

made entirely of sinking line. Floating groundlines are prohibited. \* \* \*

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(2) *Trap/pot gear*—(i) *Groundlines*.

All groundlines must be made entirely of sinking line. Floating groundlines are prohibited. \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

RIN 0648–AU28

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 14

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

**ACTION:** Notice of Availability of an amendment to a fishery management plan; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) has submitted Amendment 14 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. The amendment would establish eight Type 2 marine protected areas (MPAs) in which fishing for or possession of snapper-grouper species would be prohibited, but other types of legal fishing would be allowed. The MPAs would be located in the following areas: one off southern North Carolina, three off South Carolina, one off Georgia, and three off Florida, and range from 5 by 10 nautical miles to 22 by 23 nautical miles in area. Amendment 14 also proposes to prohibit the use of shark bottom longlines within the MPAs, however, NMFS is proposing to implement the prohibition of shark bottom longlines through separate rulemaking. If implemented, these measures are expected to enhance the optimum size, age and genetic structure of slow growing long-lived deepwater grouper species.

**DATES:** Written comments will be accepted through August 5, 2008.

**ADDRESSES:** You may submit comments, identified by 0648–AU28, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- Fax: 727–824–5308, Attn: Kate Michie.

- Mail: Kate Michie, NMFS Southeast Regional Office, Sustainable Fisheries Division, 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.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. Copies of Amendment 14 may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, South Carolina 29405; phone: 843–571–4366 or toll free at 1–866–SAFMC–10; fax: 843–769–4520; e-mail: [safmc@safmc.net](mailto:safmc@safmc.net). Amendment 14 includes a Final Environmental Impact Statement, a Biological Assessment, an Initial Regulatory Flexibility Analysis, a Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council; toll free 1–866–SAFMC–10 or 843–571–4366; [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

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

The Magnuson-Stevens Act requires a regional fishery management council to submit an amendment to a fishery management plan to NMFS for review, approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, publish a notice in the **Federal Register** stating that the amendment is available for public review and comments.

#### Background

Many snapper-grouper species are vulnerable to overfishing because they

are long-lived (e.g., snowy grouper, golden tilefish, red snapper, gag, scamp, red grouper, and red porgy); they are protogynous, i.e., they may change sex from females to males as they grow older/larger (e.g., snowy grouper, speckled hind, Warsaw grouper, yellowedge grouper, gag, scamp, red porgy, and black sea bass); they form spawning aggregations (e.g., snowy grouper, gag, scamp, and red snapper); and they suffer high release mortality when taken from deep water. Deepwater snapper-grouper species (speckled hind, snowy grouper, Warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, and blueline tilefish) are most vulnerable to overfishing because they live longer than 50 years, do not survive the trauma of capture, and are protogynous (groupers) or exhibit sexual dimorphism, i.e., males and females grow at different rates (tilefishes).

Stock assessments indicate that black sea bass, red porgy, and snowy grouper are overfished, i.e., spawning stock biomass is not sufficient to reproduce and support continued productivity. In addition, black sea bass, golden tilefish, snowy grouper, and vermilion snapper are experiencing overfishing, i.e., the current rate of fishing mortality jeopardizes the capacity of the fishery to produce its maximum sustainable yield on a continuing basis. Reductions in catch and protection of habitat are needed.

#### Proposed Measures

This amendment and its implementing rule would establish eight MPAs in which a portion of the population and habitat of long-lived, slow growing, deepwater snapper-grouper species would be protected from directed fishing pressure. Fishing for or possession of South Atlantic snapper-grouper would be prohibited in the MPAs. However, the prohibition on possession would not apply to a person aboard a vessel that is in transit with fishing gear appropriately stowed. MPAs are considered to be an effective fishery management tool that would allow deepwater snapper-grouper to reach a more natural sex ratio, age, and size structure. They are also expected to protect spawning locations, and provide a refuge for early developmental stages of fish species.

The prohibition of use of shark bottom longlines in the MPAs is considered necessary for habitat protection and to prevent the mortality of incidentally caught snapper-grouper. The Council voted to include this measure in an effort to address enforcement concerns regarding the similarity between snapper-grouper

bottom longline gear and shark bottom longline gear, which is also currently used in the subject areas. However, because the Atlantic shark fishery is managed under the Highly Migratory Species (HMS) fishery management plan (HMS FMP), NMFS has requested the HMS Division promulgate the prohibition of use of shark bottom longlines within the proposed MPAs. With an effort to implement compatible regulations on a similar timeline, the HMS Division published a proposed rule on July 27, 2007 (72 FR 41392), to prohibit shark bottom longlining in the MPAs through Amendment 2 to the consolidated HMS FMP. Public comment on Amendment 2 was requested through October 10, 2007. In a notice published October 23, 2007 (72 FR 56330), NMFS extended public comment on Amendment 2 through November 2, 2007. The public comment period for Amendment 2 was extended an additional 30 days on November 15, 2007 (72 FR 64186). The final Environmental Impact Statement (EIS) was published on April 18, 2008, with the prohibition on the use of shark bottom longlines as the preferred alternative. If Amendment 2 is approved, implementation of the shark bottom longline prohibition would occur after a final rule is published by the HMS Division.

The Council defines MPAs within its jurisdiction as a network of specific areas of marine environments reserved and managed for the primary purpose of aiding in the recovery of overfished stocks and to insure the persistence of healthy fish stocks, fisheries, and habitats. Such areas may be over natural or artificial bottom and may include prohibition of harvest indefinitely to accomplish needed conservation goals. The Council recognizes that there may be a positive impact from the designation of the proposed sites to non-

deepwater species, which may co-occur, such as vermilion snapper, red porgy, and gag.

#### MPA Locations

Using input received from the fishing industry; scientific, academic, and environmental communities; and law enforcement personnel, the Council selected specific sites for MPAs on the basis of maximizing the biological benefits and enhancing enforceability and monitoring while minimizing the adverse social and economic effects. Sizes of the MPAs would range from approximately 5 by 10 nautical miles (nm) to approximately 22 by 23 nm. One would be off North Carolina, three off South Carolina, one off Georgia, and three off the east coast of Florida. An artificial reef may be established at one of the South Carolina sites. The two most southern MPAs would be approximately 9 and 13 nm offshore, respectively, and the others at least 38 nm offshore.

#### MPA Types Considered

The following types of actions are available to the Council for designating MPAs, and the complete suite of alternatives considered are discussed in the Environmental Impact Statement for Amendment 14.

Type 1 - Permanent closure/no-take

Type 2 - Permanent closure/some take allowed

Type 3 - Limited duration closure/no-take

Type 4 - Limited duration closure/some take allowed

Based on input received from the fishing industry; scientific, academic, and environmental communities; and law enforcement personnel, the Council has determined that Type 2 management actions would be effective in meeting the conservation goal of protecting deepwater snapper-groupers

species, while limiting adverse social and economic impact on the fishing community.

#### Availability of Amendment 14

Additional background and rationale for the measures discussed above are contained in Amendment 14.

#### Proposed Rule

A proposed rule that would implement the measures in Amendment 14 has been received from the Council. 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

Comments received by August 5, 2008, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 14. Comments received after that date will not be considered by NMFS in this decision. To be considered, comments must be received by 5 p.m. on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date. All comments received by NMFS on Amendment 14 or the proposed rule during their respective comment periods will be addressed in the preamble of the final rule.

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

Dated: June 2, 2008

**Emily H. Menashes**

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