relatively early in their fishing seasons. During the June 2009 to May 2010 fishing year, the commercial quota was met in December 2009. During the June 2010 to May 2011 fishing year, the commercial quota was met in October 2010, and during the June 2011 to May 2012 fishing year, the commercial quota was met in July 2011.

Currently, the black sea bass rebuilding plan specifies a constant catch rebuilding strategy as the stock rebuilds, which also contributes to increased rates of harvest and early in-season closures as fish become more available through rebuilding efforts. In an effort to extend fishing opportunities for black sea bass further into the fishing year, and to improve fisheries data reporting in the for-hire sector of the snapper-grouper fishery, the Council voted to approve Amendment 18A at its December 2011 meeting.

Measures Contained in This Proposed Rule

This rule would modify the black sea bass rebuilding strategy, acceptable biological catch (ABC), and ACL; limit participation in the black sea bass pot segment of the snapper-grouper fishery through an endorsement program; establish an appeals process for fishermen excluded from the black sea bass pot endorsement program; limit the number of pot tags issued to participants in the black sea bass pot segment of the snapper-grouper fishery; implement measures to reduce black sea bass bycatch; modify AMs for black sea bass; establish a commercial trip limit for black sea bass; modify the current commercial and recreational size limits; and improve data reporting in the for-hire sector of the snapper-grouper fishery.

Black Sea Bass Rebuilding Strategy

In October 2011, a new benchmark stock assessment (SEDAR 25) was completed for black sea bass. Results of the new stock assessment indicate that the stock is no longer overfished but is not yet rebuilt. The biomass of the stock is above the minimum stock size threshold (MSST), which is the level that triggers an overfished determination. However, stock size of black sea bass is below the biomass level at which the stock is considered to be rebuilt (B_{MSY}). Furthermore, the stock is undergoing overfishing to a minor degree based on 2009 and 2010 data.

The Council's Scientific and Statistical Committee (SSC) met in November 2011 to review SEDAR 25. The SSC determined that the assessment represented the best scientific information available.

Information provided to the SSC indicated the commercial ACL for 2011 of 309,000 lb (140,200 kg), gutted weight; 364,620 lb (165,389 kg), round weight; had been exceeded by about 5 percent, and the recreational ACL for 2011 had been exceeded by at least 10 percent. However, because 2 months of recreational data from 2011 were not available, the SSC supported an ABC which assumes 150 percent of the allowable catch will be met in the 2011/2012 fishing year. Furthermore, the SSC stated that the ABC should be specified for only the 2012/2013 and 2013/2014 fishing seasons. The SSC indicated that an assessment update should be conducted before any adjustments are made to the ACL after the 2013/2014 fishing season.

Based on the SSC's recommendations, the Council chose, and NMFS proposes, to modify the current constant catch rebuilding strategy to a rebuilding strategy that holds catch constant at the ABC in fishing years 2012/2013 and 2013/2014, and then changes to $F_{rebuild}$ in 2014/2015. $F_{rebuild}$ is defined as a constant fishing mortality strategy that maintains a 66-percent probability of recovery rate throughout the remaining fishing seasons of the rebuilding timeframe. After the 2014/2015 fishing season the fishing mortality rate would be held constant until modified. Switching to a constant fishing mortality strategy would allow the ABC and ACL to increase over time. However, if the combined ACL is exceeded in a year when there is no assessment, the combined ACL would not automatically increase the following year.

This rule proposes a new ACL definition for black sea bass. $ACL = ABC = OY$. The combined ACL would be 847,000 lb (384,192 kg), round weight; 718,000 lb (325,680 kg), gutted weight; which would be divided into sector ACLs based on the current allocation formula implemented through the final rule for Amendment 13C to the FMP (71 FR 55096, September 21, 2006). The commercial allocation is 43 percent of the combined ACL and the recreational allocation is 57 percent of the combined ACL. Therefore, the commercial ACL would be set at 309,000 lb (140,160 kg), gutted weight; 364,620 lb (165,389 kg), round weight; and the recreational ACL would be set at 409,000 lb (185,520 kg), gutted weight; 482,620 lb (218,913 kg), round weight; for the 2012/2013 and

2013/2014 fishing years. Thereafter, a stock assessment update would be completed to determine if an increase in the ACL is appropriate for the following fishing year.

Black Sea Bass Pot Endorsement Program

The Council is concerned increased restrictions imposed through Amendments 13C, 16, 17A, and 17B to the FMP, including a commercial quota for black sea bass, commercial quota for vermillion snapper, and seasonal closure for shallow-water groupers, could serve as an incentive for a greater number of fishermen with Federal snapper-grouper commercial permits to fish for black sea bass with pots. Currently, tags for black sea bass pots can be issued to any fisherman who possesses an Unlimited or 225-lb (102-kg) trip-limited Snapper-Grouper Permit. An increase in the number of individuals who fish black sea bass pots could increase the rate at which the quota is met and decrease profits for current participants in that black sea bass pot segment of the snapper-grouper fishery. Any increase in participation in the black sea bass pot segment of the fishery could also lead to earlier closures of black sea bass.

This rule includes a provision to limit participation in the black sea bass pot segment of the snapper-grouper fishery through the establishment of an endorsement program. In order to qualify for an endorsement, an entity must hold a valid South Atlantic Unlimited Snapper-Grouper Permit on the effective date of the final rule implementing Amendment 18A, if approved by the Secretary of Commerce. In addition to this requirement, qualifying permit holders must have average annual black sea bass landings of at least 2,500 lb (1,134 kg), round weight, using black sea bass pot gear between January 1, 1999 and December 31, 2010. Those permit holders with no reported commercial landings of black sea bass using black sea bass pot gear between January 1, 2008, and December 31, 2010, would be excluded from the endorsement program. The number of South Atlantic Unlimited Snapper-Grouper Permit holders that would be expected to meet these criteria is 31, if Amendment 18A is approved by the Secretary of Commerce. Only those vessels associated with a valid endorsement could legally fish for black sea bass in the South Atlantic using black sea bass pot gear.

The black sea bass fishing year begins June 1 and ends May 31, unless the quota is reached before that time. If approved, this action, combined with

other management measures in this rule, would result in the commercial sector for black sea bass remaining open until July-September during the 2012/2013 fishing year, and until about the same time during the 2013/2014 fishing year. Thus, limiting effort is not likely to result in black sea bass pot fishing during the right whale calving season (November 1 through April 30).

If approved for implementation, the rule would place a 30-day freeze on transfers for qualifying South Atlantic Unlimited Snapper-Grouper Permits upon publication of the final rule in the **Federal Register**. This freeze on transfers is necessary to establish a stable universe of qualified permit holders to which black sea bass pot endorsements would be issued.

Individuals who believe they were incorrectly excluded from the black sea bass pot endorsement program would be given the opportunity to appeal their landings data during a 90-day appeals process to begin on the effective date of the final rule, if approved. The Regional Administrator (RA) would review, evaluate, and render final decisions on appeals. Hardship arguments would not be considered. The RA would determine the outcome of appeals based on NMFS logbooks. If NMFS logbooks are not available, the RA may use state landings records. Appellants would be required to submit documentation to support their appeal.

To further reduce the rate of harvest in the black sea bass pot segment of the snapper-grouper fishery, this rule also contains a provision to limit the number of black sea bass tags issued to each endorsement holder to 35 per vessel per permit year. NMFS would issue new trap identification tags each permit year that would replace the tags from the previous fishing year.

Black Sea Bass Pot Bycatch Reduction

Currently, the only restriction for removing black sea bass pots from the water is reaching the commercial quota. Therefore, pots are left in the water for multiple days, which can result in unintended black sea bass catch, also called "ghost fishing." Leaving pots in the water for multiple days also increases the chance that pots can be lost and that vertical lines (i.e., buoy lines) can entangle protected species. The longer the pots are left in the water, the greater the opportunity for lost pots, ghost fishing, and entanglement with protected species.

This rule contains a provision to require that all black sea bass pots be brought back to shore at the conclusion of each trip. The pots may remain on the vessel, but the vessel must be returned

to a dock, berth, beach, seawall or ramp. Increasing harvest over time through the selected rebuilding strategy could result in longer commercial seasons.

Reductions in the amount of time vertical lines remain in the water, especially during right whale calving season, from November 1–April 30, is likely to reduce the risk of whale entanglements with black sea bass pots.

Black Sea Bass AM Modifications

The final rule for Amendment 17B to the FMP implemented commercial and recreational AMs for black sea bass (75 FR 82280, December 30, 2010).

Subsequent to the implementation of Amendment 17B, the Council determined the system of AMs under Amendment 17B may not be the most appropriate way to constrain harvest at or below the sector ACLs. Therefore, at its June 2011 meeting, the Council requested that AMs for black sea bass be re-examined in Amendment 18A.

The current recreational AMs would close the recreational sector only if black sea bass are overfished and the recreational ACL is projected to be met. This rule would modify these AMs to state that the recreational sector would close *regardless* of the overfished status of black sea bass when the recreational ACL is projected to be met. This rule would also modify the commercial sector AMs for black sea bass to match the recreational sector AMs by giving the RA the authority to payback commercial ACL overages, regardless of stock status, by publishing a notification in the **Federal Register** to reduce the commercial ACL in the following season by the amount of the overage. However, for both the recreational and commercial sectors, ACL paybacks are not required when new projections are adopted that incorporate ACL overages and the ACLs are adjusted in accordance with those projections.

Additionally, the current recreational black sea bass AMs use a 3-year running average of landings to determine ACL overages in the recreational sector. This rule would remove the use of the 3-year running average of landings from the recreational AMs for black sea bass and base the ACL coverage on a single year of landings only.

Black Sea Bass Commercial Trip Limit

The black sea bass commercial quota was met early in the 2009, 2010, and 2011 fishing years. The increase in landings during recent fishing years appears to be the result of increased effort and increased catch per trip. There was also an increase in the number of trips that caught black sea bass with other gear types

(predominantly hook-and-line). In an effort to slow the rate of commercial harvest of black sea bass and extend fishing opportunities further into the fishing year, this rule would limit commercial harvest to 1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight; per vessel per day. This action, combined with the proposed endorsement program and other management measures in this rule, should result in the commercial fishing season remaining open until sometime between July and September.

Black Sea Bass Minimum Size Limit Modifications

In order to decrease harvest of black sea bass in the commercial and recreational sectors, this rule would increase the recreational minimum size limit from 12 inches (30 cm), total length (TL), to 13 inches (33 cm), TL, and increase the commercial size limit from 10 inches (25 cm), TL, to 11 inches (28 cm), TL. NMFS expects that these modifications would result in a 21–23 percent decrease in harvest in the for-hire sector, a 19–20 percent decrease in harvest in the private recreational sector, and a 9.3 percent reduction in harvest in the commercial sector. Though increasing the minimum size limit would result in increased regulatory discards, bycatch mortality in the black sea bass segment of the snapper-grouper fishery is very low, and regulatory discards are unlikely to contribute to overfishing or jeopardize rebuilding efforts.

Data Collection Improvements in the For-Hire Sector of the Snapper-Grouper Fishery

Currently, charter vessels and headboats with a South Atlantic Charter/Headboat Permit for Snapper-Grouper must report landings information, if selected to report by the NMFS Science and Research Director (SRD), and most do so via paper logbooks. However, charter vessels and headboats, who are selected to report by the SRD, must participate in the NMFS-sponsored electronic logbook and/or video monitoring reporting program as directed by the SRD. Some charter vessels have been selected to report landings information; however, none have been selected to report electronically thus far. On the other hand, all headboats are currently reporting landings information, and some of these headboats are reporting electronically. Headboats are required to report on a monthly basis and charter vessels are required to report on a weekly basis. The reporting frequency and lag between the time paper

logbooks are completed and mailed to the NMFS Southeast Fisheries Science Center (SEFSC), and the time SEFSC staff receives and processes the data, makes real-time/in-season fishery management difficult. Electronic logbooks have the potential to automatically collect information on date, time, location, and fishing times. Information (e.g. species, length, and disposition) of released species can be entered into the system at the end of a fishing event. If the electronic format prompts a fisherman to record data as bycatch occurs, an electronic logbook may provide better estimates of bycatch than a paper logbook. This rule would require vessels holding Federal South Atlantic Charter/Headboat Permits for Snapper-Grouper to report electronic logbook information on a weekly or daily basis.

Other Measures Contained in the Amendment

Overfishing Criteria for Black Sea Bass

In addition to the provisions included in this rule, Amendment 18A defines overfishing criteria for black sea bass. For black sea bass, overfishing would be determined on an annual basis by the maximum fishing mortality threshold (MFMT) and the overfishing limit (OFL). The estimate of F_{MSY} (MFMT) for black sea bass from the most recent stock assessment (SEDAR 25) is 0.698, while the corresponding OFL values increase as the stock rebuilds through the 2016 fishing year. If either the MFMT (during an assessment year) or the OFL method (during a non-assessment year) is exceeded, the stock would be considered to be undergoing overfishing.

ACT for Black Sea Bass

Amendment 18A also contains an action to establish an annual catch target (ACT) for the recreational sector for black sea bass. The ACT would equal the recreational $ACL^*(1-PSE)$ or recreational $ACL^*0.5$, whichever is greater. The recreational ACT would be 357,548 lb (162,180 kg) gutted weight; 421,907 lb (191,400 kg), round weight; for the 2012/2013 and 2013/2014 fishing seasons. After that time, a stock assessment update would be completed to determine if the recreational ACT should be modified. The recreational ACT would not be associated with preventative or corrective management measures. Rather it would be used as a management reference point used to measure the efficiency of existing and new management measures for black sea bass.

Transferability of Black Sea Bass Endorsements

Amendment 18A contains an action to allow for the transfer of black sea bass endorsements. However, NMFS is unable to propose implementing this action at this time. The document identifies the wrong preferred alternative selected for this action, and there are discrepancies in the record regarding the Council's discussion of the alternatives and the text describing and analyzing this alternative in Amendment 18A. The decision not to propose implementation of the transferability action was made to reduce public confusion and to provide the Council the opportunity to clarify its intent. The Council may decide how to proceed with transfers of black sea bass endorsements in a future action.

Other Changes to Codified Text

This rule also proposes to revise codified text in § 622.4, regarding the naming of rock shrimp permits, which was inadvertently not revised in a previous final rule. The final rule for South Atlantic Shrimp Amendment 7 (74 FR 50699, October 1, 2009) implemented two permits for South Atlantic rock shrimp, namely a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) and a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ). These two permits replaced the commercial vessel permit for rock shrimp and the limited access endorsement for South Atlantic rock shrimp. However, references to a “commercial vessel permit for rock shrimp” occur twice in the regulations, namely, in § 622.4(a)(5)(i)(A) and (g)(1). This rule revises those paragraphs with the updated permit language.

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, Amendment 18A, 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.

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, for this rule. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for the rule 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 NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The proposed rule would modify the black sea bass rebuilding strategy, ABC, and ACL; limit participation in the black sea bass pot segment of the snapper-grouper fishery through an endorsement program; establish an appeals process for fishermen excluded from the black sea bass pot endorsement program; limit the number of pot tags issued to participants in the black sea bass pot segment of the snapper-grouper fishery; implement measures to reduce black sea bass bycatch; modify AMs for black sea bass; establish a commercial trip limit for black sea bass; modify the current commercial and recreational size limits; and improve data reporting in the for-hire sector of the snapper-grouper fishery.

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

No duplicative, overlapping, or conflicting Federal rules have been identified.

The proposed rule would introduce certain changes to current reporting, record-keeping, and other compliance requirements. In particular, a sample of the 1,985 vessels with for-hire snapper-grouper permits would be required to electronically report their harvest. To the extent that all headboats are currently subject to logbook reporting, the incremental professional skill needed under the new requirement would be relatively small. The incremental professional skill required of charterboats would be relatively higher since only a few selected by the SRD are required to submit trip information. About 10 percent of charter captains are now currently contacted on a weekly basis to collect trip level information.

NMFS expects the proposed rule to directly affect commercial fishers and for-hire operators. The Small Business Administration established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, other qualifiers apply and the annual receipts threshold is \$7.0 million (NAICS code 713990, recreational industries).

From 2005–2010, an annual average of 247 vessels with valid permits to operate in the commercial snapper-grouper fishery landed black sea bass, generating dockside revenues of approximately \$1.103 million (2010 dollars). Each vessel, therefore, generated an average of approximately \$4,465 in gross revenues from black sea bass. Vessels that operate in the black sea bass segment of the snapper-grouper fishery may also operate in other snapper-grouper fisheries, the revenues of which are not reflected in these totals.

Based on revenue information, all commercial vessels affected by the proposed action can be considered small entities.

From 2005–2010, an annual average of 1,985 vessels had valid permits to operate in the snapper-grouper for-hire fishery, of which 85 are estimated to have operated as headboats. The for-hire fleet consists of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. The charterboat annual average gross revenue (2010 dollars) is estimated to range from approximately \$62,000–\$84,000 for Florida vessels, \$73,000–\$89,000 for North Carolina vessels, \$68,000–\$83,000 for Georgia vessels, and \$32,000–\$39,000 for South Carolina vessels. For headboats, the corresponding estimates are \$170,000–\$362,000 for Florida vessels, and \$149,000–\$317,000 for vessels in the other states.

Based on these average revenue figures, all for-hire operations that would be affected by the proposed action can be considered small entities.

Some fleet activity, i.e., multiple vessels owned by a single entity, may exist in both the commercial and for-hire snapper-grouper sectors to an unknown extent, and NMFS treats all vessels as independent entities in this analysis.

NMFS expects the proposed rule to directly affect all federally permitted commercial vessels harvesting black sea bass and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, NMFS determines that the proposed action would affect a substantial number of small entities.

NMFS considers all entities expected to be affected by the proposed rule as small entities, so the issue of disproportional effects on small versus large entities does not arise in the present case.

Modifying the rebuilding strategy and setting the ABC for black sea bass would retain the current economic status of small entities for the next 2 years of the rebuilding period. Thereafter, profits to small entities may increase with a shift from a constant catch strategy to a constant fishing mortality strategy that would allow the ABC to increase over time as long as the combined ACL (commercial and recreational) is not exceeded in the previous year.

Setting the ACL, ABC, and OY equal to one another would provide an economic environment that would allow small entities to maintain or increase their profits by way of maximizing their use of the black sea bass resource.

Establishing a black sea bass pot endorsement program would likely result in profit increases to those who would qualify and profit decreases to those who would not. Out of the 50 to 60 individuals that currently fish for black sea bass using pots, approximately 31 would qualify for the endorsement. Although those who would not qualify could still fish for black sea bass using other gear types, their harvest performance could suffer. Because a limited number of individuals could fish for black sea bass using pots under the endorsement program, the fishing season for the commercial sector would likely remain open longer than it has in the last few years. This could result in overall industry profits to increase or at least not deteriorate as it would without the endorsement program.

Establishing an appeals process for fishermen initially excluded from the black sea bass pot endorsement program would provide opportunities for those qualified to receive their endorsement. Given the narrow basis for appeals, only a limited number of appeals would likely be successful.

Limiting the number of pots per vessel would likely decrease the short-run profits of small entities. The proposed maximum number of 35 pots allowed per vessel is much lower than the current average of 45 pots per vessel fished, and would affect about 48 percent of the trips. Vessels would generate lower revenues per trip or higher overall fishing costs to maintain the same overall revenues. To the extent, however, that the endorsement program would limit the number of participants in the black sea bass pot segment of the snapper-grouper fishery, the overall industry profits may not substantially decrease as a result of the restrictions on the number of pot tags per vessel.

Requiring that black sea bass pots be brought back to shore at the conclusion

of each trip as a means to reduce bycatch may restrict the fishing operations of some vessels. Its effects on profits are relatively unknown, but NMFS notes that in approximately 65 percent of trips, pots are brought back to shore. If vessels undertake longer trips to allow their pots to fish longer, costs could rise because no restriction exists on the length of each trip. If this practice mainly results in maintaining the same revenues per trip, vessel profits could decrease. If, however, this requirement could effectively result in less ghost fishing and less interaction with protected species, future restrictions imposed on the fishery may also lessen, such that long-term profits of small entities would remain sustainable.

The recreational AMs, consisting of the in-season harvest and possession restriction if the recreational ACL is met or projected to be met and the post-season reduction in the sector's ACL if the recreational ACL is exceeded in the current year, would likely reduce the short-term profits of for-hire vessels. Similarly, the commercial AMs consisting of the in-season prohibition on the purchase and sale of black sea bass and the post-season reduction in the sector's ACL, would likely result in profit reductions to the commercial vessels. To the extent that this provision allows the rebuilding target to be reached within the rebuilding period, long-term profits to for-hire and commercial fishing operations would increase. In addition, the projected increases in the aggregate (commercial and recreational) ACL under the rebuilding strategy, as long as the prior year's combined ACL remains unexceeded, would tend to negate some or all of the adverse profit effects of the post-season AM applied on either the commercial or recreational sector. If either sector, but not both, exceeds its ACL in the current year, a post-season AM would apply to that sector. The combined commercial and recreational ACL, and therefore the sector ACLs, would still increase so long as the combined ACL remains unexceeded in the prior year.

Establishing a commercial vessel trip limit of 1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), whole weight; would tend to adversely affect the catch and revenue per trip of vessels that generally land over this limit. Based on the 2010–2011 fishing season data, this alternative would adversely affect approximately 8.4 percent of trips accounting for a total of about 83,000 lb (37,648 kg), valued at about \$203,000. NMFS notes, though, that this trip limit could lengthen the fishing season, allowing opportunities

for some vessels to recoup some of their revenue losses for the year. At any rate, NMFS expects that some of these revenue reductions would filter into the bottom line of some vessels and potentially the bottom line of the entire industry. The actual extent of industry profit reduction cannot be estimated based on available information.

Increasing the recreational minimum size limit from 12 inches (30 cm), TL, to 13 inches (33 cm), TL, will potentially reduce the black sea bass harvests of headboats in the range of 20.9 percent to 22.6 percent and black sea bass harvests of other fishing modes from 18.8 percent to 20.3 percent. These harvest reductions could lead to trip cancellations as the quality of fishing experience would decrease; on the other hand, these harvest reductions could happen only early in the fishing season but be recouped through additional trips with a lengthened season. The actual effects on for-hire vessel profits depend on whether there would be trip cancellations, which is uncertain based on available information.

Increasing the commercial size limit from 10 inches (25 cm), TL, to 11 inches (28 cm), TL, will potentially reduce the black sea bass harvests of commercial vessels by slightly over 9 percent. Actual reductions in harvest would partly depend on whether vessels take additional or longer trips to recoup potential harvest losses. Although additional or longer trips would maintain total revenues, either by maintaining the same harvest or by generating more revenue per fish since a bigger black sea bass generally commands a higher price, costs would also increase. The net effects on per vessel and industry profits cannot be determined with available information.

Requiring selected for-hire vessels to report electronically would affect some of the 1,985 vessels with for-hire snapper-grouper permits. This requirement would add costs to these vessels' operations. The incremental costs to selected headboats would not likely be as much as for charterboats because headboats are currently subject to logbook reporting. The incremental cost to selected charterboats would be higher as they are not currently subject to logbook reporting although NMFS now routinely contacts some charter captains to collect trip level information. The resulting effects to for-hire vessel profits are indeterminable.

Amendment 18A contains other provisions that could eventually have effects on the operations of small entities. First, as part of modifying the rebuilding strategy, overfishing for black sea bass will be determined on an

annual basis using MFMT and OFL. This provision alone would not affect the profits of small entities. Second, an ACT for the recreational sector would account for management uncertainty in the recreational sector, related in part to the timely accounting of this sector's harvests. Currently, this ACT does not trigger application of AMs, so short-term profits to small entities would remain unaffected. If the Council decides in the future to use the ACT as the trigger for application of AMs, profits to small entities may be adversely affected. However, because this measure is designed to help ensure that the rebuilding strategy stays on track, long-term profitability would be sustainable.

In summary, the proposed rule would have both negative and positive effects on the profits of small entities, but its net effects on industry profits are indeterminable, as is a determination whether this rule would have a significant impact on the profits of small entities. Therefore, NMFS encourages commenters to provide input regarding the magnitude of effects on the profits of small entities.

Five alternatives, including the preferred alternative, were considered for modifying the rebuilding strategy and ABC. The first alternative, the no action alternative, would maintain the constant catch rebuilding strategy and current ABC throughout the rebuilding timeframe. This alternative would provide for a lower ABC over time, implying lower economic benefits than the preferred alternative. The second alternative would establish a new constant catch rebuilding strategy with a higher (than current) ABC throughout the remaining years of the rebuilding timeframe. Relative to the preferred alternative, the second alternative would provide for a higher ABC for 2 years but a lower ABC thereafter. The sum of economic benefits over the rebuilding timeframe under this alternative would be lower than that of the preferred alternative, primarily because the sum of annual ABCs under this alternative would be lower. In addition, a constant catch strategy, in general, would likely lead to the ACL being met sooner as the fish stock rebuilds, resulting in applications of in-season and post-season AMs. The third alternative, with two sub-alternatives, would establish a constant fishing mortality rebuilding strategy throughout the remaining years of the rebuilding timeframe. Under the first sub-alternative, the fishing mortality rate would be 75 percent of the fishing mortality at MSY (75-percent F_{MSY}), and under the second sub-alternative, the fishing mortality rate that would rebuild

the stock by 2016 (F_{REBUILD} by 2016). These two sub-alternatives would provide for lower ABCs than the preferred alternative, and thus, lower economic benefits over time. The fourth alternative would maintain the current constant catch strategy and ABC for the next 2 years of the rebuilding timeframe and switch to a constant fishing mortality strategy at F_{REBUILD} throughout the remainder of the rebuilding timeframe. This alternative would provide for the same ABC as the preferred alternative, but relates to a lower probability of rebuilding the stock to biomass at MSY.

Four alternatives, including the preferred alternative, were considered for modifying the ACL for black sea bass. The first alternative, the no action alternative, would maintain the existing ACL equal to ABC and OY equal to 75 percent of the fishing mortality at MSY. This alternative is more restrictive in setting OY as the underlying goal of managing the black sea bass stock. The second alternative would set the ACL equal to 90 percent of the ABC and the latter equal to OY. The third alternative would set the ACL equal to 80 percent of the ABC and the latter equal to OY. These other alternatives would provide for a lower ACL than the preferred alternative, and thus lower economic benefits as well.

Three alternatives, including the preferred alternative, were considered for establishing an endorsement program for the black sea bass pot segment of the snapper-grouper fishery. The first alternative, the no action alternative, would not establish an endorsement program. This alternative would continue to allow anyone with an Unlimited or 225-lb Limited Snapper-Grouper Permit to engage in the black sea bass pot segment of the snapper-grouper fishery. This would increase the likelihood of the derby-style fishing conditions, potentially dampening industry profitability. The second alternative includes seven sub-alternatives, of which one is the preferred sub-alternative that would set the minimum landings at 2,500 lb (1,134 kg), round weight, for eligibility in the endorsement program. The first sub-alternative would set the minimum landings at 500 lb (227 kg), round weight; the second sub-alternative, at 1,000 lb (454 kg), round weight; the third sub-alternative, at 2,000 lb (907 kg), round weight; the fourth, at 3,500 lb (1,588 kg), round weight; the fifth, at 5,000 lb (2,268 kg), round weight; and, the sixth, at 10,000 lb (4,536 kg), round weight. These sub-alternatives would allow varying numbers of individuals/entities to qualify for the endorsement:

higher landings requirements would result in fewer qualifiers. The Council's choice of preferred alternative was based on the assessment that about 30 individuals/entities can be profitably sustained by the black sea bass pot segment of the snapper-grouper fishery. In this case, sub-alternatives requiring less than 2,500 lb (1,134 kg), round weight, of landings for endorsement eligibility would likely result in unsustainable profits. On the other end, sub-alternatives requiring higher than 2,500 lb (1,134 kg), round weight, of landings would severely restrict participation in the fishery although industry profitability would be more sustainable. In addition, a highly restrictive endorsement qualification criterion, such as 10,000 lb (4,536 kg), round weight, would tend to eliminate small scale operations that have historically characterized the black sea bass pot segment of the snapper-grouper fishery. The third alternative, with two sub-alternatives, would require that no South Atlantic state shall have fewer than two entities qualifying for the endorsement. The first sub-alternative would set a minimum landings requirement of 1,000 lb (454 kg), round weight, and the second, 2,000 lb (907 kg), round weight. This alternative, with the sub-alternatives, was intended to allow participation by all South Atlantic states in the endorsement program. Since the minimum number of qualifiers from each state would be the same under this alternative and the preferred alternative, the Council deemed this third alternative unnecessary.

Three alternatives, including the preferred alternative, were considered for establishing an appeals process for fishermen initially excluded from the endorsement program. The first alternative, the no action alternative, would not establish an appeals process. This alternative has the potential to unduly penalize participants if they were incorrectly excluded from the endorsement program. The second alternative is the same as the preferred alternative, except that it would establish a special board, composed of state directors and designees, that would review, evaluate, and make individual recommendations to the RA. This alternative would mainly introduce an additional administrative burden that may not improve the appeals process, considering that the only issues subject to appeal are eligibility and landings.

Five alternatives, including the preferred alternative, were considered for limiting effort in the black sea bass pot segment of the snapper-grouper fishery. The first alternative, the no

action alternative, would not limit the number of black sea bass pots deployed or pot tags issued to holders of snapper-grouper commercial permits. Among the alternatives, this is potentially the best alternative for efficient operations in the black sea bass pot segment of the snapper-grouper fishery. But with no limit on the number of pots, a high likelihood arises that many pots (left in the water for a longer time due, for example, to vessel or weather problems) may be lost and "ghost fish" for black sea bass or other species. In addition, many pots would employ many vertical lines that would increase the probability of interaction with certain protected species. Such occurrences are likely to hinder the rebuilding of black sea bass or other species and to require the implementation of more restrictive measures that would impinge on the profits of commercial vessels. The second alternative would limit black sea bass pot tags to 100 per vessel per year; the second alternative, to 50 per vessel per year; and, the third alternative, to 25 per vessel per year. These other alternatives differ from the preferred alternative only in the maximum number of pots deployed or pot tags issued per vessel, with the higher numbers providing better opportunities for higher profits per vessel trip. But as noted above, the higher number of pots, the higher would be the probability of ghost fishing and interaction with protected species.

Three alternatives, including the preferred alternative, were considered for reducing bycatch in black sea bass pots. The first alternative, the no action alternative, would not implement additional measures for when pots must be removed from the water. This alternative would not help in reducing bycatch in the black sea bass pot segment of the snapper-grouper fishery. The second alternative would allow fishermen to leave pots in the water for no more than 72 hours. This alternative would have about the same effects as the preferred alternative on pot fishing operations, because most fishing trips for black sea bass using pots last for less than 3 days. However, it would present a higher probability for ghost fishing because pots may be left in the water on short vessel trips or not retrieved during inclement weather.

Three alternatives, including the preferred alternative, were considered for modifying the AMs for black sea bass. The first alternative, the no action alternative, would maintain the current commercial and recreational AMs. The Council deemed this alternative to be relatively deficient in constraining harvest at or below the sector ACLs. The

second alternative is similar to the preferred alternative for the recreational sector, except that it would trigger in-season AMs only if the black sea bass stock is overfished. This alternative could lead to larger post-season adjustment of the recreational ACL and thus larger adverse effects on for-hire profits, particularly if the aggregate ACL is exceeded, in order to keep the rebuilding trajectory on track. Moreover, if overages in the recreational harvest lead to exceeding the aggregate ACL, the aggregate ACL would not automatically increase the following year so that both the commercial and recreational sectors would be adversely affected.

Nine alternatives, including the preferred alternative, were considered for establishing a commercial trip limit. The first alternative, the no action alternative, would not establish a commercial trip limit. In principle, this alternative would likely provide the most short-term profitability among commercial vessels on a per trip basis, because commercial vessel operations would remain unaffected. However, this alternative could possibly lead to lower industry profitability as a result of a shortened fishing season that would occur without effectively controlling the harvest rate. The second alternative would establish a trip limit of 500 lb (227 kg), gutted weight; the third alternative, 750 lb (340 kg), gutted weight; the fourth alternative, 1,250 lb (567 kg), gutted weight; the fifth alternative, 1,000 lb (454 kg), gutted weight, and reduced to 500 lb (227 kg), gutted weight, when 75 percent of the commercial ACL is met; the sixth alternative, 2,000 lb (907 kg), gutted weight; the seventh, 2,500 lb (1,134 kg), gutted weight; and, the eighth alternative, 250 lb (113 kg), gutted weight. NMFS expects that trip limits lower than the preferred alternative of 1,000 lb (454 kg), gutted weight, would lead to larger adverse effects on per trip profitability; the opposite would occur with higher trip limits. Based on the Council's assessment, the preferred alternative would provide the best balance between per trip losses in profits and higher industry profits from a longer fishing season.

Three alternatives, including two preferred alternatives, were considered for modifying the commercial and recreational minimum size limit. The first alternative, the no action alternative, would not change the commercial or recreational size limit. In principle, this alternative would provide the best economic environment for both the commercial and recreational sectors, because their operations would remain relatively

unaffected. However, this alternative would not help in constraining the rate of harvest which has been increasing in recent years, leading to early closures of both the commercial and recreational sectors of the black sea bass segment of the snapper-grouper fishery. The second alternative includes three sub-alternatives, one of which is the preferred sub-alternative. The second sub-alternative would increase the commercial size limit from 10 inches (25 cm), TL, to 12 inches (30 cm), TL. This sub-alternative would lead to relatively larger adverse effects on the profits of commercial vessels but would also tend to allow a longer fishing season. However, the Council concluded that this sub-alternative would not provide the best balance between short-term profit reductions and profit increases from a longer season. The third sub-alternative would increase the commercial size limit from 10 inches (25 cm), TL, to 11 inches (28 cm), TL, in the first year and to 12 inches (30 cm), TL, thereafter. This sub-alternative would eventually lead to larger adverse effects on the profits of commercial vessels but would also tend to allow a longer fishing season. However, the Council concluded that this sub-alternative would not provide the best balance between short-term profit reductions and profit increases from a longer season.

Four alternatives, including the preferred alternative, were considered for improving for-hire data reporting. The first alternative (the no action alternative) would retain the existing data reporting systems for the for-hire sector. However, the Council deemed modifications to existing recreational data collection necessary to the extent that they would not be too burdensome on for-hire vessel operations. The second alternative would require vessels operating with a Federal for-hire permit to maintain a logbook for discard characteristics (e.g., size and reason for discarding), if selected. This alternative would provide better information regarding discards, but would increase costs for for-hire vessel operations. The third alternative would require that for-hire landings and catch/effort data are submitted in accordance with the Atlantic States Cooperative Statistics Program (ACCSP) standards, using the South Atlantic Fisheries Information System (SAFIS). Although this alternative has the potential to improve recreational data collection, it would be costly to for-hire vessels. Therefore, the Council decided to wait until the new Marine Recreational Information Program (MRIP) has been in place for

some time to determine whether it would be sufficient for reporting for-hire landings data.

Four alternatives, including the preferred alternative, were considered for setting the recreational ACT. The first alternative, the no action alternative, would not set a recreational ACT, and thus, would not meet the mentioned objective. The second alternative would set the recreational ACT equal to 85 percent of the recreational ACL. The third alternative would set the recreational ACT equal to 75 percent of the recreational ACL. NMFS estimates that these two alternatives would result in lower ACTs than the preferred alternative, so that if an ACT triggers management actions, these two alternatives would result in larger adverse effects on the profits of for-hire vessels.

In Amendment 18A, the Council considered several actions for which the no-action alternative was the preferred alternative.

Three alternatives, including the preferred alternative (no action alternative), were considered for setting the commercial ACT. The first alternative would set the commercial ACT equal to 90 percent of the commercial ACL. The second alternative would set the commercial ACT equal to 80 percent of the commercial ACL. Because NMFS closely tracks the commercial landings in-season through a quota monitoring system, the Council deemed the need to provide for a commercial ACT as a monitoring tool unnecessary.

Five alternatives, including the preferred alternative (no action alternative), were considered for implementing a spawning season closure. The first alternative would implement a March 1–April 30 spawning season closure; the second alternative, an April 1–May 31 spawning season closure; the third alternative, a March 1–May 31 spawning season closure; and, the fourth alternative, a May 1–May 31 spawning season closure. These alternatives would result in short-term profit reductions to commercial and for-hire vessels. Black sea bass do not form large spawning aggregations and the peak spawning period occurs at different times of the year across the South Atlantic. Therefore, short-term profit reductions could persist in the future as the benefits from a spawning season closure are not well established.

Four alternatives, including the preferred alternative (no action alternative), were considered for improving commercial data reporting. The first alternative would require all

vessels with Federal snapper-grouper commercial permits to have an electronic logbook tied to the vessel's Global Position System onboard the vessel. The second alternative would provide the option for fishermen to submit their logbook entries electronically via an electronic version of the logbook made available online. The third alternative would require submission of commercial landings and catch and effort data in accordance with the ACCSP standards, using the SAFIS. These alternatives would introduce additional cost to commercial fishing operations. The Council decided to address this issue in the future through a comprehensive amendment for improving data collection.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA. NMFS estimates the requirement for the for-hire sector of the snapper-grouper fishery to submit logbook information electronically, if selected to do so, to average 30 minutes per electronic logbook installation and 1 minute per weekly download of the weekly logbook information. NMFS estimates the requirement for South Atlantic Unlimited Snapper-Grouper Permit holders to submit their logbook information if they are appealing their landings data for a black sea bass pot endorsement to average 2 hours per response. NMFS estimates the requirement to check boxes on the Federal Permit Application Form for a new endorsement or renewal of the black sea bass pot endorsement to average 1 minute per response. Finally, NMFS estimates the requirement to check boxes on the Federal Permit Application Form for black sea bass pot tags (Floy tags) for the endorsement program to average 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

These requirements have been submitted to OMB for approval. NMFS seeks public comment regarding: Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the

information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

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

Dated: March 20, 2012.

Samuel D. Rauch III,
*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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 § 622.4, paragraph (a)(2)(xv) is added and paragraph (a)(5)(i)(A) is revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(xv) *South Atlantic black sea bass pot endorsement.* For a person aboard a vessel, for which a valid commercial vessel permit for South Atlantic snapper-grouper unlimited has been issued, to use a black sea bass pot in the South Atlantic EEZ, a valid South Atlantic black sea bass pot endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid. NMFS will renew this endorsement automatically when renewing the commercial vessel permit for South Atlantic snapper-grouper unlimited associated with the vessel. The RA will not reissue this endorsement if the endorsement or the commercial vessel permit for South Atlantic snapper-grouper unlimited is revoked or if the RA does not receive a complete application for renewal of the commercial vessel permit for South Atlantic snapper-grouper unlimited within 1 year after the permit's expiration date.

(A) *Initial eligibility.* To be eligible for an initial South Atlantic black sea bass pot endorsement, a person must have been issued and must possess a valid or renewable commercial vessel permit for South Atlantic snapper-grouper that has black sea bass landings using black sea bass pot gear averaging at least 2,500 lb (1,134 kg), round weight, annually during the period January 1, 1999 through December 31, 2010. Excluded from this eligibility, are trip-limited permits (South Atlantic snapper-grouper permits that have a 225-lb (102.1-kg) limit of snapper-grouper) and valid or renewable commercial vessel permits for South Atlantic snapper-grouper unlimited that have no reported landings of black sea bass using black sea bass pots from January 1, 2008, through December 31, 2010. NMFS will attribute all applicable black sea bass landings associated with a current snapper-grouper permit for the applicable landings history, including those reported by a person(s) who held the permit prior to the current permit owner, to the current permit owner. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(B) *Initial issuance.* On or about [insert date of publication of final rule in the **Federal Register**], the RA will mail each eligible permittee a black sea bass pot endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than [insert date 30 days after date of publication of final rule in the **Federal Register**], to clarify his/her endorsement status. A permittee denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(C) *Procedure for appealing black sea bass pot endorsement eligibility and/or landings information.* The only items subject to appeal are initial eligibility for a black sea bass pot endorsement based on ownership of a qualifying snapper-grouper permit, the accuracy of the amount of landings, and correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than [insert date 120 days after date of publication of final rule in the **Federal Register**], and must contain documentation supporting the basis for the appeal. The RA will review all appeals, render final decisions on the appeals, and advise the appellant of the final NMFS decision.

(1) *Eligibility appeals.* NMFS' records of snapper-grouper permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, for example, as a result of ownership changes from individual to corporate or vice versa, must document his/her continuity of ownership.

(2) *Landings appeals.* Determinations of appeals regarding landings data for 1999 through 2010 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 1999 through 2010 that were submitted in compliance with applicable Federal and state regulations on or before December 31, 2011.

(D) *Fees.* No fee applies to initial issuance of a black sea bass pot endorsement. NMFS charges a fee for each renewal or replacement of such endorsement and calculates the amount of each fee in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The handbook is available from the RA. The appropriate fee must accompany each application for renewal or replacement.

* * * * *

(5) * * *

(i) * * *

(A) An operator of a vessel that has or is required to have a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ).

* * * * *

3. In § 622.5, a sentence is added between the first and second sentences in paragraphs (b)(2)(i) and (b)(2)(ii) to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(2) * * *

(i) * * * Completed fishing records required by paragraph (b)(1)(ii) of this section for charter vessels may be required weekly or daily, as directed by the SRD. * * *

(ii) * * * Completed fishing records required by paragraph (b)(1)(ii) of this section for headboats may be required weekly or daily, as directed by the SRD.

* * * * *

4. In § 622.37, paragraph (e)(3)(i) is revised to read as follows:

§ 622.37 Size limits.

* * * * *

(e) * * *

(3) * * *

(i) *Black seas bass.* (A) For a fish taken by a person subject to the bag limit specified in § 622.39(d)(1)(vii)—13 inches (33 cm), TL.

(B) For a fish taken by a person not subject to the bag limit specified in § 622.39(d)(1)(vii)—11 inches (28 cm), TL.

* * * * *

5. In § 622.40, paragraph (d)(1)(i)(B) is revised and paragraphs (d)(1)(i)(C) and (D) are added to read as follows:

§ 622.40 Limitations on traps and pots.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(B) A sea bass pot must be removed from the water in the South Atlantic EEZ and the vessel must be returned to a dock, berth, beach, seawall, or ramp at the conclusion of each trip. Sea bass pots may remain on the vessel at the conclusion of each trip.

(C) A sea bass pot must be removed from the water in the South Atlantic EEZ when the applicable quota specified in § 622.42(e)(5) is reached. After a closure is in effect, a black sea bass may not be retained by a vessel that has a sea bass pot on board.

(D) A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper and a South Atlantic black sea bass pot endorsement that fishes in the South Atlantic EEZ on a trip with black sea bass pots, may possess only 35 black sea bass pots per vessel per permit year. Each black sea bass pot in the water or onboard a vessel in the South Atlantic EEZ, must have a valid identification tag issued by NMFS attached. NMFS will issue new identification tags each permit year that will replace the tags from the previous permit year.

* * * * *

6. In § 622.42, paragraph (e)(5) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(5) *Black sea bass*—309,000 lb (140,160 kg), gutted weight; 364,620 lb (165,389 kg), round weight.

* * * * *

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

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(8) *Black sea bass.* Until the applicable quota specified in

§ 622.42(e)(5) is reached, 1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight. See § 622.43(a)(5) for the limitations regarding black sea bass after the applicable quota is reached.

* * * * *

8. In § 622.49, paragraph (b)(5) is revised to read as follows:

§ 622.49 Annual Catch Limits (ACLs) and Accountability Measures (AMs).

* * * * *

(b) * * *

(5) *Black sea bass*—(i) *Commercial sector.* (A) If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(5), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(B) If commercial landings exceed the quota specified in § 622.42(e)(5), 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 for that following year by the amount of the overage in the prior fishing year, unless the SRD determines that no overage is necessary based on the best scientific information available.

(ii) *Recreational sector.* (A) If recreational landings for black sea bass, as estimated by the SRD, are projected to reach the recreational ACL of 409,000 lb (185,519 kg), gutted weight; 482,620 lb (218,913 kg), round weight; the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. On and after the effective date of such a notification, the bag and possession limit is zero. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal 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.

(B) If recreational landings for black sea bass, as estimated by the SRD, exceed the ACL, the AA will file a notification with the Office of the Federal Register, to reduce the recreational ACL the following fishing year by the amount of the overage in the prior fishing year, unless the SRD determines that no overage is necessary based on the best scientific information available.

* * * * *

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