

(1) *Adverse benefit determination* has the meaning given that term in 45 CFR 147.136(a)(2)(i).

(2) *Claim* means a request for:

- (i) Payment of a health-related bill; or
- (ii) Provision of a health-related service or supply.

(b) *Applicability*. This subpart applies to enrollees and to other individuals or entities who are acting on behalf of an enrollee and who have the enrollee's specific written consent to pursue a remedy of an adverse benefit determination.

§ 800.502 MSP issuer internal claims and appeals.

(a) *Processes*. MSP issuers must comply with the internal claims and appeals processes applicable to group health plans and health insurance issuers under 45 CFR 147.136(b).

(b) *Timeframes and notice of determination*. An MSP issuer must provide written notice to an enrollee of its determination on a claim brought under paragraph (a) of this section according to the timeframes and notification rules under 45 CFR 147.136(b) and (e), including the timeframes for urgent claims. If the MSP issuer denies a claim (or a portion of the claim), the enrollee may appeal the adverse benefit determination to the MSP issuer in accordance with 45 CFR 147.136(b).

§ 800.503 External review.

(a) *External review by OPM*. OPM will conduct external review of adverse benefit determinations using a process similar to OPM review of disputed claims under 5 CFR 890.105(e), subject to the standards and timeframes set forth in 45 CFR 147.136(d).

(b) *Notice*. Notices to MSP enrollees regarding external review under paragraph (a) of this section must comply with 45 CFR 147.136(e), and are subject to review and approval by OPM.

(c) *Issuer obligation*. An MSP issuer must pay a claim or provide a health-related service or supply pursuant to OPM's final decision or the final decision of an independent review organization without delay, regardless of whether the plan or issuer intends to seek judicial review of the external review decision and unless or until there is a judicial decision otherwise.

§ 800.504 Judicial review.

(a) OPM's written decision under the external review process established under § 800.503(a) will constitute final agency action that is subject to review under the Administrative Procedure Act in the appropriate U.S. district court. A decision made by an independent

review organization under the process established under § 800.503(a) is not within OPM's discretion and therefore is not final agency action.

(b) Judicial review under paragraph (a) of this section is limited to the record that was before OPM when OPM made its decision.

Subpart G—Miscellaneous

§ 800.601 Reservation of authority.

OPM reserves the right to implement and supplement these regulations with written operational guidelines.

§ 800.602 Consumer choice with respect to certain services.

(a) *Assured availability of varied coverage*. Consistent with § 800.104, OPM will ensure that at least one of the MSP issuers on each Exchange in each State offers at least one MSP option that does not provide coverage of services described in section 1303(b)(1)(B)(i) of the Affordable Care Act.

(b) *State opt-out*. An MSP issuer may not offer abortion coverage in any State where such coverage of abortion services is prohibited by State law.

(c) *Notice to enrollees—(1) Notice of exclusion*. The MSP issuer must provide notice to consumers prior to enrollment when non-expected abortion services are not a covered benefit in a State where such coverage of such abortion services is permitted by State law, in the form, manner, and timeline prescribed by OPM.

(2) *Notice of coverage*. If an MSP issuer chooses to offer an MSP option that covers non-expected abortion services, in addition to an MSP option that does not provide coverage for these services, the MSP issuer must provide notice to consumers prior to enrollment that non-expected abortion services are a covered benefit, in a manner consistent with 45 CFR 147.200(a)(3), to meet the requirements of 45 CFR 156.280(f). OPM may provide guidance on the form, manner, and timeline for this notice.

(3) *OPM review and approval of notices*. OPM may require an MSP issuer to submit to OPM such notices. OPM reserves the right to review and approve these consumer notices to ensure that an MSP issuer complies with Federal and State laws, and the standards prescribed by OPM with respect to § 800.602.

§ 800.603 Disclosure of information.

(a) *Disclosure to certain entities*. OPM may provide information relating to the activities of MSP issuers or State-level issuers to a State Insurance Commissioner or Director of a State-based Exchange.

(b) *Conditions of when to disclose*. OPM shall only make a disclosure described in this section to the extent that such disclosure is:

(1) Necessary or appropriate to permit OPM's Director, a State Insurance Commissioner, or Director of a State-based Exchange to administer and enforce laws applicable to an MSP issuer or State-level issuer over which it has jurisdiction, or

(2) Otherwise in the best interests of enrollees or potential enrollees in MSP options.

(c) *Confidentiality of information*. OPM will take appropriate steps to cause the recipient of this information to preserve the information as confidential.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BE55

Fisheries of the Caribbean, Gulf of Mexico and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 29

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

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 29 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 29 proposes actions to update the Council's acceptable biological catch (ABC) control rule to incorporate methodology for determining the ABC of unassessed species; adjust ABCs for 14 unassessed snapper-grouper species through application of the updated ABC control rule; adjust annual catch limits (ACLs) and recreational annual catch targets (ACTs) for four snapper-grouper species and three species complexes based on revised ABCs; and revise management measures for gray triggerfish to modify minimum size limits, establish a commercial split season, and specify a commercial trip limit.

DATES: Written comments must be received on or before January 23, 2015.

ADDRESSES: You may submit comments on Amendment 29 identified by “NOAA–NMFS–2014–0132” by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0132, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 29 may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>. Amendment 29 includes a draft environmental assessment, a Regulatory Flexibility Act analysis, a Regulatory Impact Review, and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Karla Gore, telephone: 727–824–5305; email: Karla.Gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The FMP being revised by Amendment 29 was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Council’s Scientific and Statistical Committee (SSC) has recommended an update of the Council’s ABC control rule to incorporate new methodology for species without assessments but for which there are reliable catch data. Amendment 29 updates the ABC control rule and includes revised ABCs for 14 unassessed snapper-grouper species based on the new control rule. Amendment 29 also includes revisions to ACLs and recreational annual catch targets (ACTs) for four species and three species complexes based on the revised ABCs. These actions are based on the best scientific information available.

A stock assessment for the South Atlantic stock of gray triggerfish was initiated in 2013 but completion of the assessment has been postponed to 2015. Meanwhile, fishermen have approached the Council with requests for management measures due to concerns about early closures in the commercial sector and the stock status of gray triggerfish. While the Council had intended to wait for the results of the stock assessment to make changes to management measures for this stock, the unforeseen delays in the assessment prompted the Council to be proactive and consider actions in Amendment 29. These actions include modifying minimum size limits for gray triggerfish, establishing a commercial split season, and specifying a commercial trip limit for gray triggerfish.

Actions Contained in Amendment 29

Amendment 29 includes actions to revise ACLs for three species complexes and four snapper-grouper species based on the revised ABC values. In addition, Amendment 29 includes actions to revise management measures for gray triggerfish in Federal waters of the South Atlantic region.

Amendment 29 to Update the ABC Control Rule

Amendment 29 modifies the ABC control rule to use the Only Reliable Catch Stocks (ORCS) approach, recommended by the Council’s SSC, to calculate ABC values for unassessed stocks for which there is only reliable catch information available. The approach involved selection of a “catch statistic” based on the maximum landings from 1999–2007, similar to the period of landings used in the Council’s Comprehensive ACL Amendment, and to minimize the impact of a decrease in landings that may have been caused by the economic downturn and the effect of recent regulations. The catch statistic

was then multiplied by a scalar (number) ranging from 1.25 to 2, based on SSC consensus and expert judgment, to denote the stock’s risk of overexploitation (how likely the stock is to become overfished), and a scalar ranging from 0.50 to 0.90 to denote the stock’s management risk level. The SSC provided the first two criteria for each stock at issue and the Council developed the risk tolerance level. The amendment employed the ORCS approach to revise ABC values for the following unassessed snapper-grouper species: Bar jack, margate, red hind, cubera snapper, yellowedge grouper, silk snapper, Atlantic spadefish, gray snapper, lane snapper, rock hind, tomtate, white grunt, scamp, and gray triggerfish.

Revise ACLs for Select Species

Amendment 29 would revise the ACLs and recreational ACTs for three species and four species complexes of unassessed snapper-grouper species, based on the revised ABC values. In Amendment 29, the Council defines $ACL = OY = ABC$ for the snappers complex, grunts complex, shallow-water complex, bar jack, Atlantic spadefish and gray triggerfish. For scamp, the Council chose to revise the definition to $ACL = OY = 0.90(ABC)$ to provide a buffer between the ABC and the ACL for scamp due to concerns about the stock status of scamp.

Amendment 29 would not change the specified sector allocations or the recreational ACT definitions for the snapper-grouper species contained in Amendment 29.

Modify Minimum Size Limit for Gray Triggerfish

Amendment 29 includes an action to establish a 12-inch (30.5-cm) fork length (FL) minimum size limit for gray triggerfish in Federal waters off North Carolina, South Carolina, and Georgia for both the commercial and recreational sectors. This action would also increase the minimum size limit for gray triggerfish off the east coast of Florida from 12 inches (30.5 cm), total length to 14 inches (35.6 cm), FL for both the commercial and recreational sectors, which is consistent with the commercial and recreational minimum size limit in place off the west coast of Florida, however, this is inconsistent with the 12-inch (30.5-cm) minimum size limit for gray triggerfish in state waters off the east coast of Florida. The rationale for increasing the minimum size limit to 14 inches (35.6 cm), FL, off the east coast of Florida is to implement consistent regulations for fishermen in South Florida, specifically off the

Florida Keys. The Florida Fish and Wildlife Commission is expected to discuss implementing compatible regulations for state waters off the east coast of Florida.

Establish a Commercial Split Season for Gray Triggerfish

The fishing year for gray triggerfish begins on January 1. Weather conditions can be poor off North Carolina and South Carolina during the early part of the year, making fishing for gray triggerfish difficult. Amendment 29 includes an action to divide the annual commercial fishing season for gray triggerfish into two 6-month fishing seasons, to provide opportunities to fish for gray triggerfish throughout the South Atlantic and throughout the calendar year. This action would allocate 50 percent of the commercial gray triggerfish ACL for the time period January 1 through June 30, and 50 percent for the time period July 1 through December 31. As a result, the commercial ACL would be divided into two seasonal quotas of equal amounts of

156,162 lb (70,834 kg), round weight. When the quota would be reached for a given season, the commercial sector would close. In addition, any unused portion of the quota from the first season would be added to the quota in the second season. Any unused portion of the quota specified in the second season, including any addition of quota from the first season, would become void and would not be added to any subsequent quota.

Establish a Commercial Trip Limit for Gray Triggerfish

Amendment 29 would establish a commercial trip limit of 1,000 lb (454 kg), round weight, for gray triggerfish, to extend the commercial fishing season for this species.

A proposed rule that would implement measures outlined in Amendment 29 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative,

NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 29 for Secretarial review, approval, and implementation. Comments received by January 23, 2015, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 19, 2014.

Alan D. Risenhoover,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

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