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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622

RIN 0648-BE20

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 32

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 32 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 32 proposes actions to remove blueline tilefish from the deep-water complex; revise definitions of management thresholds for blueline tilefish; establish blueline tilefish commercial and recreational sector annual catch limits (ACLs), accountability measures (AMs), and recreational annual catch targets (ACTs); establish a blueline tilefish commercial trip limit; revise the blueline tilefish recreational bag limit; and revise the deep-water complex ACLs, AMs, and recreational ACT. The

purpose of Amendment 32 is to specify ACLs and AMs for blueline tilefish to end overfishing of the stock and maintain catch levels consistent with achieving optimum yield (OY) for the blueline tilefish and deep-water complex resource.

DATES: Written comments must be received on or before February 17, 2015.

ADDRESSES: You may submit comments on Amendment 32, identified by "NOAA-NMFS-2014-0145" by any 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-2014-0145, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Rick DeVactor, 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 32, which includes an environmental assessment, an initial regulatory flexibility analysis (IRFA), and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/atlgsg/2014/am32/index.html.

FOR FURTHER INFORMATION CONTACT: Rick DeVactor, telephone: 727-824-5305, or email: rick.devactor@noaa.gov.

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

Background

A benchmark assessment for the blueline tilefish stock in the South Atlantic was conducted through the Southeast, Data, Assessment, and Review (SEDAR) process in 2013 (SEDAR 32). At its October 2013 meeting, the Council's Scientific and Statistical Committee (SSC) and the Council determined the 2013 stock assessment was based on the best scientific information available and considered the assessment to be appropriate for management decisions. The assessment determined that the blueline tilefish stock is undergoing overfishing in the South Atlantic. As required by the Magnuson-Stevens Act, the Council must therefore implement measures to end overfishing within 2 years of notification of an overfishing status. NMFS notified the Council of the blueline tilefish stock status on December 6, 2013.

The Magnuson-Stevens Act requires that ACLs and AMs be implemented to prevent overfishing and achieve the OY from a fishery. An ACL is the level of annual catch of a stock that if exceeded, triggers AMs. AMs are management controls to prevent ACLs from being exceeded and to correct any overages of ACLs if they occur. Two examples of AMs include an in-season closure if landings reach or are projected to reach the ACL, and a post-season overage adjustment which would reduce the ACL if an overage occurred during the previous fishing year.

NMFS published an emergency rule on April 17, 2014 (79 FR 21636) that implemented temporary measures to reduce overfishing of blueline tilefish while Amendment 32 was being developed. Those measures were extended through a temporary rule on October 14, 2014 (79 FR 61262, October 10, 2014) and are effective through April 18, 2015, while Amendment 32 and its associated rulemaking are under review. The temporary measures of the emergency action include the following: Removal of blueline tilefish from the deep-water complex, specification of sector ACLs and AMs for blueline tilefish, and revision to the deep-water complex ACL to reflect the removal of blueline tilefish from the complex.

Amendment 32 proposes to remove blueline tilefish from the deep-water complex; revise definitions of management thresholds for blueline tilefish; establish blueline tilefish commercial and recreational sector ACLs, AMs, and recreational ACTs; establish a blueline tilefish commercial trip limit; revise the blueline tilefish recreational bag limit; and revise the

deep-water complex ACLs, AMs, and recreational ACT.

Removal of Blueline Tilefish From the Deep-Water Complex

Amendment 32 would remove blueline tilefish from the deep-water complex. In 2012, the Comprehensive ACL Amendment established a deep-water complex that contained the following eight species: Blueline tilefish, yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper (77 FR 15916, March 16, 2012). The Comprehensive ACL Amendment also specified ACLs and AMs for the complex where the complex's ACLs were based upon an acceptable biological catch (ABC) recommendation provided by the Council's SSC. In the absence of stock assessments, the ABCs for these and other unassessed species in the Comprehensive ACL Amendment were based on median or average catch. The Council placed most unassessed snapper-grouper species into complexes because many unassessed snapper-grouper species are data-limited stocks that are known to have issues with species identification and/or extreme fluctuations in relative landings through time due to rarity, or lack of targeted fishing effort.

As a result of blueline tilefish being assessed through SEDAR 32 and the Council's SSC providing an assessment-based ABC recommendation for blueline tilefish, the Council decided to remove blueline tilefish from the deep-water complex and establish individual ACLs and AMs for the blueline tilefish stock. The Council has determined that sufficient information to establish ACLs and AMs is now available for blueline tilefish and the rationale for grouping the species with other data-limited species in the deep-water complex no longer applies.

Modify the Definitions for Blueline Tilefish Management Thresholds

Definitions of maximum sustainable yield (MSY) and OY were established for blueline tilefish in Amendment 11 to the FMP (64 FR 59126, November 2, 1999). Amendment 32 would revise these definitions based upon the most recent scientific information contained in SEDAR 32. Amendment 32 would revise the MSY value for blueline tilefish and set the OY equal to ACL as described later in this notice.

Blueline Tilefish Commercial and Recreational ACLs, AMs, and Recreational ACTs

Amendment 32 would implement individual blueline tilefish commercial and recreational ACLs and AMs (based on the revised ABC for blueline tilefish specified in Amendment 32) to end overfishing of the stock. In Amendment 32, the Council defines the blueline tilefish stock ACL equal to 98 percent of the ABC. Due to improved data reporting, the Council has consistently chosen to set ACL equal to ABC for snapper-grouper species. However, for blueline tilefish in Amendment 32, the Council decided to set the stock ACL at 98 percent of the proposed ABC to account for landings that occur north of the Council's area of jurisdiction. Approximately 2 percent of the total blueline tilefish harvested were landed north of the North Carolina/Virginia border. Therefore, this amendment would establish blueline tilefish stock ACLs (combined commercial and recreational ACLs, equivalent to a total ACL), of 35,632 lb (16,162 kg) for 2015, 53,457 lb (24,248 kg) for 2016, 71,469 lb (32,418 kg) for 2017, and 87,974 lb (39,904 kg) for 2018, and subsequent fishing years. All ACL weights are expressed in round weight. Additionally, Amendment 32 would establish sector specific ACLs for the blueline tilefish commercial and recreational sectors based upon the Council's previously established blueline tilefish allocations of 50.07 percent and 49.93 percent for the commercial and recreational sectors, respectively. The commercial ACLs would be 17,841 lb (8,093 kg) for 2015, 26,766 lb (12,141 kg) for 2016, 35,785 lb (16,232 kg) for 2017, and 44,048 lb (19,980 kg) for 2018, and subsequent fishing years. The recreational ACLs would be 17,791 lb (8,070 kg) for 2015, 26,691 lb (12,107 kg) for 2016, 35,685 lb (16,186 kg) for 2017, and 43,925 lb (19,924 kg) for 2018, and subsequent fishing years.

Amendment 32 would implement commercial and recreational sector in-season AMs for blueline tilefish. If commercial or recreational landings for blueline tilefish reach or are projected to reach the applicable ACL, then the commercial or recreational sector, as applicable, would be closed for the remainder of the fishing year. The recreational sector would not have an in-season closure if the Regional Administrator (RA) determines, using the best scientific information available, that a closure would be unnecessary.

Additionally, if the total ACLs are exceeded in a fishing year, then during

the following fishing year, the commercial and recreational sectors will not have an increase in their respective sector ACLs.

Amendment 32 would also implement post-season ACL overage adjustments (paybacks) for blueline tilefish. For the commercial sector, if commercial landings exceed the commercial ACL, and the combined commercial and recreational ACL (stock ACL) is exceeded, and blueline tilefish are overfished, then during the following fishing year the commercial ACL would be reduced for that following year by the amount of the commercial ACL overage in the prior fishing year. For the recreational sector, if recreational landings for blueline tilefish exceed the applicable recreational ACL, and the combined commercial and recreational ACL (stock ACL) is exceeded, and blueline tilefish are overfished, then the recreational fishing season in the following fishing year would be reduced to ensure recreational landings do not exceed the recreational ACL the following fishing year. Additionally, the recreational ACL would be reduced by the amount of the recreational ACL overage from the prior fishing year. However, the recreational fishing season and recreational ACL would not be reduced if the RA determines, using the best scientific information available that no reduction is necessary.

Amendment 32 would also establish recreational ACTs for blueline tilefish. The ACT is the amount of annual catch of a stock or stock complex that is the management target of the fishery and accounts for management uncertainty in controlling the actual catch below the ACL so that the ACL is not exceeded. The Council is using the ACT as a management reference point to track performance of the management measures imposed on the recreational sector, and no AMs are triggered if recreational landings reach the recreational ACT. The recreational ACT is set less than the recreational ACL so that if, in the future, the Council chose to limit recreational harvest to the recreational ACT, it could serve as an in-season AM for the recreational sector. The recreational ACT could then help to reduce or possibly eliminate the need to close or implement post-season recreational AMs that are meant to correct for ACL overages.

Additional Blueline Tilefish Management Measures

Amendment 32 would implement a commercial trip limit and revise the recreational bag limit for blueline tilefish. This amendment would

establish a commercial trip limit of 100 lb (45 kg), gutted weight; 112 lb (51 kg), round weight. The trip limit is expected to slow the rate of harvest, potentially lengthening the commercial season during a fishing year, and reduce the risk of the commercial ACL from being exceeded.

For the recreational bag limit, blueline tilefish are currently part of the aggregate grouper and tilefish bag limit of 3 fish per person per day. Amendment 32 would revise the blueline tilefish bag limit within the aggregate to set a specific blueline tilefish bag limit of one per vessel per day for the months of May through August. There would be no retention of blueline tilefish by the recreational sector from January through April and from September through December each year. A bag limit of one blueline tilefish per vessel per day and an 8-month annual closure was determined to best meet the needs of ending overfishing, reducing recreational harvest, and potentially reducing blueline tilefish discards if blueline tilefish are targeted less during the open season because of the lower bag limit. The Council determined that the shortened summer seasonal opening could provide increased stability for planning purposes to recreational fishermen as it could minimize the risk of an in-season closure and the recreational ACL being exceeded, which may require post-season AMs in the following fishing year. In addition, the Council determined that an opening during the summer months could increase safety at sea by allowing fishing to occur in the generally calmer summer weather compared to a January 1 season opening during the winter. The vessel limit and fishing season dates for the blueline tilefish recreational sector would match what is being proposed by the Council for snowy grouper through Regulatory Amendment 20 to the FMP. The Council determined that similar recreational management measures and fishing seasons would be beneficial to the fish stocks as both species are caught at the same depths and have similar high release mortality rates.

Deep-Water Complex Commercial and Recreational ACLs, AMs, and Recreational ACT

Amendment 32 would revise the ACLs and AMs for the deep-water complex (composed of yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper). The ACLs are being revised for two reasons. First, as Amendment 32 proposes to remove blueline tilefish from the deep-

water complex, this amendment would remove the current blueline tilefish portion from the complex total ACL. The permanent blueline tilefish portion of the complex ACL is 631,341 lb (286,371 kg), round weight, and the total deep-water complex ACL is 711,025 lb (322,516 kg), round weight. The emergency rule set both a new, separate blueline tilefish ACL of 224,100 lb (101,650 kg), round weight and a revised deep-water complex ACL without blueline tilefish of 79,684 lb (36,144 kg), round weight. Second, through Amendment 29 to the FMP, which is currently in rulemaking, the Council is proposing a revision to the ABC control rule for data-poor species based on recommendations from the SSC. If Amendment 29 is approved and implemented, the portion of the deep-water complex ABC for silk snapper and yellowedge grouper would change. The Council submitted Amendment 29 to the Secretary of Commerce on October 14, 2014, the notice of availability for the amendment was published in the **Federal Register** on November 24, 2014 (79 FR 69819), and the proposed rule published in the **Federal Register** on December 8, 2014 (79 FR 72567).

Therefore, Amendment 32 would change the deep-water complex total ACL (both sectors without blueline tilefish but with the increased catch levels for silk snapper and yellowedge grouper resulting from Amendment 29), to 170,278 lb (77,237 kg), round weight. Additionally, this amendment would establish sector specific ACLs for the deep-water complex based on the allocations for species in the deep-water complex that were established in the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012). The commercial ACL for the complex would be 131,634 lb (59,708 kg), round weight and the recreational ACL for the complex would be 38,644 lb (17,529 kg), round weight.

Amendment 32 would revise the AMs for the deep-water complex. The amendment would retain the current commercial in-season AM, revise the commercial post-season AM, and implement revised recreational AMs for the deep-water complex. In Amendment 32, if commercial or recreational landings for the deep-water complex reach or are projected to reach their applicable ACL, then the commercial or recreational sector, as applicable, would be closed for the remainder of the fishing year. The recreational sector would not have an in-season closure if the RA determined, using the best scientific information available, that a closure was unnecessary. The Council decided that the in-season AM for both

sectors is necessary to reduce the risk that landings exceed the ACL.

Amendment 32 would also modify the post-season ACL overage adjustments for the deep-water complex. Currently, if deep-water complex commercial landings exceed the ACL and at least one species in the complex is overfished, the commercial ACL is reduced in the following year by the overage amount. The amendment would modify the commercial post-season AMs as follows: If commercial landings exceed the commercial ACL, and the combined commercial and recreational ACL (total ACL) is exceeded, and at least one species in the deep-water complex is overfished, then during the following fishing year the complex commercial ACL would be reduced for that following year by the amount of the complex's commercial ACL overage in the prior fishing year.

Currently, if recreational landings for the deep-water complex exceed the recreational ACL, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the length of the following recreational fishing season will be reduced by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. Amendment 32 would modify the recreational post-season AMs as follows: For the recreational sector, if recreational landings for the deep-water complex exceed the applicable recreational ACL, and the combined commercial and recreational ACL is exceeded, and at least one species in the complex is overfished, then the length of the recreational fishing season in the following fishing year would be reduced to ensure that recreational landings do not exceed the recreational ACL the following fishing year. Additionally, the recreational ACL would be reduced by the amount of the recreational ACL overage from the prior fishing year. However, the recreational fishing season and recreational ACL would not be reduced if the RA determined, using the best scientific information available that no reduction is necessary.

Amendment 32 also revises the deep-water complex recreational ACTs to reflect the removal of blueline tilefish from the complex and the change in the deep-water complex ABC as described above. These ACTs are management reference points to track performance of the management measures but do not trigger AMs.

A proposed rule that would implement measures outlined in Amendment 32 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 submitted Amendment 32 for Secretarial review, approval, and

implementation on November 14, 2014. Comments received by February 17, 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. 180 *et seq.*

Dated: December 15, 2014.

Emily H. Menashes,

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

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