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**List of Subjects in 46 CFR Part 506**

Administrative practice and procedure, Penalties.

For the reasons stated in the preamble, part 506 of title 46 of the Code of Federal Regulations is amended as follows:

**PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT**

■ 1. The authority citation for part 506 continues to read as follows:

**Authority:** 28 U.S.C. 2461.

■ 2. Amend § 506.4 by revising paragraph (d) to read as follows:

**§ 506.4 Cost of living adjustments of civil monetary penalties.**

\* \* \* \* \*

(d) *Inflation adjustment.* Maximum civil monetary penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

United States Code citation	Civil monetary penalty description	Maximum penalty amount as of January 15, 2017	Maximum penalty as of January 15, 2018
46 U.S.C. 42304 .....	Adverse impact on U.S. carriers by foreign shipping practices .....	2,011,061	2,052,107
46 U.S.C. 41107(a) .....	Knowing and Willful violation/Shipping Act of 1984, or Commission regulation or order.	57,391	58,562
46 U.S.C. 41107(b) .....	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful.	11,478	11,712
46 U.S.C. 41108(b) .....	Operating in foreign commerce after tariff suspension .....	114,782	117,125
46 U.S.C. 42104 .....	Failure to provide required reports, etc./Merchant Marine Act of 1920 .....	9,054	9,239
46 U.S.C. 42106 .....	Adverse shipping conditions/Merchant Marine Act of 1920 .....	1,810,706	1,847,663
46 U.S.C. 42108 .....	Operating after tariff or service contract suspension/Merchant Marine Act of 1920	90,535	92,383
46 U.S.C. 44102 .....	Failure to establish financial responsibility for non-performance of transportation	22,868	23,335
		762	778
46 U.S.C. 44103 .....	Failure to establish financial responsibility for death or injury .....	22,868	23,335
		762	778
31 U.S.C. 3802(a)(1) .....	Program Fraud Civil Remedies Act/makes false claim .....	10,957	11,181
31 U.S.C. 3802(a)(2) .....	Program Fraud Civil Remedies Act/giving false statement .....	10,957	11,181

By the Commission.

**Rachel E. Dickon,**

*Assistant Secretary.*

[FR Doc. 2018-00319 Filed 1-10-18; 8:45 am]

**BILLING CODE 6731-AA-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 170324313-7999-02]

**RIN 0648-BG77**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 41**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS implements management measures described in Amendment 41 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council

(South Atlantic Council). This final rule revises commercial and recreational annual catch limits (ACLs), the minimum size limit, commercial trip limits, and the recreational bag limit for mutton snapper in the South Atlantic based on the results of the most recent stock assessment update. The purpose of this final rule is to ensure that mutton snapper is managed based on the best scientific information available to achieve optimum yield (OY) and to prevent overfishing, while minimizing adverse social and economic effects to the extent practicable.

**DATES:** This final rule is effective on February 10, 2018.

**ADDRESSES:** Electronic copies of Amendment 41 may be obtained from [www.regulations.gov](http://www.regulations.gov) or the Southeast Regional Office website at [http://http://sero.nmfs.noaa.gov/sustainable\\_fisheries/s\\_atl/sg/2016/am41/index.html](http://http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2016/am41/index.html). Amendment 41 includes an environmental assessment, regulatory impact review, Regulatory Flexibility Act (RFA) analysis, and fishery impact statement.

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

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery in the South Atlantic region includes mutton snapper

and is managed under the Snapper-Grouper FMP. The Snapper-Grouper FMP was prepared by the South Atlantic Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On September 26, 2017, NMFS published the notice of availability for Amendment 41 in the **Federal Register** and requested public comment (82 FR 44756). On October 24, 2017, NMFS published a proposed rule for Amendment 41 in the **Federal Register** and requested public comment (82 FR 49167). Amendment 41 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 41 and implemented by this final rule is provided below.

**Management Measures Contained in This Final Rule**

This final rule revises the mutton snapper ACLs for the commercial and recreational sectors in the South Atlantic, increases the minimum size limit for mutton snapper in the commercial and recreational sectors, and modifies the commercial trip limit and the recreational bag limit. Unless

otherwise noted, all weights described in this final rule are in round weight.

#### *Commercial and Recreational ACLs*

The 2015 updated stock assessment for mutton snapper in the South Atlantic and Gulf of Mexico (Southeast Data, Assessment, and Review (SEDAR) 15A Update) concluded that the mutton snapper stock in the South Atlantic and Gulf of Mexico (Gulf) is neither overfished nor undergoing overfishing. The South Atlantic Council's and Gulf of Mexico Fishery Management Council's (Gulf Council) Scientific and Statistical Committees (SSCs) reviewed the assessment and provided an acceptable biological catch (ABC) recommendation to their Councils. The ABC for the mutton snapper stock in the South Atlantic and Gulf is apportioned between the South Atlantic Council and the Gulf Council in the Snapper-Grouper FMP and the FMP for the Reef Fish Resources of the Gulf of Mexico. The South Atlantic Council set their portion of the ABC for mutton snapper equal to the OY and the total ACL. The South Atlantic Council then further allocated the total ACL between the commercial sector (17.02 percent) and recreational sector (82.98 percent). The catch reference points and sector allocations for South Atlantic mutton snapper were implemented by the final rule for the South Atlantic Council's Comprehensive ACL Amendment (77 FR 15916, March 16, 2012).

Amendment 41 and this final rule revise the ABC and the commercial and recreational mutton snapper ACLs in the South Atlantic for the 2017 through the 2020 and subsequent fishing years, consistent with the existing apportionment of the ABC between the South Atlantic Council and Gulf Council, and the existing sector allocations of the total ACL in the South Atlantic.

As described in Amendment 41, the South Atlantic Council's SSC recommended that the South Atlantic portion of the ABC be specified in numbers of fish, based on landing projections from the SEDAR 15A Update. The South Atlantic Council agreed with this recommendation for the ABC, but specified the commercial ACL in pounds and the recreational ACL in numbers of fish because commercial landings are already tracked in pounds, while recreational landings are tracked in numbers of fish. In addition, because this final rule increases the minimum size limit for mutton snapper, the South Atlantic Council was concerned that specifying the recreational ACL in pounds could increase the risk of exceeding the

recreational ACL if the method for converting the ACL in numbers to pounds does not sufficiently address the change in average weight of larger, heavier fish. Therefore, the South Atlantic Council determined that there would be a reduced risk of exceeding the recreational ACL as a result of an increase in the minimum size limit if the ABC and recreational ACL were specified in numbers of fish. As a reference for comparing numbers of fish to pounds of fish, the average weight of a recreationally harvested mutton snapper in 2017 is approximately 4.2 lb (1.9 kg) per fish. The average weight of a commercially harvested mutton snapper is 7.68 lb (3.5 kg) per fish.

To determine the commercial ACL in pounds, the commercial sector allocation of 17.02 percent was applied to the total ACL in pounds (which equals the South Atlantic portion of the mutton snapper ABC). The commercial ACLs for mutton snapper will be 100,015 lb (45,366 kg) for 2017, 104,231 lb (47,278 kg) for 2018, 107,981 lb (48,979 kg) for 2019, and 111,354 lb (50,509 kg) for 2020 and subsequent fishing years.

To determine the recreational ACL in numbers, the recreational sector ACL of 82.98 percent was applied to the total ACL in pounds. That value was divided by approximately 4.2 lb (1.9 kg) per fish to determine the recreational ACL in numbers of fish. The recreational ACLs for mutton snapper will be 116,127 fish for 2017, 121,318 fish for 2018, 124,766 fish for 2019, and 127,115 fish for 2020 and subsequent fishing years.

The South Atlantic portion of the mutton snapper ABC (equal to the total ACL) in numbers of fish is the sum of the commercial and recreational ACLs in numbers of fish. To determine the ABC in numbers of fish, the commercial ACL in pounds was divided by 7.68 lb (3.5 kg) per fish and added to the recreational ACL in numbers. Based on results from the SEDAR 15A Update and ABC recommendations from the South Atlantic and Gulf Councils' SSCs, Amendment 41 decreases the ABC for mutton snapper in the South Atlantic to 129,150 fish for the 2017 fishing year, 134,890 fish for 2018, 138,826 fish for 2019, and 141,614 fish for 2020 and subsequent fishing years.

#### *Minimum Size Limit*

This final rule increases the minimum size limit from 16 inches (40.6 cm), total length (TL), to 18 inches (45.7 cm), TL. Recent scientific information indicates that the size at which 50 percent of mutton snapper are sexually mature is 16 inches (40.6 cm), TL, for males and 18 inches (45.7 cm), TL, for females.

Increasing the minimum size limit to 18 inches (45.7 cm), TL, allows more individual mutton snapper to reach reproductive maturity before being susceptible to harvest, and is also projected to increase the average size and the corresponding average weight of fish harvested.

#### *Commercial Trip Limits*

This final rule replaces the previous seasonal harvest limitation (equivalent to a commercial trip limit) for the commercial sector each year in May and June, and implements commercial trip limits for the purposes of maintaining a year-round commercial fishing season and reducing harvest on mutton snapper when they aggregate to spawn. During the mutton snapper spawning months of April through June, this final rule establishes a commercial trip limit of 5 fish per person per day or 5 fish per person per trip, whichever is more restrictive, for the possession of mutton snapper in or from the exclusive economic zone on board a vessel that has a Federal commercial permit for South Atlantic snapper-grouper. For the remainder of the year (January through March and July through December), this final rule establishes a 500-lb (227-kg) commercial trip limit.

#### *Recreational Bag Limit*

Through this final rule, mutton snapper remains within the existing 10-snapper aggregate recreational bag limit in the South Atlantic, but a reduced recreational bag limit of 5 mutton snapper per person per day applies within the overall 10-snapper aggregate bag limit, year-round. The bag limit is reduced for the purposes of maintaining a year-round recreational fishing season and reducing harvest on mutton snapper spawning aggregations.

#### **Management Measures Contained in Amendment 41 but Not Codified Through This Final Rule**

In addition to the management measures codified through this final rule, and the ABC that was previously described, Amendment 41 specifies the maximum sustainable yield (MSY), minimum stock size threshold (MSST), and recreational annual catch targets (ACTs) for mutton snapper, as well as designating spawning months.

#### *Maximum Sustainable Yield and Minimum Stock Size Threshold*

Amendment 41 changes the MSY definition to the yield produced by the fishing mortality rate at MSY ( $F_{MSY}$ ) or the  $F_{MSY}$  proxy (where  $F$  equals fishing mortality that, if applied constantly, would achieve MSY under equilibrium

conditions), with the MSY and  $F_{MSY}$  proxy recommended by the SEDAR 15A Update. The  $F_{MSY}$  proxy is  $F_{30\%SPR}$ , or the fishing mortality that will produce a static spawning per recruit equal to 30 percent. The MSY definition in Amendment 41, allows future MSY numerical values to be updated following a stock assessment, SSC review and recommendation, and acceptance of that recommendation by the South Atlantic Council. Based on the SEDAR 15A Update and the new MSY definition, the resulting MSY for mutton snapper in the South Atlantic is 912,500 lb (413,903 kg).

Amendment 41 changes the MSST definition to 75 percent of the spawning stock biomass at MSY, which results in an MSST of 3,486,900 lb (1,581,631 kg). The SEDAR 15A Update estimated the natural mortality for mutton snapper at 0.17, and the MSST for mutton snapper in Amendment 41 is consistent with how the South Atlantic Council has defined MSST for other snapper-grouper stocks with similarly low natural mortality estimates.

#### *Recreational ACTs*

For mutton snapper in the South Atlantic, Amendment 41 specifies a revised recreational ACT (equal to 85 percent of the recreational ACL) of 98,708 fish for 2017. The recreational ACT is 103,121 fish for 2018, 106,051 fish for 2019, and 108,048 fish for 2020 and subsequent fishing years. NMFS notes that the revised recreational ACTs are used only for monitoring purposes and do not trigger a recreational accountability measure.

#### *Spawning Months*

Amendment 41 designates April through June as “spawning months” for mutton snapper in the South Atlantic. The rest of the year is the “regular season.” To protect spawning fish during April through June each year, the commercial trip limits apply to vessels with a Federal commercial permit for South Atlantic snapper-grouper. The South Atlantic Council considered additional recreational management measures specific to the spawning months but chose to reduce the bag limit year-round instead.

#### **Comments and Responses**

NMFS received 10 comments from individuals, commercial, private recreational, and charter vessel/headboat (for-hire) recreational fishing entities during the public comment period on the notice of availability and proposed rule for Amendment 41. Eight of the comments were in support of the actions in the proposed rule, with

commenters specifically citing the increase in the minimum size limit to 18 inches (45.7 cm), TL, and the reduced recreational bag limit of 5 fish per person per day within the 10-snapper aggregate bag limit. Comments that were beyond the scope of the proposed rule and comments that agreed with the proposed actions are not responded to in this final rule. Comments that specifically relate to the actions contained in Amendment 41 and the proposed rule, as well as NMFS' respective responses, are summarized below.

*Comment 1:* NMFS should not reduce the commercial trip limit to 5 fish per person or per trip during the spawning months of April through June, because it is too restrictive and economically burdensome. The commercial sector will not meet its ACL under current regulations, and instead a commercial trip limit of 25 or 30 fish per vessel should be implemented to limit commercial harvest.

*Response:* NMFS disagrees. Although mutton snapper is not overfished and is not undergoing overfishing, and commercial landings have not reached the commercial ACL in recent years, the SEDAR 15A Update, completed in 2015, concluded that the mutton snapper population is smaller than estimated in the original mutton snapper stock assessment, completed in 2008 (SEDAR 15A). Because the population is smaller, the South Atlantic and Gulf Councils' SSCs recommended a lower ABC. The Councils agreed with their SSCs' recommendation, and this final rule modifies management measures in the South Atlantic consistent with that lower ABC, including restricting commercial harvest during the critical spawning months for mutton snapper to 5 fish per person per day or per trip, whichever is more restrictive, during April through June each year. Furthermore, stakeholders and law enforcement personnel have stated their concerns to the South Atlantic Council about overexploitation of mutton snapper when the species is aggregated to spawn. The Florida Fish and Wildlife Conservation Commission (FWC) has received similar comments. Therefore, the South Atlantic Council also coordinated with the FWC to develop compatible regulations for mutton snapper in Florida state waters on the Atlantic coast and Federal waters to address those concerns and benefit the mutton snapper resource. The FWC has also adopted this change in their regulations for mutton snapper in Florida state waters on the Atlantic coast.

The South Atlantic Council did not consider a commercial trip limit of 25 or 30 fish per vessel during April through June each year in Amendment 41. Prior to this final rule, commercial harvest was limited to 10 mutton snapper per person per day or per trip during the May and June spawning season and no trip limit during April. In Amendment 41, the South Atlantic Council considered commercial trip limit alternatives ranging from no commercial retention to 5 fish per person per day or per trip, whichever was more restrictive, or 10 to 12 fish per vessel per day during the spawning months of April through June. The commercial trip limits implemented by this final rule will restrict commercial harvest during these critical spawning months for mutton snapper, and will also be similar to the recreational bag limit during the spawning months. Furthermore, the South Atlantic Council and NMFS determined that reducing the commercial trip limit to 5 fish per person or per trip during April through June each year, along with the other management measures in this final rule, best meet the purpose to ensure that mutton snapper is managed based on the best scientific information available to achieve and maintain OY, and to prevent overfishing, while minimizing adverse social and economic effects to the extent practicable.

From 2010 through 2014, the average commercial trip that landed mutton snapper harvested less than 5 mutton snapper per person per trip, and that average does not change when including logbook data collected by the NMFS Southeast Fisheries Science Center from landings and trips during 2015 and 2016. NMFS acknowledges that a business with a vessel that has landed more than 5 mutton snapper per person per trip during April through June could experience adverse economic impacts from the spawning season commercial trip limit, especially if that business has a history of intensifying effort during the spawning months. The fleet-wide decrease in ex-vessel value of mutton snapper landings expected to occur as a result of the 5 mutton snapper per person per trip limit during April through June is estimated to be \$23,567. Additionally, the reduction of the commercial trip limit during the spawning months from April through June, in combination with the 18-inch (46-cm), TL, minimum size limit would be biologically beneficial by reducing harvest and fishing mortality when the species is aggregated to spawn and most vulnerable to harvest. These measures are necessary to prevent harvest from

exceeding the commercial ACL in the future and improve economic benefits from the resource in the long-term.

*Comment 2:* The bag limit should be reduced to 2 or 3 fish per person per day instead of the 5 fish per person or per trip recreational limit, whichever is more restrictive.

*Response:* The South Atlantic Council considered a number of specific bag limit alternatives for mutton snapper, ranging from no retention to 12 mutton snapper per vessel per day during the spawning months. The recreational data from the Marine Recreational Information Program (MRIP) and the NMFS Southeast Region Headboat Survey during 2010 through 2014 show that most recreational fishermen (private and for-hire) in the South Atlantic region harvested 3 or fewer mutton snapper per day on recreational trips, year-round.

Limiting the harvest of mutton snapper during the spawning season through recreational bag limits is expected to be beneficial to mutton snapper, because they form spawning aggregations, which are particularly vulnerable to fishing pressure. The South Atlantic Council examined the effect of various bag or vessel limits and minimum size limit combinations in limiting recreational harvest of mutton snapper during the spawning months, regular season, and year-round. The analyses indicated that changes to the recreational bag limit would have little effect in constraining recreational harvest without additional measures being implemented.

The South Atlantic Council determined that a minimum size limit greater than the previous minimum size limit of 16 inches (41 cm), TL, in addition to a bag limit of 5 fish per person or per trip, whichever is more restrictive, would reduce year-round recreational harvest by approximately 50 percent. The increased minimum size limit and reduced recreational bag limit implemented by this final rule would also control the level of fishing mortality during the spawning season, without changing the expected level of discards. Additionally, setting the bag limit at 1, 2, or 3 fish per person per day would be expected to have larger and unnecessary negative economic effects, since mutton snapper are not currently undergoing overfishing and are not considered to be overfished.

Therefore, the South Atlantic Council determined that a recreational bag limit of 5 mutton snapper per person per day year-round within the existing 10-snapper aggregate bag limit, combined with the 18-inch (45.7-cm), TL, minimum size limit implemented

through this final rule, will make regulations for mutton snapper more consistent in state and Federal waters, address stakeholder concerns regarding overexploitation of the stock, benefit the mutton snapper resource by reducing harvest on spawning aggregations, and extend the recreational fishing season.

*Comment 3:* The commercial sector should have its ACL and trip limits reduced proportionally to align with the reductions being implemented for the recreational sector.

*Response:* The current sector allocations for mutton are 17.02 percent commercial and 82.98 percent recreational, and the South Atlantic Council revised management measures for each sector in Amendment 41 and this final rule. The SEDAR 15A Update concluded that the mutton snapper population is smaller than estimated in the original mutton snapper stock assessment, SEDAR 15A, and the SEDAR 15A Update resulted in lower biological reference point values and fishing level projections than those from SEDAR 15A. As a result, the South Atlantic Council chose a lower ABC for mutton snapper and modified existing management measures in both the commercial and recreational sectors to be consistent with that lower ABC. The ABC for mutton snapper in the South Atlantic initially decreases from previous levels beginning in 2017, and then increases annually through 2020, and then remains in effect at the 2020 level until subsequently modified by the South Atlantic Council.

The OY and total ACL are set equal to the South Atlantic portion of the mutton snapper ABC, and similar to the ABC values, in 2017, the commercial and recreational ACLs initially decrease proportionally from previous levels, and then the sector ACLs will gradually increase proportionally through 2020, and remain at the 2020 levels until modified by the South Atlantic Council. This final rule also increases the minimum size limit for South Atlantic mutton snapper for both the commercial and recreational sectors to 18 inches (45.7 cm), TL. The South Atlantic Council determined that increasing the minimum size limit for both sectors is the most effective change to management measures needed to achieve the reduction in overall harvest and maintain landings within the total ACL implemented by this final rule.

Amendment 41 designates April through June as spawning months for management purposes in both sectors. The rest of the year is the regular season. Prior to this final rule, the possession limit for the commercial sector was 10 per person per day or per

trip, whichever was more restrictive, only during May and June each year. This final rule implements a 500-lb (227-kg) commercial trip limit during the regular season, and a limit of 5 fish per person per day or per trip, whichever is more restrictive, during the spawning months of April through June. Prior to this final rule, the recreational bag limit for mutton snapper was 10 fish within the 10-snapper aggregate bag limit. This final rule implements a recreational bag limit of 5 fish per person per day within the 10-snapper aggregate bag limit, year-round. The revised management measures implemented by this final rule for both the commercial and recreational sectors will limit harvest of mutton snapper during the spawning months of April through June each year, as well as year-round, while meeting the objectives of the Snapper-Grouper FMP.

Amendment 41 and the measures implemented by this final rule are based on the best scientific information available and will effectively achieve and maintain OY and prevent overfishing while minimizing, to the extent practicable, adverse social and economic effects.

*Comment 4:* The harvest of mutton snapper should be prohibited during the spawning season, so fish have time to reproduce before they are caught.

*Response:* In Amendment 41, the South Atlantic Council evaluated numerous alternatives for commercial trip limits, and recreational bag and vessel limits, including no retention of mutton snapper during spawning months for the commercial and recreational sectors. The South Atlantic Council determined that choosing the no retention alternative was unnecessary. Prohibiting harvest during the spawning months would be biologically beneficial to the mutton snapper stock, since fish would not be subject to fishing mortality while they are in spawning condition. However, as stated in the response to *Comment 1*, mutton snapper is not overfished and is not undergoing overfishing. Prohibiting harvest during April through June each year was the most restrictive alternative considered by the South Atlantic Council and it would have resulted in the greatest negative socio-economic effects. In addition, recent commercial and recreational landings have been highest during the spawning months, on average, so prohibiting all harvest during these months could result in increased regulatory discards of mutton snapper when fishermen target other snapper-grouper species. Additionally, through Amendment 41, the South Atlantic Council coordinated with the

FWC to develop and recommend compatible regulations for mutton snapper in Florida state waters and Federal waters in the South Atlantic that address stakeholder concerns about the overexploitation of mutton snapper during spawning aggregations, and benefit the mutton snapper resource.

*Comment 5:* The 2015 assessment of mutton snapper indicated that the mutton snapper stock is not overfished or undergoing overfishing; therefore, the final rule should not be implemented.

*Response:* NMFS disagrees.

Amendment 41 and this final rule respond to the SEDAR 15A Update, which NMFS has determined is the best scientific information available. While the SEDAR 15A Update indicated that the mutton snapper stock is neither overfished nor undergoing overfishing, improvements to the modeling approach indicated that the population size is smaller than previously estimated. Amendment 41 and this final rule update the ABC, MSST, MSY, OY, ACL, and revise management measures for mutton snapper, based on the results of the SEDAR 15A Update.

Additionally, as stated in the response to *Comment 4*, there is stakeholder concern about fishing effort on mutton snapper spawning aggregations despite the healthy status of the mutton snapper stock, and this final rule implements additional protections for mutton snapper during the spawning season and year-round. As explained in the response to *Comment 1*, these management measures are needed to maintain sustainable harvest levels and economic benefits in the long-term.

#### Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with Amendment 41, the Snapper-Grouper FMP, the Magnuson-Stevens Act, and other applicable law.

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

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant adverse economic impact on a substantial number of small entities. The factual

basis for this determination was published in the proposed rule and is not repeated here. No changes to this final rule were made in response to public comments. As a result, a final regulatory flexibility analysis was not required and none was prepared.

NMFS did not receive any comments specific to the certification that there would not be a significant economic impact on a substantial number of small entities. However, NMFS received one public comment related to the economic impact of the commercial trip limit reduction to 5 mutton snapper per person per day or per trip, whichever is more restrictive, during the mutton snapper spawning months of April through June. That comment, also addressed in *Comment 1* of the Comments and Responses section, stated the commercial trip limit reduction would be too restrictive and economically burdensome. Prior to this final rule, there was a commercial trip limit of 10 mutton snapper per person per day or per trip, whichever was more restrictive, during May and June each year, and no trip limit in April. From 2010 through 2014, the average commercial trip that landed mutton snapper harvested less than 5 mutton snapper per person per trip, and that figure does not change when landings and trips from 2015 through 2016 are included. NMFS acknowledges that a business with a vessel that has landed more than 5 mutton snapper per person during a trip in April through June could experience adverse economic impacts from the commercial trip limit in this final rule, especially if that business has a history of increased effort during these spawning months. However, that would not change the determination that this rule will not have a significant adverse economic impact on a substantial number of small entities.

#### List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Mutton snapper, South Atlantic.

Dated: January 5, 2018.

**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.*

#### § 622.184 [Amended]

- 2. In § 622.184, remove and reserve paragraph (b).
- 3. In § 622.185, revise paragraph (a)(4) to read as follows:

#### § 622.185 Size limits.

\* \* \* \* \*

(a) \* \* \*

(4) *Mutton snapper*—18 inches (45.7 cm), TL.

\* \* \* \* \*

- 4. In § 622.187, revise paragraph (b)(4) to read as follows:

#### § 622.187 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(4) *Snappers, combined*—10.

(i) Within the 10-fish bag limit, no more than 5 fish may be mutton snapper.

(ii) Excluded from this 10-fish bag limit are cubera snapper, measuring 30 inches (76.2 cm), TL, or larger, in the South Atlantic off Florida, and red snapper and vermilion snapper. (See § 622.181(b)(2) for the prohibitions on harvest or possession of red snapper, except during a limited recreational fishing season, and § 622.181(c)(1) for limitations on cubera snapper measuring 30 inches (76.2 cm), TL, or larger, in or from the South Atlantic EEZ off Florida.)

\* \* \* \* \*

- 5. In § 622.191, add paragraph (a)(13) to read as follows:

#### § 622.191 Commercial trip limits.

\* \* \* \* \*

(a) \* \* \*

(13) *Mutton snapper*. The following commercial trip limits apply until the applicable commercial ACL in § 622.193(o)(1)(iii) is reached. See § 622.193(o)(1) for the limitations regarding mutton snapper after the commercial ACL is reached.

(i) From January 1 through March 31, and July 1 through December 31—500 lb (227 kg), round weight.

(ii) From April 1 through June 30—5 fish per person per day or 5 fish per person per trip, whichever is more restrictive.

\* \* \* \* \*

- 7. In § 622.193, revise paragraph (o) to read as follows:

#### § 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

\* \* \* \* \*

(o) *Mutton snapper*—(1) *Commercial sector*. (i) If commercial landings for

mutton snapper, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL specified in paragraph (o)(1)(iii) of this section, 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. On and after the effective date of such a notification, all sale or purchase of mutton snapper is prohibited and harvest or possession of mutton snapper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or 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.

(ii) If commercial landings for mutton snapper, as estimated by the SRD, exceed the applicable commercial ACL specified in paragraph (o)(1)(iii) of this section, and the applicable combined commercial and recreational ACL specified in paragraph (o)(3) of this section is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of

the commercial ACL overage in the prior fishing year.

(iii) The commercial ACLs for the following fishing years are given in round weight. For 2017—100,015 lb (45,366 kg); for 2018—104,231 lb (47,278 kg); for 2019—107,981 lb (48,979 kg); for 2020 and subsequent fishing years—111,354 lb (50,509 kg).

(2) *Recreational sector.* (i) If recreational landings for mutton snapper, as estimated by the SRD, reach or are projected to reach the applicable recreational ACL specified in paragraph (o)(2)(iii) of this section, 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 regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for mutton snapper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for mutton snapper, as estimated by the SRD, exceed the applicable recreational ACL specified in paragraph (o)(2)(iii) of this section, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing

season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the applicable combined commercial and recreational ACL specified in paragraph (o)(3) of this section is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for mutton snapper in or from the South Atlantic EEZ are zero.

(iii) The recreational ACLs for the following fishing years are given in numbers of fish. For 2017—116,127; for 2018—121,318; for 2019—124,766; for 2020 and subsequent fishing years—127,115.

(3) *Combined commercial and recreational ACL.* The combined commercial and recreational ACLs for the following fishing years are given in round weight. For 2017—587,633 lb (266,546 kg); for 2018—612,401 lb (277,780 kg); for 2019—634,435 lb (287,775 kg); for 2020 and subsequent fishing years—654,257 lb (296,766 kg).

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[FR Doc. 2018-00313 Filed 1-10-18; 8:45 am]

**BILLING CODE 3510-22-P**