

States may not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided such Pacific bluefin tuna is landed within 14 days after the effective date published in the fishing closure notice.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 161020986-7012-01]

RIN 0648-BG38

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 36

**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 36 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would modify the FMP framework procedures to allow spawning special management zones (SMZs) to be established or modified through the framework process; establish spawning SMZs off North Carolina, South Carolina, and Florida; establish transit and anchoring provisions in the spawning SMZs; and establish a sunset provision for most of the spawning SMZs. This proposed rule would also move the boundary of the existing Charleston Deep Artificial Reef Marine Protected Area (MPA). The purpose of this proposed rule is to protect spawning snapper-grouper species and their spawning habitat, and to reduce bycatch and bycatch mortality for snapper-grouper species, including speckled hind and warsaw grouper.

**DATES:** Written comments on the proposed rule must be received by February 17, 2017.

**ADDRESSES:** You may submit comments on the proposed rule, identified by “NOAA-NMFS-2016-0153,” by either of the following methods:

- **Electronic submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0153](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0153), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Frank Helies, NMFS Southeast Regional Office, 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](http://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 required fields if you wish to remain anonymous).

Electronic copies of Amendment 36 may be obtained from [www.regulations.gov](http://www.regulations.gov) or the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>. Amendment 36 includes an environmental assessment, Regulatory Flexibility Act (RFA) analysis, regulatory impact review, and fishery impact statement.

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

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery in the South Atlantic region is managed under the FMP and includes speckled hind and warsaw grouper, along with other snapper-grouper species. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### Background

The Council developed Amendment 36 to protect spawning snapper-grouper species and their spawning habitat by prohibiting fishing for or harvest of snapper-grouper species in certain areas

year-round in Federal waters of the South Atlantic. Areas designated for protection would include habitat characteristics, bottom topography (hard and live bottom), and currents that provide essential fish habitat important for spawning snapper-grouper species. The Council determined that protecting spawning snapper-grouper and their associated habitats would allow these species to produce more larvae, and may subsequently increase snapper-grouper populations.

The Council also developed Amendment 36 to reduce bycatch and bycatch mortality of snapper-grouper species, including speckled hind and warsaw grouper. The snapper-grouper fishery in the South Atlantic is a highly regulated, multi-species fishery. Discards in the fishery can occur due to regulations, such as closed seasons, possession or size limits, or from catch and release of these species. For snapper-grouper species prohibited from harvest, such as speckled hind and warsaw grouper, fish discarded due to regulations are considered bycatch. The deep-water snapper-grouper species are further impacted due to high discard mortality rates (low survivability due to barotrauma). The Council concluded that prohibiting the use of certain fishing gear in specified areas where snapper-grouper are known to occur and possibly spawn would reduce encounters with these species and subsequently provide protection for reproduction. Spawning SMZs could provide long-term beneficial biological and socio-economic effects if spawning fish are sufficiently protected.

The Council has identified a total of five areas proposed to be considered as spawning SMZs in the South Atlantic off North Carolina, South Carolina, and Florida. These areas have been identified based on the documented occurrence of snapper-grouper species and analysis of spawning data, recommendations from the Council’s MPA Expert Work Group and Snapper-Grouper Advisory Panel, as well as cooperative research and public recommendations.

Amendment 36 also contains a 10-year sunset provision that would apply to most of the proposed spawning SMZs. The sunset provision would allow for most of the spawning SMZs to expire 10 years following the implementation date unless they are renewed. When deciding whether to renew a spawning SMZ, the Council may consider the evidence of spawning by snapper-grouper species in the spawning SMZ and whether a spawning SMZ is being monitored. The Council concluded that a 10-year sunset

provision would help to ensure that spawning SMZs are monitored and evaluated during this period to document snapper-grouper spawning within the sites.

The Council developed a system management plan (SMP) for the spawning SMZs proposed in Amendment 36. The SMP describes in detail the monitoring and evaluation requirements for the proposed spawning SMZs. The Council recognizes that monitoring the proposed spawning SMZs by academic, state, or NMFS personnel is necessary to evaluate their effectiveness. Therefore, the SMP outlines the potential monitoring partners and their roles.

In addition to the spawning SMZs proposed for a similar purpose through Amendment 36, the Council originally designated the Charleston Deep Artificial Reef MPA, located off South Carolina, in Amendment 14 to the Snapper-Grouper FMP (74 FR 1621, January 13, 2009) to add protected snapper-grouper habitat and contribute to adding fish biomass. Recently, the State of South Carolina worked with the U.S. Army Corps of Engineers to modify the boundary of this site to include additional substrate material that was sunk by the state in the area of this MPA. The State of South Carolina requested the Council shift the boundary of the existing Charleston Deep Artificial Reef MPA to match the new boundary of the artificial reef site. This proposed rule would align the Charleston Deep Artificial Reef MPA boundary with the site permitted by the U.S. Army Corps of Engineers, while retaining the size of the current MPA. This proposed rule would move the existing boundary around the Charleston Deep Artificial Reef MPA 1.4 mi (2.3 km) to the northwest.

#### **Management Measures Contained in This Proposed Rule**

This proposed rule would modify the FMP framework procedures to allow spawning SMZs to be established or modified through the framework process; establish spawning SMZs off North Carolina, South Carolina, and Florida; establish transit and anchoring provisions in the spawning SMZs; establish a sunset provision for most of the spawning SMZs; and move the existing Charleston Deep Artificial Reef MPA 1.4 mi (2.3 km) northwest to match the permitted site boundary.

#### *Modify the FMP Framework Procedures for Spawning SMZs*

Amending the FMP can require more detailed analyses and requires a lengthier prescribed timeline prior to

implementation. However, the current FMP contains framework procedures to allow the Council to modify certain management measures, such as annual catch limits and other management measures, via an expedited process (see 50 CFR 622.194; 56 FR 56016, October 31, 1991). Currently, SMZs cannot be modified under the framework process, so any changes to SMZs are required to be done through an FMP amendment. In Amendment 36 and this proposed rule, the Council has decided to include changes to spawning SMZs, such as boundary modifications and the establishment or removal of spawning SMZs, under the framework process. For example, this proposed rule would allow the Council to remove a spawning SMZ if monitoring efforts do not document evidence of spawning snapper-grouper species within the boundary. The proposed revisions to the FMP framework procedures would also allow the Council to remove the proposed 10-year sunset provision for a proposed spawning SMZ if monitoring efforts document snapper-grouper species' spawning inside a spawning SMZ. The Council has decided that changing spawning SMZs through an expedited process can have beneficial biological and socio-economic impacts, especially if the changes respond to newer information, such as spawning locations for snapper-grouper species. The Council has concluded that the framework process will allow adequate time for the public to comment on any proposed change related to a spawning SMZ.

#### *Establish Spawning SMZs Off North Carolina, South Carolina, and Florida*

The existing South Atlantic SMZs restrict the use of certain fishing gear in areas including artificial reefs, fish attraction devices, and other modified areas of habitat for fishing (50 CFR 622.182). Possession limits can also be regulated in SMZs. The original FMP established SMZs for artificial reefs to restrict certain fishing gear on artificial reefs (48 FR 49463, August 31, 1983). Currently, there are no spawning SMZs for snapper-grouper in the South Atlantic. The Council is proposing to establish five snapper-grouper spawning SMZs in the South Atlantic off North Carolina, South Carolina, and Florida. The proposed spawning SMZ off North Carolina would be called South Cape Lookout (5.1 sq mi; 13.2 sq km). The Council is proposing three spawning SMZs off South Carolina that would be called Devil's Hole/Georgetown Hole (3.03 sq mi; 7.8 sq km), Area 51 (approximately 3 sq mi; 7.8 sq km), and Area 53 (approximately 3 sq mi; 7.8 sq

km). The proposed spawning SMZ off the east coast of the Florida Keys would be called Warsaw Hole/50 Fathom Hole (3.64 sq mi; 9.4 sq km).

This proposed rule would prohibit fishing for or harvest of snapper-grouper species year-round in the proposed spawning SMZs. Certain other activities in the spawning SMZs would be restricted, including transiting with snapper-grouper species on board and anchoring.

Another purpose of spawning SMZs is to reduce bycatch and bycatch mortality of snapper-grouper species, including speckled hind and warsaw grouper. Currently, retention of speckled hind and warsaw grouper is prohibited in Federal waters in the South Atlantic. Prohibiting the targeting or harvest of snapper-grouper species in specified areas where these species are known to occur and possibly spawn would reduce encounters with these deep-water species and provide protection for reproduction. The Council concluded that protecting snapper-grouper species within the spawning SMZs could enhance the opportunity for these species to reproduce and provide more larvae into the environment. Spawning SMZs would also allow opportunities to monitor population changes in snapper-grouper species and further refine protection of spawning habitat.

#### *Establish Transit and Anchoring Provisions in Spawning SMZs*

This proposed rule would allow vessels to transit through the proposed spawning SMZs with snapper-grouper species on board when fishing gear is properly stowed. "Properly stowed" means that trawl or try nets and the attached doors must be out of the water, but would not be required to be on deck or secured below deck. Terminal gear (hook, leader, sinker, flasher, or bait) used with automatic reels, bandit gear, buoy gear, handline, or rod and reel would have to be disconnected and stowed separately from such fishing gear and sinkers would have to be disconnected from down riggers and stowed separately. Vessels in the spawning SMZs would be prohibited from fishing for, harvest, or possession of snapper-grouper species year-round in these areas. Except for the experimental artificial reefs Area 51 and Area 53 off South Carolina, persons on board a fishing vessel would not be allowed to anchor, use an anchor or chain, or use a grapple and chain while in spawning SMZs. Fishermen would continue to be allowed to troll for pelagic species such as dolphin, tuna, and billfish in spawning SMZs.

### *Establish a Sunset Provision for Most Spawning SMZs*

This proposed rule would implement a 10-year sunset provision for the establishment of the spawning SMZs, except for the Area 51 and Area 53 Spawning SMZs, which will remain in effect indefinitely. Thus, except for the latter two areas, the proposed spawning SMZs and their associated management measures would be effective for 10 years following the implementation of a final rule for Amendment 36. For the proposed spawning SMZs and management measures subject to the sunset provision to extend beyond 10 years, the Council would need to evaluate the effectiveness of the spawning SMZs for conserving and protecting spawning snapper-grouper species, and subsequently take further action. The Council will regularly evaluate all of the spawning SMZs over the 10-year period. They concluded that this period was an appropriate timeframe to monitor the sites and determine whether a sufficient level of spawning by snapper-grouper species occurs to justify continued protection as spawning SMZs.

### *Move the Existing Charleston Deep Artificial Reef MPA*

This proposed rule would move the existing Charleston Deep Artificial Reef MPA 1.4 mi (2.3 km) northwest to match the boundary of the U.S. Army Corps of Engineers' permitted artificial reef area at that location. This proposed rule would not change the size of the existing MPA. The Council originally designated the current area as an artificial reef site in Amendment 14. The State of South Carolina has worked with the U.S. Army Corps of Engineers to modify the boundary of this site to include material recently sunk by the state in the area and has requested that the Council shift their boundary of the existing Charleston Deep Artificial Reef MPA to match the new boundary of the U.S. Army Corps of Engineers' permitted artificial reef area.

### **Management Measure Contained in Amendment 36 but Not in This Proposed Rule**

In addition to the management measures that this proposed rule would implement, Amendment 36 includes an action to modify the SMZ procedures in the FMP to allow for the designation of spawning SMZs. The Council would be able to designate important spawning areas as spawning SMZs to provide additional protection to some existing Essential Fish Habitat-Habitat Areas of Particular Concern for snapper-grouper

species. The Council concluded that designating areas as spawning SMZs is important to protect snapper-grouper species and habitat where snapper-grouper species spawn. Furthermore, the Council concluded that the designation of spawning SMZ sites in this proposed rule, and subsequent changes to regulations, would enhance reproduction for snapper-grouper species and thus increase the number of larvae that are produced by the species.

### **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 Amendment 36, the FMP, 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.

The Chief Counsel for Regulation of the Department of Commerce certifies to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

This proposed rule would apply to all federally-permitted commercial vessels, federally-permitted charter vessels and headboats (for-hire vessels), and private recreational anglers that fish for or harvest any of the species managed under the FMP in Federal waters. The RFA does not consider recreational anglers to be small entities, thus they are outside the scope of this analysis; only the effects on commercial and for-hire vessels will be analyzed.

As of May 25, 2016, there were 552 valid or renewable Federal South Atlantic snapper-grouper unlimited permits and 116 valid or renewable 225-lb (102.1-kg) trip-limited permits. Each of these commercial permits is associated with an individual vessel. Data from the years of 2010 through 2014 were used in Amendment 36 and these data provided the basis for the Council's decision. Although this proposed rule would apply to all commercial snapper-grouper Federal permit holders, it is expected that the vessels that harvest the species NMFS assumes to be most commonly

harvested within the proposed spawning SMZ areas would be most likely to be affected. These species include red porgy, vermilion snapper, scamp, greater amberjack, blueline tilefish, gag, and red grouper. On average from 2010 through 2014, there were 438 federally-permitted commercial vessels with reported landings of one or more of these species. Their average annual vessel-level revenue from all species for 2010 through 2014 was approximately \$47,000 (2014 dollars). In 2014, the maximum annual revenue reported by a single one of these vessels was approximately \$1 million (2014 dollars).

As of May 25, 2016, there were 1,502 valid Federal charter vessel/headboat (for-hire) permits for South Atlantic snapper-grouper. Although the for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a charter vessel or a headboat and vessels may operate in both capacities. However, only federally-permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fishery Science Center that the vessel primarily operates as a headboat. As of February 22, 2016, 73 South Atlantic headboats were registered in the SRHS. As a result, the estimated 1,502 for-hire vessels that may be affected by this proposed rule are expected to consist of 1,429 charter vessels and 73 headboats. The average charter vessel is estimated to receive approximately \$117,000 (2014 dollars) in annual revenue. The average headboat is estimated to receive approximately \$207,000 (2014 dollars) in annual revenue.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. All of the commercial vessels directly regulated by this proposed rule are believed to be small entities based on the NMFS size standard.

The SBA has established size standards for all major industry sectors in the U.S. including for-hire businesses (NAICS code 487210). A business

primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$7.5 million for all its affiliated operations worldwide. All of the for-hire vessels directly regulated by this proposed rule are believed to be small entities based on the SBA size criteria.

No other small entities that would be directly affected by this proposed rule have been identified.

There are currently 668 commercial vessels eligible to fish for the snapper-grouper species managed under the FMP. Based on the analysis included in Amendment 36, NMFS expects 438 of these vessels would be affected by this proposed rule (approximately 66 percent). In addition, there are 1,502 for-hire vessels eligible to fish for snapper-grouper species, all of which have the potential to be affected by this proposed rule. Because all of these commercial and for-hire fishing businesses are believed to be small entities, the issue of disproportionate effects on small versus large entities does not arise in the present case.

Amendment 36 would modify the SMZ procedures in the FMP to include protection of any area important for snapper-grouper spawning, including natural habitat, by designating spawning SMZs. Amendment 36 and this proposed rule would also modify the framework procedures for the FMP to include modifying or establishing spawning SMZs. These procedural changes would allow the Council to create or modify spawning SMZs, including areas of natural habitat, under the FMP framework process. However, the procedural changes to allow the Council to create or modify spawning SMZs would not directly regulate, nor restrict access to specific fishing grounds. As such, they would not be expected to directly affect the small entities identified in this analysis.

In addition to the procedural changes described above, this proposed rule would create specific spawning SMZs off North Carolina, South Carolina, and the east coast of Florida. Within each proposed spawning SMZ, fishing for, harvest, or possession of snapper-grouper species would be prohibited year-round. In addition, this proposed rule would move the existing Charleston Deep Artificial Reef MPA 1.4 mi (2.3 km) to the northwest to match the boundary of the U.S. Army Corps of Engineers' permitted artificial reef area. The size of the MPA would remain the same. No spawning SMZ would be

designated off Georgia. This proposed rule would allow vessels in possession of snapper-grouper species to transit through spawning SMZs as long as their fishing gear is properly stowed; however, anchoring would be prohibited in all spawning SMZs, except for Area 51 and Area 53.

The proposed 5.1-sq mi (13.2-sq km) South Cape Lookout Spawning SMZ off North Carolina is estimated to result in an annual decrease in total commercial ex-vessel revenues of \$588 (2014 dollars), assuming commercial vessels are unable to substitute landings from other areas. The proposed 3.03-sq mi (7.8-sq km) Devil's Hole/Georgetown Hole Spawning SMZ off South Carolina is estimated to result in an annual decrease in total ex-vessel revenue of \$86 (2014 dollars) using the same assumptions. Designation of the artificial reef sites, Area 51 and Area 53 (each 2.99 sq mi, 7.8 sq km), off South Carolina as spawning SMZs is not expected to affect ex-vessel revenue, because these artificial habitat locations were previously undisclosed to the public, and it is assumed there is very little fishing activity occurring there. The 3.6-sq mi (9.4-sq km) Warsaw Hole/50 Fathom Hole Spawning SMZ off the east coast of Florida is estimated to reduce total annual ex-vessel revenue by \$931 (2014 dollars). Again, this estimate assumes that commercial vessels will not substitute landings from other areas for the landings that are displaced by the spawning SMZs. For the proposed change to the Charleston Deep Artificial Reef MPA, because the size of the MPA would remain the same and there is little known fishing effort occurring near the existing MPA boundary, it is not expected to have a measurable effect on commercial ex-vessel revenue.

When all of the proposed spawning SMZs are analyzed together, they are estimated to result in an annual decrease in ex-vessel revenue of \$1,605 (2014 dollars). Divided across all of the commercial vessels expected to be affected by this proposed rule, this would result in a per-vessel annual decrease of only \$4. Even if the entire estimated reduction in revenue was borne by a single commercial vessel, it would represent a less than 4 percent reduction in total ex-vessel revenue on average. The model employed in this analysis assumed uniformly distributed effort within each logbook-reported area and did not account for potential redistribution of effort after each closure. If fishermen are harvesting species within the proposed spawning SMZ areas at a much higher rate than elsewhere in the South Atlantic, the effects of these closures on ex-vessel

revenue could be more substantial. Nevertheless, based on the small size of each area and the high likelihood that commercial vessels would substitute landings in other areas, it is assumed that any reduction in ex-vessel revenue from this proposed rule would be minimal. Also, because transit would be permitted through the spawning SMZs, any impact to travel costs resulting from the proposed rule is expected to be minimal as well. Finally, because commercial vessels would not be allowed to fish for snapper-grouper species in the spawning SMZs, the prohibition on anchoring would not be expected to result in any additional adverse economic effects.

With respect to for-hire businesses, the spawning SMZs in this proposed rule would place restrictions on where charter vessels and headboats can take paying customers but would not directly alter the services sold by these vessels. Therefore, direct effects on for-hire vessels resulting from this proposed rule would be limited to potential increases in travel time and fuel consumption from having to change their usual fishing locations, travel around the proposed spawning SMZs, or transit through them with their gear properly stowed. Because of the small size of the proposed spawning SMZs relative to all available fishing grounds, their substantial distance from shore, and the negligible amount of harvest from for-hire vessels estimated to occur in those areas, this proposed rule is not expected to have a measurable effect on for-hire vessel costs. With respect to potential changes in for-hire revenue, any impact that results from the proposed spawning SMZs would be a consequence of a change in recreational angler demand for for-hire services and, therefore, an indirect effect of the proposed rule. Because these potential revenue effects are indirect, they fall outside the scope of the RFA.

Finally, the sunset provision contained in this proposed rule would remove most of the spawning SMZs 10 years after implementation if not reauthorized by the Council, except for the Area 51 and Area 53 Spawning SMZs, which would remain. Although this sunset provision sets a deadline for evaluating the success of spawning SMZs and reauthorizing them, it is not expected to directly influence the duration of each spawning SMZ, because the Council would have the authority to modify the spawning SMZs at any time through the FMP framework procedures as described in this proposed rule. Therefore, the sunset provision would not be expected to

directly affect commercial or for-hire fishing businesses.

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 proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

The information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

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

Fisheries, Fishing, Marine protected area, South Atlantic, Special management zone.

Dated: January 10, 2017.

**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 proposed to be 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.*

■ 2. In § 622.183, revise the table in paragraph (a)(1)(i)(D) and add paragraph (a)(2) to read as follows:

**§ 622.183 Area and seasonal closures.**

- (a) \* \* \*
- (1) \* \* \*
- (i) \* \* \*
- (D) \* \* \*

Point	North lat.	West long.
A .....	32°05.04' .....	79°13.575'.
B .....	32°09.65' .....	79°09.2'.
C .....	32°07.155' .....	79°05.595'.
D .....	32°02.36' .....	79°09.975'.
A .....	32°05.04' .....	79°13.575'.

\* \* \* \* \*

(2) *Spawning SMZs.* (i) Any fishing vessel in a spawning SMZ is prohibited to fish for or harvest species in the snapper-grouper fishery management unit year-round. For a fishing vessel to possess snapper-grouper species on board while in a spawning SMZ, the vessel must be in transit and fishing

gear must be appropriately stowed, as specified in paragraph (a)(2)(vii) of this section. Except for spawning SMZs of Area 51 and Area 53, the spawning SMZs in this paragraph are effective until [date 10 years and 30 days from the publication of the final rule in the **Federal Register**]. A person on board a fishing vessel may not anchor, use an anchor and chain, or use a grapple and chain while in the spawning SMZs specified in paragraph (a)(2) of this section. The anchoring prohibition does not apply to fishing vessels in the spawning SMZs of Area 51 and Area 53.

(ii) *South Cape Lookout Spawning SMZ* is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A .....	33°53.040' ...	76°28.617'.
B .....	33°52.019' ...	76°27.798'.
C .....	33°49.946' ...	76°30.627'.
D .....	33°51.041' ...	76°31.424'.
A .....	33°53.040' ...	76°28.617'.

(iii) *Devil's Hole/Georgetown Hole Spawning SMZ* is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A .....	32°34.311' ...	78°33.220'.
B .....	32°34.311' ...	78°34.996'.
C .....	32°32.748' ...	78°34.996'.
D .....	32°32.748' ...	78°33.220'.
A .....	32°34.311' ...	78°33.220'.

(iv) *Area 51 Spawning SMZ* is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A .....	32°35.25' .....	79°28.6'.
B .....	32°35.25' .....	79°27'.
C .....	32°33.75' .....	79°27'.
D .....	32°33.75' .....	79°28.6'.
A .....	32°35.25' .....	79°28.6'.

(v) *Area 53 Spawning SMZ* is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A .....	32°22.65' .....	79°22.25'.
B .....	32°22.65' .....	79°20.5'.
C .....	32°21.15' .....	79°20.5'.
D .....	32°21.15' .....	79°22.25'.
A .....	32°22.65' .....	79°22.25'.

(vi) *Warsaw Hole/50 Fathom Hole Spawning SMZ* is bounded by rhumb lines connecting, in order, the following points:

Points	North lat.	West long.
A .....	24°22.277' ...	82°20.417'.
B .....	24°22.277' ...	82°18.215'.
C .....	24°20.932' ...	82°18.215'.
D .....	24°20.932' ...	82°20.417'.
A .....	24°22.277' ...	82°20.417'.

(vii) For the purpose of paragraph (a)(2)(i) of this section, transit means direct, non-stop progression through the spawning SMZ. Fishing gear appropriately stowed means—

(A) A longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck.

(B) Trawl doors and nets must be out of the water, but the doors are not required to be on deck or secured on or below deck.

(C) A gillnet, stab net, or trammel net must be left on the drum. Any additional such nets not attached to the drum must be stowed below deck.

(D) Terminal gear (*i.e.*, hook, leader, sinker, flasher, or bait) used with an automatic reel, bandit gear, buoy gear, handline, or rod and reel must be disconnected and stowed separately from such fishing gear. Sinkers must be disconnected from the down rigger and stowed separately.

(E) A crustacean trap, golden crab trap, or sea bass pot cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck.

\* \* \* \* \*

■ 3. In § 622.194, revise paragraph (a) to read as follows:

**§ 622.194 Adjustment of management measures.**

\* \* \* \* \*

(a) Biomass levels, age-structured analyses, target dates for rebuilding overfished species, MSY (or proxy), OY, ABC, TAC, quotas (including a quota of zero), annual catch limits (ACLs), annual catch targets (ACTs), AMs, maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), trip limits, bag limits, size limits, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, fishing year, rebuilding plans, definitions of essential fish habitat, essential fish habitat, essential fish habitat HAPCs or Coral HAPCs, restrictions on gear and fishing activities applicable in essential fish habitat and essential fish habitat

HAPCs, and establish or modify spawning SMZs.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 160422356-7026-01]

RIN 0648-XE587

#### Pacific Island Fisheries; 2016 Annual Catch Limits and Accountability Measures

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

**ACTION:** Proposed specifications; request for comments.

**SUMMARY:** NMFS proposes annual catch limits (ACLs) for Pacific Island bottomfish, crustacean, precious coral, and coral reef ecosystem fisheries, and accountability measures (AMs) to correct or mitigate any overages of catch limits. The proposed ACLs and AMs would be effective for fishing year 2016. The fishing year for each fishery begins on January 1 and ends on December 31, except for precious coral fisheries, which begin July 1 and end on June 30 the following year. Although the 2016 fishing year has ended for most stocks, we will evaluate 2016 catches against these proposed ACLs when data become available in mid-2017. The proposed ACLs and AMs support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

**DATES:** NMFS must receive comments by February 2, 2017.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2016-0049, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0049>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

**Instructions:** NMFS may not consider comments sent by any other method, to

any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://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 prepared environmental analyses that describe the potential impacts on the human environment that would result from the proposed ACLs and AMs. NMFS provided additional background information in the 2015 proposed and final specifications (80 FR 43046, July 21, 2015; 80 FR 52415, August 31, 2015). Copies of the environmental analyses and other documents are available at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Matt Dunlap, NMFS PIR Sustainable Fisheries, 808-725-5177.

**SUPPLEMENTARY INFORMATION:** Fisheries in the U.S. Exclusive Economic Zone (EEZ, or Federal waters) around the U.S. Pacific Islands are managed under archipelagic fishery ecosystem plans (FEPs) for American Samoa, Hawaii, the Pacific Remote Islands, and the Mariana Archipelago (Guam and the Commonwealth of the Northern Mariana Islands (CNMI)). A fifth FEP covers pelagic fisheries. The Western Pacific Fishery Management Council (Council) developed the FEPs, and NMFS implemented them under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.*).

Each FEP contains a process for the Council and NMFS to specify ACLs and AMs; that process is codified at Title 50, Code of Federal Regulations, Section 665.4 (50 CFR 665.4). The regulations require NMFS to specify, every fishing year, an ACL for each stock and stock complex of management unit species (MUS) included in an FEP, as recommended by the Council and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action.

NMFS proposes to specify ACLs for bottomfish, crustacean, precious coral, and coral reef ecosystem fishery MUS in American Samoa, Guam, the CNMI, and Hawaii. NMFS based the proposed

specifications on recommendations from the Council at its 164th meeting held October 21-22, 2015, and at its 166th meeting held June 6-10, 2016. In all, the Council recommended 112 ACLs: 26 in American Samoa, 26 in Guam, 26 in the CNMI, and 34 in Hawaii. The Council also recommended that NMFS specify multi-year ACLs and AMs in fishing years 2015-2018. NMFS proposes to implement the specifications for 2017 and 2018 separately, prior to each fishing year.

Except for bottomfish in American Samoa, Guam, and the CNMI, and Guam jacks, Hawaii crabs, and Hawaii octopus, the proposed 2016 ACLs are identical to those that NMFS specified for 2015 (80 FR 52415, August 31, 2015).

For bottomfish in American Samoa, Guam, and the Northern Mariana Islands, the 2016 ACLs are based on new estimates of maximum sustainable yield (MSY) contained in a 2016 stock assessment updated by the NMFS Pacific Islands Fisheries Science Center (PIFSC). This stock assessment update represents the best scientific information available for specifying ACLs.

For Guam jacks, Hawaii crabs, and Hawaii octopus, NMFS and the Council determined that the average 2013-2015 catch for each of these three stock complexes exceeded their respective 2015 ACLs. Specifically, average 2013-2015 catch for Guam jacks was 37,399 lb and exceeded the 2015 ACL of 29,300 lb by 8,099 lb. For Hawaii crabs, average 2013-2015 catch was 40,363 lb and exceeded the 2015 ACL of 33,500 lb by 6,863 lb. For Hawaii octopus, average 2013-2015 catch was 40,237 lb and exceeded the 2015 ACL of 35,700 lb by 4,537 lb. In accordance with the 2015 AMs (80 FR 52415, August 31, 2015), and in consideration of the best available scientific information available, NMFS proposes to reduce the 2016 ACLs from the 2015 ACL by the amount of the 2015 overages for each of the three stocks. As a result, the proposed ACL for Guam jacks is 21,201 lb, 26,637 lb for Hawaii crabs, and 31,163 lb for Hawaii mollusks.

In addition, NMFS prepared an updated environmental assessment for Pacific Island crustacean and precious coral fisheries to account for new information on the fisheries. In December 2015, NMFS and the Council received new information on the historical and projected stock status of Hawaii Kona crab. The information indicates that the Hawaii Kona crab stock was likely to be overfished as of 2006. However, an independent review identified data gaps and methodological