

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

RIN 0648–BL93

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 49**

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

**ACTION:** Announcement of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) submitted Amendment 49 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 49 to the FMP would revise the overfishing limit (OFL), acceptable biological catch (ABC), annual optimum yield (OY), sector allocations, the total and sector annual catch limits (ACLs), commercial minimum size limit, the commercial seasonal trip limits, and the April spawning season closure. In addition, Amendment 49 would remove the recreational annual catch targets (ACTs) for species in the FMP. The purpose of Amendment 49 is to ensure catch limits are based on the best scientific information available and to ensure overfishing does not occur for the South Atlantic greater amberjack stock, while increasing social and economic benefits.

**DATES:** Written comments must be received on or before August 21, 2023.

**ADDRESSES:** You may submit comments on Amendment 49, identified by “NOAA–NMFS–2023–0061”, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) and enter “NOAA–NMFS–2023–0061” in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Mary Vara, 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](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), 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).

Electronic copies of Amendment 49, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/node/150641>.

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

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

The Council prepared the FMP that is being revised by Amendment 49. If approved, Amendment 49 would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

**Background**

The Magnuson-Stevens Act requires that NMFS and the regional fishery management councils prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

In 2008, a stock assessment for greater amberjack was completed through the

Southeast Data, Assessment, and Review (SEDAR) process (SEDAR 15), and it was determined that the stock was not overfished or undergoing overfishing. As a result of that stock status, the Comprehensive Amendment to the FMP (77 FR 15915, March 16, 2012) established the current total ACL and annual OY.

The most recent SEDAR stock assessment for South Atlantic greater amberjack (SEDAR 59) was completed in 2020. The assessment included data through 2018. The assessment used revised estimates for recreational catch from the Marine Recreational Information Program (MRIP) based on the Fishing Effort Survey (FES). In 2018, the MRIP fully transitioned its estimation of recreational effort from the Coastal Household Telephone Survey (CHTS) to the mail-based FES. Estimates of recreational catch for greater amberjack included in the previous assessment were made using the Marine Recreational Fisheries Statistics Survey (MRFSS) methodology. As explained in Amendment 49, total recreational fishing effort estimates generated from MRIP FES are different than those from the MRIP CHTS and MRFSS. This difference in estimates is because MRIP FES is designed to more accurately measure fishing activity, not because there was a sudden change in fishing effort. The MRIP FES is considered a more reliable estimate of recreational effort by the Council’s Scientific and Statistical Committee (SSC), the Council, and NMFS, and more robust compared to the MRFSS method previously used to estimate recreational catches for greater amberjack. The SSC reviewed SEDAR 59 (2020) and found that the assessment was conducted using the best scientific information available, and was adequate for determining stock status and supporting fishing level recommendations. The findings of the assessment indicated that the South Atlantic greater amberjack stock is not overfished or undergoing overfishing.

Updated catch and data changes incorporated in the assessment provided information to update the OFL, ABC, annual OY, and ACLs. In response to the results of SEDAR 59 (2020), the Council subsequently developed Amendment 49.

In addition to the proposed revisions to the sector ACLs and seasonal commercial quotas, the Council determined that further modifications to greater amberjack management measures are needed to ensure that overfishing does not occur, while increasing social and economic benefits through sustainable harvest of greater

amberjack in the South Atlantic exclusive economic zone (EEZ). Amendment 49 would reduce the commercial minimum size limit, increase the seasonal commercial trip limits, and revise the April spawning closure for greater amberjack. Amendment 49 would also make changes to the FMP by removing recreational ACTs from the FMP to make administrative efforts more efficient, since the Council has not used, and does not anticipate using, recreational ACTs for management.

#### Actions Contained in Amendment 49

For South Atlantic greater amberjack, Amendment 49 would revise the OFL, ABC, annual OY, total ACL, sector allocations, and sector ACLs. Amendment 49 would also revise the commercial minimum size limit, commercial seasonal trip limits, and the April spawning closure. In addition, Amendment 49 would remove the recreational ACTs for snapper-groupers species in the FMP.

#### OFL, ABC, Annual OY, and Total ACL

As implemented through the Comprehensive ACL Amendment, the current OFL for greater amberjack is 2,005,000 lb (909,453 kg), round weight. The current total ACL and annual OY are equal to the ABC of 1,968,001 lb (892,670 kg), round weight. All of these current values include recreational landings for greater amberjack tracked using MRFSS estimation methods, and the Council's choice of these values was based on the recommendations of their SSC from the SEDAR 15 stock assessment (2008).

In April 2021, the Council's SSC reviewed the latest stock assessment SEDAR 59 (2020) and recommended new OFL and ABC levels based on the assessment. As discussed above, SEDAR 59 and the associated OFL and ABC recommendations for greater amberjack incorporated the revised estimates for recreational catch and effort from the MRIP FES. MRIP replaced MRFSS in 2013 and replaced the CHTS with FES in 2018. MRIP also incorporated a new survey design for the Access Point Angler Intercept Survey in 2013. As explained in Amendment 49, total recreational fishing effort estimates generated from MRIP FES are generally higher than both the MRFSS and MRIP CHTS estimates. This difference in estimates is because MRIP FES is designed to more accurately measure fishing activity, not because there was a sudden increase in fishing effort. The MRIP FES is considered a more reliable estimate of recreational effort by the Council's SSC, the Council, and NMFS,

and more robust compared to the MRFSS method previously used to estimate recreational catches for greater amberjack. The new OFL and ABC recommendations within Amendment 49 also represent the best scientific information available as determined by the Council's SSC and NMFS. The Council chose to specify OY for greater amberjack on an annual basis and set it equal to the ABC and total ACL, in accordance with the guidance provided in the Magnuson-Stevens Act National Standard 1 Guidelines at 50 CFR 600.310(f)(4)(iv).

The fishing year for greater amberjack is March 1 through the end of February; therefore, OFL, ABC, OY and total ACL values are described as a combination of years. Amendment 49 would revise the OFL to be 3,283,000 lb (1,489,144 kg), round weight, for 2023–2024; 2,839,000 lb (1,287,749 kg), round weight, for 2024–2025; 2,719,000 lb (1,233,317 kg), round weight, for 2025–2026; and 2,691,000 lb (1,220,617 kg), round weight, for 2026–2027 and subsequent years.

Amendment 49 would revise the total ACL and annual OY equal to the recommended ABC of 3,233,000 lb (1,466,464), round weight, for 2023–2024; 2,818,000 lb (1,278,223 kg), round weight, for 2024–2025; 2,699,000 lb (1,224,246), round weight, for 2025–2026; and 2,669,000 lb (1,210,638), round weight, for 2026–2027 and subsequent fishing years.

#### Sector Allocations and ACLs

Amendment 49 would revise the commercial and recreational allocations of the total ACL for greater amberjack. The current sector ACLs for greater amberjack are based on the current commercial and recreational allocations of the total ACL at 40.66 percent and 59.34 percent, respectively. The current allocations were established by applying the formula of sector ACL = ((mean landings 2006–2008)\*0.5) + ((mean landings 1986–2008)\*0.5) to the landings dataset that were used in the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012).

The revised greater amberjack sector allocations in Amendment 49 would result in commercial and recreational allocations of 35.00 percent and 65.00 percent, respectively. After considering various allocation alternatives, the Council proposed allocations based on their current allocation equation, updated estimates of recreational landings from the MRIP FES method, and a consideration of economic and social impacts to the commercial and recreational sectors. The proposed sector allocations are approximate

midpoints between the current allocations, and the allocations that result from applying the current allocation formula to a revised dataset that is inclusive of MRIP–FES, which results in commercial and recreational allocations of the total ACL at 29.84 percent and 70.16 percent, respectively. While the Council increased the recreational allocation percentage to account for the increase in recreational catch estimates under the new MRIP FES estimation method, the Council chose to increase the recreational allocation to 65.00 percent, instead of 70.16 percent, to account for potential adverse economic and social impacts to the commercial sector. Several recently completed stock assessments for other species in the FMP have indicated poor stock status and necessitated reduced harvest of these stocks, making greater amberjack potentially more important to the commercial sector. The proposed greater amberjack sector allocation percentages also approximate the average annual total landings percentages for each sector from 2010–2019.

The Council determined that the sector allocations in Amendment 49 would result in the most appropriate balance between the needs of both sectors to maximize harvest opportunities. The Council considers this revised allocation to be fair and equitable to fishery participants in both the commercial and recreational sectors. The Council determined that this allocation is also reasonably calculated to promote conservation and is a wise use of the resource, since it achieves OY and is based upon an ABC recommendation from their SSC that incorporates the best scientific information available. The Council acknowledged that the recreational sector would benefit with an increase to their allocation, and that the recreational sector management measures and accountability measures (AMs) are in place to prevent overages of the recreational ACL.

The commercial quota for greater amberjack is equivalent to the commercial ACL. The final rule for Regulatory Amendment 27 to the FMP established two commercial fishing seasons and divided the commercial quota between the seasons to lengthen the greater amberjack commercial season and allow for a more equitable distribution and price stability of the greater amberjack resource throughout the South Atlantic (85 FR 4588, January 27, 2020). Regulatory Amendment 27 allocated 60 percent of the commercial quota to Season 1 from March through August, and 40 percent of the quota to

Season 2 from September through February. Any remaining commercial quota from Season 1 is added to the commercial quota in Season 2. Any remaining quota from Season 2 is not carried forward into the next fishing year. Amendment 49 would not alter the current fishing seasons or seasonal allocations of the commercial ACL.

Currently, the commercial ACL is 769,388 lb (348,989 kg), gutted weight. The commercial Season 1 quota is 461,633 lb (209,393 kg), gutted weight. The commercial Season 2 quota is 307,755 lb (139,595 kg), gutted weight.

Amendment 49 would revise the commercial ACLs to be 1,088,029 lb (493,522 kg), gutted weight, for 2023–2024; 948,365 lb (430,171 kg), gutted weight, for 2024–2025; 908,317 lb (412,006 kg), gutted weight, for 2025–2026; and 898,221 lb (407,426 kg), gutted weight, for 2026–2027 and subsequent fishing years.

The commercial Season 1 quotas would be 652,817 lb (296,113 kg), gutted weight, for 2023–2024; 569,019 lb (258,103 kg), gutted weight, for 2024–2025; 544,990 lb (247,203 kg), gutted weight, for 2025–2026; and 538,933 lb (244,456 kg), gutted weight, for 2026–2027 and subsequent fishing years.

The commercial Season 2 quotas would be 435,212 lb (197,409 kg), gutted weight, for 2023–2024; 379,346 lb (172,068 kg), gutted weight, for 2024–2025; 363,327 lb (164,802 kg), gutted weight, for 2025–2026; and 359,288 lb (162,970 kg), gutted weight, for 2026–2027 and subsequent fishing years.

The current recreational ACL is 1,167,837 lb (529,722 kg), round weight. In Amendment 49, the recreational ACLs would be 2,101,450 lb (953,202 kg), round weight, for 2023–2024; 1,831,700 lb (830,845 kg), round weight, for 2024–2025; 1,754,350 lb (795,760 kg), round weight, for 2025–2026; and 1,734,850 lb (786,915 kg), round weight, for 2026–2027 and subsequent fishing years.

#### *Commercial Minimum Size Limit*

Amendment 4 to the FMP (56 FR 56016, October 31, 1991) implemented the current minimum size limit for the commercial sector of 36 inches (91.4 cm) fork length (FL).

Amendment 49 would reduce the commercial minimum size limit to 34 inches (86.4 cm), FL. Consideration of a reduced commercial minimum size limit was recommended during public scoping (April 2021) and from the Council's Snapper-Grouper Advisory Panel (AP) at their April 2021 meeting. For similar reasons as those provided

through public and AP comments, the Council determined that reducing the minimum size limit would reduce regulatory discards, reduce the risk of shark depredation, and more align with the greater commercial desirability for smaller fish. Additionally, the Council decided that a reduction to 34 inches (86.4 cm), FL, is not likely to jeopardize the current positive stock status, given other management constraints on the commercial sector such as in-season AMs, trip limits, and split season quotas.

#### *Seasonal Commercial Trip Limits*

The final rule for Regulatory Amendment 27 revised the commercial trip limit for greater amberjack to the current limits of 1,200 lb (544 kg) during Season 1, and 1,000 lb (454 kg) during Season 2 (in round or gutted weight).

Amendment 49 would increase the Season 2 trip limit for greater amberjack to 1,200 lb (544 kg). After hearing a recommendation for this change from the Snapper-Grouper AP, the Council selected this option to have more regulatory consistency by having the same commercial trip limit throughout the year. Additionally, the Council acknowledged that the analyses considered in Amendment 49 indicate that under the 1,200 lb (544 kg) trip limit, the commercial sector is not expected to experience a closure in Season 2. The Council decided that having the same trip limit throughout the fishing year would best meet the purpose of revising the commercial trip limit to increase efficiency of commercial fishing for greater amberjack, while minimizing adverse social and economic effects.

#### *April Spawning Closure*

The peak spawning month for greater amberjack is during April and spawning aggregations are vulnerable to fishing effort during that time of the year. Due to the concerns of high catch rates of greater amberjack in spawning aggregations, the final rule for Amendment 4 to the FMP (56 FR 56016, October 31, 1991) implemented a spawning season closure for the commercial harvest of greater amberjack during April, in which commercial fishermen were restricted to a three fish per person per day limit (the same as the recreational bag limit at the time). To further enhance the protection to spawning greater amberjack, the final rule for Amendment 9 to the FMP revised those commercial possession limits and sale/purchase restrictions (64

FR 3624, February 24, 1999). Currently during April each year, for both the commercial and recreational sectors, no person may sell or purchase a greater amberjack harvested from the South Atlantic EEZ and the harvest and possession limit is one per person per day or one per person per trip, whichever is more restrictive.

Amendment 49 would revise the April spawning closure restrictions for both the commercial and recreational sectors from April 1 through April 30, and not allow any person to fish for, harvest, or possess a greater amberjack from the South Atlantic EEZ and the harvest and possession limits would be zero. The sale or purchase of greater amberjack would also continue to be prohibited in April. The Council determined that additional protections were needed for greater amberjack during this portion of their peak spawning period (April-May), and that both sectors should fully participate in this effort by not allowing either sector to harvest greater amberjack.

#### **Proposed Rule for Amendment 49**

A proposed rule to implement Amendment 49 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule for Amendment 49 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

#### **Consideration of Public Comments**

The Council has submitted Amendment 49 for Secretarial review, approval, and implementation. Comments on Amendment 49 must be received by August 21, 2023. Comments received during the respective comment periods, whether specifically directed to Amendment 49 or the proposed rule, will be considered by NMFS in the decision to approve, partially approve, or disapprove, Amendment 49. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: June 13, 2023.

**Jennifer M. Wallace,**

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

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