



Resubmitted Action from Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region



Initial Regulatory Flexibility Act Analysis Regulatory Impact Review

Fishery Impact Statement

July 2012

Abbreviations and Acronyms Used in the FMP

ABC	acceptable biological catch	FMU	fishery management unit
ACL	annual catch limits	M	natural mortality rate
AM	accountability measures	MARMAP	Marine Resources Monitoring Assessment and Prediction Program
ACT	annual catch target	MFMT	maximum fishing mortality threshold
B	a measure of stock biomass in either weight or other appropriate unit	MMPA	Marine Mammal Protection Act
B_{MSY}	the stock biomass expected to exist under equilibrium conditions when fishing at F_{MSY}	MRFSS	Marine Recreational Fisheries Statistics Survey
B_{OY}	the stock biomass expected to exist under equilibrium conditions when fishing at F_{OY}	MRIP	Marine Recreational Information Program
B_{CURR}	The current stock biomass	MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
CPUE	catch per unit effort	MSST	minimum stock size threshold
DEIS	draft environmental impact statement	MSY	maximum sustainable yield
EA	environmental assessment	NEPA	National Environmental Policy Act
EEZ	exclusive economic zone	NMFS	National Marine Fisheries Service
EFH	essential fish habitat	NOAA	National Oceanic and Atmospheric Administration
F	a measure of the instantaneous rate of fishing mortality	OFL	overfishing limit
F_{30%SPR}	fishing mortality that will produce a static SPR = 30%	OY	optimum yield
F_{CURR}	the current instantaneous rate of fishing mortality	RIR	regulatory impact review
F_{MSY}	the rate of fishing mortality expected to achieve MSY under equilibrium conditions and a corresponding biomass of B_{MSY}	SAMFC	South Atlantic Fishery Management Council
F_{OY}	the rate of fishing mortality expected to achieve OY under equilibrium conditions and a corresponding biomass of B_{OY}	SEDAR	Southeast Data Assessment and Review
FEIS	final environmental impact statement	SEFSC	Southeast Fisheries Science Center
FMP	fishery management plan	SERO	Southeast Regional Office
		SIA	social impact assessment
		SPR	spawning potential ratio
		SSC	Scientific and Statistical Committee

**Resubmitted Action from Amendment 18A to the Fishery
Management Plan for the Snapper Grouper Fishery of the South
Atlantic Region
with Initial Regulatory Flexibility Act Analysis, Regulatory Impact
Review, and Fishery Impact Statement**

Proposed action:	Allow transferability of black sea bass pot endorsements.
Lead agency:	FMP Amendment – South Atlantic Fishery Management Council and NOAA Fisheries Service Southeast Regional Office
For Further Information Contact:	Robert K. Mahood South Atlantic Fishery Management Council 4055 Faber Place, Suite 201 North Charleston, SC 29405 843-571-4366 866-SAFMC-10 Robert.Mahood@safmc.net Phil Steele NOAA Fisheries, Southeast Region 263 13 th Avenue South St. Petersburg, FL 33701 727-824-5301 Phil.Steele@noaa.gov

Abstract

Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Amendment 18A) established a black sea bass pot endorsement program to reduce effort in the black sea bass pot segment of the snapper grouper fishery. Associated with this endorsement program was an action to allow transferability of the black sea bass pot endorsements among South Atlantic Unlimited Snapper Grouper Permit holders. However, NOAA Fisheries Service disapproved the transferability action because Amendment 18A and the supporting final environmental impact statement identified the incorrect preferred alternative. In addition, there were discrepancies in the record regarding the South Atlantic Fishery Management Council's (South Atlantic Council) discussion of the alternatives and the text describing and analyzing this alternative in Amendment 18A. The decision not to implement the transferability action was made to reduce public confusion and to provide the South Atlantic Council the opportunity to clarify its intent. Therefore, the transferability action is being addressed separately in this amendment.

In this Resubmitted Action from Amendment 18A, the action to allow black sea bass pot endorsements to be transferred is clarified to reflect the intent of the South Atlantic Council. All reasonable alternatives for the transferability action were analyzed in Amendment 18A according to the requirements of the National Environmental Policy Act (NEPA), including biological, economic, social, administrative, and cumulative impacts of the action. Therefore, this Resubmitted Action from Amendment 18A does not contain further NEPA analysis and refers the reader to the impacts analysis contained within Amendment 18A.

Table of Contents

Abstract	III
Table of Contents	IV
List of Tables	VI
Chapter 1. Introduction	1
1.1 What Action is Being Proposed?	1
1.2 Who is Proposing the Action?	2
1.3 Why is the South Atlantic Council Considering Action?	2
Chapter 2. Affected Environment	3
2.1 Habitat Environment	3
2.2 Biological and Ecological Environment	4
2.2.1 Fish Populations Affected by this Amendment	4
2.2.2 Other Fish Species Affected	4
2.2.3 Protected Species	4
2.3 Human Environment	5
2.3.1 Economic Description of the Commercial Fishery	5
2.4 Social and Cultural Environment	5
2.5 Administrative Environment	5
2.5.1 Federal and State Fishery Management	5
Chapter 3. Proposed Action	6
3.1 Discussion of Black Sea Bass Pot Endorsement Transferability Criteria	6
3.2 Biological Impacts	7
3.3 Economic Impacts	7
3.4 Social Impacts	8
3.5 Administrative Impacts	9
Chapter 4. Bycatch Practicability Analysis	10
4.1 Population Effects for Bycatch Species	10
4.2 Practicability of Management Measures in Directed Fisheries Relative to their Impact on Bycatch and Bycatch Mortality	11
4.3 Ecological Effects Due to Changes in the Bycatch	11
4.4 Changes in the Bycatch of other Fish Species and Resulting Population and Ecosystem Effects	11
4.5 Effects on Marine Mammals and Birds	11
4.6 Changes in Fishing, Processing, Disposal, and Marketing Costs	12
4.7 Changes in Fishing Practices and Behavior of Fishermen	12
4.8 Changes on Research, Administration, and Enforcement Costs and Management Effectiveness	13
4.9 Changes in the Economic, Social, or Cultural Value of Fishing Activities and Non-Consumptive Uses of Fishery Resources	13
4.10 Changes in the Distribution of Benefits and Costs	13
4.11 Social Effects	13
4.12 Conclusion	13
Chapter 5. Research Recommendations	14
Chapter 6. Fishery Impact Statement	15
6.1 Actions Contained in the Resubmitted Amendment 18A Action Amendment	15

6.2	Assessment of Biological Effects	15
6.3	Assessment of Economic Effects	15
6.4	Assessment of the Social Effects	15
6.5	Assessment of Effects on Safety at Sea	15
Chapter 7.	Regulatory Flexibility Act Analysis.....	17
7.1	Introduction.....	17
7.2	Statement of Need for, Objectives of, and Legal Basis for the Rule	17
7.3	Identification of All Relevant Federal Rules, Which May Duplicate Overlap or Conflict with the Proposed Rule	18
7.4	Description and Estimate of the Number of Small Entities to Which the Proposed Rule will Apply.....	18
7.5	Description of the Projected Reporting, Record-keeping and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities which will be Subject to the Requirement and the Type of Professional Skills Necessary for the Preparation of the Report or Records.....	18
7.6	Substantial Number of Small Entities Criterion	19
7.7	Significant Economic Impact Criterion	19
7.8	Description of Significant Alternatives to the Proposed Action.....	19
Chapter 8.	Regulatory Impact Review	20
8.1	Problems and Objectives.....	20
8.2	Methodology and Framework for Analysis	20
8.3	Description of the Fishery.....	20
8.4	Effects of the Management Measure	20
8.5	Public and Private Costs of Regulations.....	21
8.6	Determination of Significant Regulatory Action.....	21
Chapter 9.	Other Applicable Law	22
Chapter 10.	Other Things to Consider	23
10.1	Unavoidable Adverse Effects	23
10.2	Effects of the Fishery on the Environment	23
10.3	Damage to Ocean and Coastal Habitats.....	23
10.4	Relationship of Short-Term Uses and Long-Term Productivity.....	24
10.5	Irreversible and Irrecoverable Commitments of Resources	24
10.6	Monitoring and Mitigation Measures	25
10.7	Unavailable or Incomplete Information.....	25
Chapter 11.	References	26

List of Tables

Table 4.1. Percentage of commercial black sea bass catch by gear based on data from 2005-2010.....	16
Table 4.2. Percentage of black sea bass landings among the commercial, for-hire, private recreational sectors during 2005-2010. Landings provided by the Southeast Fisheries Science Center.....	16
Table 4.3. Snapper grouper fishery effort for South Atlantic.....	16

Chapter 1. Introduction

1.1 What Action is Being Proposed?

*This Resubmitted Action from Amendment 18A contains one **action**:
Allow black sea bass endorsements to be transferred.*

Black sea bass pot endorsements may be transferred under the following conditions:

- Valid or renewable black sea bass pot endorsements would be transferable upon the effective date of the final rule implementing this action.
- Valid and renewable endorsements could only be transferred to any individual or entity holding or simultaneously obtaining a valid South Atlantic Unlimited Snapper-Grouper Permit.
- Valid and renewable endorsements would be transferable, independently from the South Atlantic Unlimited Snapper Grouper Permit.
- All landings of black sea bass using the black sea bass pot endorsement would be associated with the South Atlantic Unlimited Snapper-Grouper Permit with which the endorsement is associated regardless of when landings occurred.
- Landings of black sea bass using the black sea bass pot endorsement would not be transferred with the endorsement.
- Endorsements would not be automatically renewed when the associated South Atlantic Unlimited Snapper-Grouper Permit is renewed. (Endorsement holders would need to check a box on the application to renew their black sea bass pot endorsement.)

***South Atlantic Fishery
Management Council***

- Responsible for conservation and management of fish stocks
- Consists of 13 voting and 4 non-voting members who are appointed by the Secretary of Commerce
- Management area is from 3 to 200 miles off the coasts of North Carolina, South Carolina, Georgia, and the east coast of Florida
- Develops management plans and recommends regulations to NOAA Fisheries Service for implementation

1.2 Who is Proposing the Action?

The South Atlantic Fishery Management Council (South Atlantic Council) is proposing the action. The South Atlantic Council develops the amendment and draft regulations and submits them to the National Marine Fisheries Service (NOAA Fisheries Service) who will ultimately approve, disapprove, or partially approve the action in the amendment on behalf of the Secretary of Commerce. NOAA Fisheries Service is an agency in the National Oceanic and Atmospheric Administration.



1.3 Why is the South Atlantic Council Considering Action?

The South Atlantic Council designated a preferred alternative for the black sea bass pot endorsement transferability action in Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Amendment 18A) at their December 2011 meeting. However, when the amendment and integrated final environmental impact statement was published, the incorrect preferred alternative was designated. Furthermore, after the amendment had been formally submitted to NOAA Fisheries Service for Secretarial review, South Atlantic Council and NOAA Fisheries Service staff determined the wording of the alternatives for the transferability action Amendment 18A was not clear and could result in a variety of interpretations. For these reasons, NOAA Fisheries Service disapproved the black sea bass pot endorsement transferability action in Amendment 18A, and the South Atlantic Council determined it would be appropriate to clarify the intent and the wording of the action in a separate amendment and resubmit it for Secretarial review.

Chapter 2. Affected Environment

This section describes the affected environment in the proposed action area. The affected environment is divided into four major components:

- **Habitat environment** (Section 2.1)
- **Biological environment** (Section 2.2)
- **Human environment** (Sections 2.3 and 2.4)
- **Administrative environment** (Section 2.5)

2.1 Habitat Environment

In general, essential fish habitat (EFH) utilized by snapper grouper species in the South Atlantic region includes coral reefs, live/hard bottom, submerged aquatic vegetation, artificial reefs and medium to high profile outcroppings on and around the shelf break zone from shore to at least 183 meters [600 feet (but to at least 2,000 feet for wreckfish)] where the annual water temperature range is sufficiently warm to maintain adult populations of members of this largely tropical fish complex. EFH includes the spawning area in the water column above the adult habitat and the additional pelagic environment, including *Sargassum*, required for survival of larvae and growth up to and including settlement. In addition, the Gulf Stream is also EFH because it provides a mechanism to disperse snapper grouper larvae.

Areas which meet the criteria for EFH-Habitat Areas of Particular Concern for black sea bass include medium to high profile offshore hard bottoms where spawning normally occurs; localities of known or likely periodic spawning aggregations; near shore hard bottom areas; The Point, The Ten Fathom Ledge, and Big Rock (North Carolina); The Charleston Bump (South Carolina); mangrove habitat; seagrass habitat; oyster/shell habitat; all coastal inlets; all state-designated nursery habitats of particular importance to snapper grouper (e.g., primary and secondary nursery areas designated in North Carolina); pelagic and

benthic *Sargassum*; Hoyt Hills for wreckfish; the *Oculina* Bank Habitat Area of Particular Concern; all hermatypic coral habitats and reefs; manganese outcroppings on the Blake Plateau; and South Atlantic Council-designated Artificial Reef Special Management Zones. More information on black sea bass habitat can be found in Section 3.1 of Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Amendment 18A; SAFMC 2012), which is hereby incorporated by reference. Amendment 18A may be found at <http://www.safmc.net/LinkClick.aspx?fileticket=kS1mDi2YAZw%3d&tabid=415>.

2.2 Biological and Ecological Environment

2.2.1 Fish Populations Affected by this Amendment

Black Sea Bass, *Centropristis striata*

Black sea bass occur in the Western Atlantic, from Maine to southeastern Florida, and in the eastern Gulf of Mexico (McGovern et al. 2002). Separate populations were reported to exist to the north and south of Cape Hatteras, North Carolina (Wenner et al. 1986). However, genetic similarities suggest this is one stock (McGovern et al. 2002). This species is common around rock jetties and on rocky bottoms in shallow water (Robins and Ray 1986) at depths from 2-120 meters (7-394 feet). Most adults occur at depths from 20-60 meters (66-197 feet) (Vaughan et al. 1995). A new Southeast Data, Assessment, and Review 25 (SEDAR 25 2011) stock assessment for black sea bass, was completed in 2011 with data through 2010. SEDAR 25 indicates the stock is not overfished but is experiencing overfishing to a small extent. The complete results of this new assessment may be found in SEDAR 25, which is hereby incorporated by reference. An expanded discussion of black sea bass life history traits, population characteristics, and stock status can be found in Sections 3.2.1 and 3.2.2 of Amendment 18A (SAFMC 2012), which are hereby incorporated by reference and may be found at <http://www.safmc.net/LinkClick.aspx?fileticket=kS1mDi2YAZw%3d&tabid=415>.

2.2.2 Other Fish Species Affected

Black sea bass are commonly taken on hook and line trips with species such as white grunt, vermilion snapper, gray triggerfish, red snapper, and red porgy. However, most commercial landings of black sea bass are taken from black sea bass pots where the species makes up 90% of the catch. Other affected species in black sea bass pots include gray triggerfish and white grunt.

2.2.3 Protected Species

There are 31 different species of marine mammals that may occur in the exclusive economic zone (EEZ) of the South Atlantic region. All 31 species are protected under the Marine Mammal Protection Act and six are also listed as endangered under the Endangered Species Act (ESA) (i.e., sperm, sei, fin, blue, humpback, and North Atlantic right whales). Additionally, there are five species of sea turtles protected under the ESA occurring in the South Atlantic (green, hawksbill, Kemp's ridley, leatherback, and loggerhead); the smalltooth sawfish; and two *Acropora* coral species (elkhorn [*Acropora palmata*] and staghorn [*A. cervicornis*]). A discussion of these species and potential interactions with black sea bass pot and hook-and-line fishing gear is included in Section 3.3.1 of Amendment 18A (SAFMC 2012), which is hereby incorporated by reference and may be found at: <http://www.safmc.net/LinkClick.aspx?fileticket=kS1mDi2YAZw%3d&tabid=415>.

2.3 Human Environment

2.3.1 Economic Description of the Commercial Fishery

A full discussion of economic activity, South Atlantic Unlimited Snapper Grouper Permit distribution, and harvest in the commercial and recreational sectors for the black sea bass component of the snapper grouper fishery are contained in Section 3.7 of Amendment 18A (SAFMC 2012), which is hereby incorporated by reference and may be found at <http://www.safmc.net/LinkClick.aspx?fileticket=kS1mDi2YAZw%3d&tabid=415>. Additional information on the commercial and recreational sectors of the snapper grouper fishery is contained in previous amendments to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region [Amendment 13C (SAFMC 2006), Amendment 15A (SAFMC 2008a), Amendment 15B (SAFMC 2008b), Amendment 16 (SAFMC 2009), Regulatory Amendment 9 (SAFMC 2011a), and Comprehensive Annual Catch Limit Amendment for the South Atlantic Region (SAFMC 2011b)] and are incorporated herein by reference.

2.4 Social and Cultural Environment

Because so many communities in the South Atlantic benefit from snapper grouper fishing, a discussion of affected “indicator communities,” defined as communities thought to be most heavily impacted by snapper grouper regulations is included in Amendment 18A (SAFMC 2012). Indicator communities are found in the states of North Carolina, South Carolina, Georgia, and Florida. A full discussion of the indicator communities located in each these states and how they interact with the snapper grouper fishery is contained in Section 3.8 of Amendment 18A (SAFMC 2012), which is incorporated by reference. Amendment 18A may be found on the South Atlantic Council web site at <http://www.safmc.net/LinkClick.aspx?fileticket=kS1mDi2YAZw%3d&tabid=415>.

2.5 Administrative Environment

2.5.1 Federal and State Fishery Management

Federal fishery management is conducted under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.), originally enacted in 1976 as the Fishery Conservation and Management Act. The Magnuson-Stevens Act claims sovereign rights and exclusive fishery management authority over most fishery resources within EEZ, an area extending 200 nautical miles from the seaward boundary of each of the coastal states, and authority over U.S. anadromous species and continental shelf resources that occur beyond the U.S. EEZ. The state governments of North Carolina, South Carolina, Georgia, and Florida have authority to manage fisheries that occur in waters extending three nautical miles from their respective shorelines. North Carolina’s marine fisheries are managed by the Marine Fisheries Division of the North Carolina Department of Environment and Natural Resources. The Marine Resources Division of the South Carolina Department of Natural Resources regulates South Carolina’s marine fisheries. Georgia’s marine fisheries are managed by the Coastal Resources Division of the Department of Natural Resources. The Marine Fisheries Division of the Florida Fish and Wildlife Conservation Commission is responsible for managing Florida’s marine fisheries. Each state fishery management agency has a designated voting seat on the South Atlantic Council. An expanded discussion of the federal and state roles in the fishery management decision-making process, as well federal enforcement responsibilities is contained in Sections 3.4, 3.5, and 3.6 of Amendment 18A (SAFMC 2012), which are hereby incorporated by reference and may be found at <http://www.safmc.net/LinkClick.aspx?fileticket=kS1mDi2YAZw%3d&tabid=415>.

Chapter 3. Proposed Action

Allow Transferability of Black Sea Bass Pot Endorsements

Black sea bass pot endorsements could be transferred under the following conditions:

- Valid and renewable black sea bass pot endorsements would be transferable upon the effective date of the final rule implementing this action.
- Valid and renewable endorsements could only be transferred to any individual or entity holding or simultaneously obtaining a valid South Atlantic Unlimited Snapper-Grouper Permit.
- Valid and renewable endorsements would be transferable, independently from the South Atlantic Unlimited Snapper Grouper Permit.
- All landings of black sea bass using the black sea bass pot endorsement would be associated with the South Atlantic Unlimited Snapper-Grouper Permit to which the endorsement is associated regardless of when landings occur.
- Landings of black sea bass using the black sea bass pot endorsement would not be transferred with the endorsement.
- Endorsements would not be automatically renewed when the associated South Atlantic Unlimited Snapper-Grouper Permit is renewed. (Endorsement holders would need to check a box on the application to renew their black sea bass pot endorsement.)

3.1 Discussion of Black Sea Bass Pot Endorsement Transferability Criteria

It is the intent of the South Atlantic Fishery Management Council that the black sea bass pot endorsement allow the individual or entity to land black sea bass that were caught using black sea bass pots.

All landings history for black sea bass landed with pots, regardless of when the landings are made, is to remain with the South Atlantic Unlimited Snapper Grouper Permit associated with the endorsement. Landings history will be transferred when the South Atlantic Unlimited Snapper Grouper Permit is transferred. Regardless of previous landings history on the South Atlantic Unlimited Snapper Grouper Permit, an individual or entity may only use black sea bass pot gear if they also possess a black sea bass pot endorsement.

An individual or entity that has a black sea bass pot endorsement may transfer the endorsement to another individual or entity provided that:

- The receiving individual or entity already possesses a valid South Atlantic Unlimited Snapper Grouper Permit, or
- The receiving individual or entity has or simultaneously obtains a valid South Atlantic Unlimited Snapper Grouper Permit at the same time as the black sea bass pot endorsement.

Renewal of the black sea bass pot endorsement would not occur automatically when the individual or entity renews the South Atlantic Unlimited Snapper Grouper Permit. The individual or entity would

be required to indicate specifically on the application that they wish to renew their black sea bass pot endorsement.

3.2 Biological Impacts

Allowing transferability of black sea bass pot endorsements would not be expected to negatively impact the black sea bass stock. The biological effects of allowing endorsement transferability would be limited as landings would be constrained by a quota, which if projected to be met or exceeded would trigger implementation of accountability measures including a closure. Therefore, the effects of allowing the black sea bass pot endorsement to be transferred may be more economic and administrative than biological.

The subject endorsement entitles its holder to harvest black sea bass using black sea bass pot gear. Those South Atlantic Unlimited Snapper Grouper Permit holders without the black sea bass endorsement are prohibited from harvesting black sea bass with pots. Any landings of black sea bass using pot gear by individuals who hold an endorsement would be added to the landings of the South Atlantic Unlimited Snapper Grouper Permit to which the endorsement is associated. If the endorsement is transferred, the landings history of black sea bass would be associated with the South Atlantic Unlimited Snapper Grouper Permit. The endorsement would have no associated landings value.

Transferability of black sea bass pot endorsements could take place immediately upon implementation of this amendment (i.e., publication of the final rule), which is expected to result in no biological benefit for black sea bass since endorsements would most likely be transferred to entities planning to fish them as opposed to being held by a fishery participant who may no longer utilize the endorsement. Allowing black sea bass pot endorsements to be transferred under conditions outlined under the amendment action would not be expected to increase or decrease black sea bass pot gear interactions with protected species.

3.3 Economic Impacts

Allowing black sea bass pot endorsements to be transferred to other South Atlantic Unlimited Snapper Grouper Permit holders would provide the opportunity for new entrants without an increase in the overall number of participants. In general, the value of an asset under a limited access program increases over time as people come to understand the possibilities for improved management of the fishery and the impact that might have on the asset. Conceptually, the degree of transfer flexibility influences industry profitability and the average individual profitability. The greater the degree of transferability allowed, the greater the value of the South Atlantic Unlimited Snapper Grouper Permit is expected. Also, the greater the degree of transferability allowed, the greater the profitability of the individual who owns the South Atlantic Unlimited Snapper Grouper Permit because they have the ability to sell their endorsement when they need to switch to more profitable fisheries or when they are unable to fish. Considering the above, allowing the transfer of black sea bass pot endorsements would enhance profitability for fishermen who qualify for black sea bass endorsements. Allowing for the transferability of endorsements to take place immediately upon implementation is expected to

maximize economic benefits. Theoretically, a fisherman could continue to fish for species other than black sea bass, in the snapper grouper complex should the black sea bass pot endorsement be transferred.

3.4 Social Impacts

An inability to transfer black sea bass endorsements would result in a reduction of the number of entities harvesting black sea bass over time as fishermen retire or cease harvesting black sea bass for other reasons. Therefore, an inability to transfer a black sea bass pot endorsement would be inconsistent with the expectation that active participation, at some unspecified level, and harvest would be expected to result in greater social and economic benefits. Generally, social benefits that are tied to economic outcomes would be maximized with fewer constraints placed on the transfer of an asset. Unencumbered transfer allows for the largest pool of recipients, which would be expected to result in the payment of the highest price for the asset. The subject action of this amendment requires that the recipient of a black sea bass pot endorsement hold a valid South Atlantic Unlimited Snapper Grouper Permit. This restriction would be expected to reduce social benefits by an indeterminate amount relative to placing no restrictions on endorsement transfer. Although, allowing an entity that could not use (harvest fish with) the endorsement may seem illogical because, absent fixed associated harvest rights (catch or quota shares), removing an endorsement from active use would not affect the amount of available harvest. An entity that did not possess a valid South Atlantic Unlimited Snapper Grouper Permit would only acquire an endorsement if positive benefits were expected to accrue. These benefits could be associated with the possibility of simply reducing effort or “taking” a boat off the water. Regardless of the nature of benefits, these benefits would be expected to be equal to or greater than the benefits of continuing to harvest black sea bass under the endorsement, otherwise the endorsement would be sold and transferred to someone who expected to harvest black sea bass with pot gear.

Any ability to transfer black sea bass pot endorsements may result in equity criticisms, similar to complaints associated with transferable catch share programs. Although the black sea bass pot endorsement would not contain an entitlement to a specific harvest quantity, it would bestow asset rights to the recipient because endorsement possession would enable harvest, and the recipient would possess a new marketable asset. The value of this asset (the endorsement) would represent a windfall profit for the endorsement recipient, in addition to any benefits from actual harvests, a circumstance that may seem inequitable to entities denied an endorsement upon their initial issuance. While transferability would allow those denied an endorsement, or others in the snapper grouper fishery who previously did not harvest black sea bass by pot gear, an opportunity to acquire an endorsement and harvest black sea bass, they could do so only if they purchased the endorsement, the value of which is unknown at this time. The market price would be expected to increase the lower the total number of endorsements and the higher the total value of harvests. The absence of specific harvest entitlements (catch shares) may keep transfer prices lower than they otherwise may be, even if the harvest history is also transferred, while speculation on the potential development of a catch share program may increase transfer prices (if the transfer includes the harvest history).

As previously stated, generally, social and economic benefits are expected to be greater with the broader the freedom to manage one’s assets (i.e., freedom to sell the endorsement immediately upon effectiveness of the final rule implementing this action if approved by the Secretary of Commerce),

notwithstanding the previous discussion on equity concerns. This is particularly true because situations can arise where a decision to stop fishing is not discretionary, as may be the case should an adverse health situation or personal financial crisis arise. So, to the extent that reduced ability to transfer the endorsements results in reduced benefits, the longer the transfer restriction applies, the greater the expected reduction in social benefits. To the extent that benefits are increased with stability, and in this case stability refers to who the participants are and not their number, it is not yet known at what point the benefits of allowing transfer exceed the benefits of stability.

3.5 Administrative Impacts

Adding transferability allowances to the black sea bass pot endorsement program would increase the administrative burden, requiring processing of transfer requests. The action contained in this amendment would allow endorsements to be transferred *independent* of the South Atlantic Unlimited Snapper Grouper Permit with which they are associated. It is difficult to anticipate the number of endorsement transfers that would occur under this action. Therefore, it is not possible to estimate the total administrative cost or time burden that would be associated with this action if it approved for implementation.

Under this action, the vessel owner must already possess or simultaneously obtain a valid (not expired) South Atlantic Unlimited Snapper Grouper Permit to obtain a black sea bass pot endorsement. A black sea bass pot endorsement that is issued to a vessel that has a South Atlantic Unlimited Snapper Grouper Permit, and then transfers the South Atlantic Unlimited Snapper Grouper Permit without the endorsement will automatically be void, i.e., an endorsement held by a vessel with no South Atlantic Unlimited Snapper Grouper Permit is not valid. If a South Atlantic Snapper Grouper Permit is transferred away from a vessel also holding a black sea bass pot endorsement, and then a new South Atlantic Unlimited Snapper Grouper Permit is obtained, the newly received South Atlantic Unlimited Snapper Grouper Permit would have the same expiration date of the black sea bass pot endorsement already on the vessel. A black sea bass pot endorsement issued to a vessel that already has a South Atlantic Unlimited Snapper Grouper Permit would be issued with an expiration date to match the South Atlantic Unlimited Snapper Grouper Permit.

Chapter 4. Bycatch Practicability Analysis

4.1 Population Effects for Bycatch Species

Black sea bass are predominantly taken with pots; whereas, hook and line gear has been the predominant gear type used to capture other snapper grouper species (Table 4.1).

Table 4.1. Percentage of commercial black sea bass catch by gear based on data from 2005-2010.

Species	H&L	Longline	Spear	Pots
Black Sea Bass	11%	0%	0%	89%

Source: NMFS SEFSC Logbook Program.

During 2005-2010 (the time period for which the most recent recreational catch data is available), the recreational sector dominated landings of black sea bass (Table 4.2).

Table 4.2. Percentage of black sea bass landings among the commercial, for-hire, and private recreational sectors during 2005-2010.

Species	Commercial	For Hire	Recreational
Black Sea Bass	41%	22%	37%

Source: NMFS SEFSC.

During 2005 to 2010, approximately 20% of South Atlantic Unlimited and 225 Pound Snapper Grouper permitted vessels from the Gulf of Mexico and South Atlantic were randomly selected to fill out supplementary logbooks. The average number of trips per year during 2005 to 2010 was 14,372 and fishermen spent an average of 1.68 days at sea per trip (Table 4.3).

Table 4.3. Snapper grouper fishery effort for South Atlantic.

YEAR	Trips	Days	Days per Trip
2005	13,766	22,846	1.66
2006	13,264	23,324	1.76
2007	14,886	24,510	1.65
2008	14,781	25,023	1.69
2009	15,888	26,580	1.67
2010	13,649	22,143	1.62
Mean	14,372	24,071	1.68

Source: NMFS SEFSC Logbook Program.

For species in the snapper grouper fishery management unit, the number of commercial trips that reported discards was greatest for yellowtail snapper, red porgy, vermilion snapper, scamp, and black sea bass. The recommended discard mortality for black sea bass being used in the most recent Southeast Data, Assessment, and Review 25 (SEDAR 25 2011) is 7% for hook-and-line gear, 5% for 1½ inch panel black sea bass pots, and 1% for 2 inch panel black sea bass pots.

4.2 Practicability of Management Measures in Directed Fisheries Relative to their Impact on Bycatch and Bycatch Mortality

Due to recently implemented annual catch limits (ACLs) and a positive response to rebuilding efforts for the species, the commercial season for black sea bass has been substantially shortened. Therefore, bycatch of black sea bass is likely occurring when fishermen target co-occurring species. Measures in Amendment 18A (SAFMC 2012) to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region, which reduced the number of participants in the black sea bass pot fishery, limited the number of pot tags issued to each endorsement holder, and required that all pots be removed from the water at the end of each trip have the potential to reduce bycatch of black sea bass. Additionally, ACLs for multiple species recently specified through the Comprehensive ACL Amendment (SAFMC 2011b), or closing co-occurring species at the same time could have the effect of reducing effort, which in turn could reduce bycatch of black sea bass. The action to allow black sea bass endorsement to be transferred is not likely to impact the bycatch of black sea bass.

4.3 Ecological Effects Due to Changes in the Bycatch

The ecological effects of bycatch mortality are the same as fishing mortality from directed fishing efforts. The administrative action proposed in this amendment is not likely to change bycatch of black sea bass and other co-occurring species since black sea bass pot effort was previously limited through Amendment 18A (SAFMC 2012). Therefore, allowing black sea bass pot endorsements to be transferred with certain conditions would not result in ecological effects due to changes in bycatch.

4.4 Changes in the Bycatch of Other Fish Species and Resulting Population and Ecosystem Effects

Allowing the transfer of black sea bass pot endorsements is not likely to result in changes to bycatch of any other fish species or have beneficial or adverse ecosystem effects. The action is administrative in nature and provides flexibility for fishermen who wish to transfer and obtain endorsements for their own benefit.

4.5 Effects on Marine Mammals and Birds

Under Section 118 of the Marine Mammal Protection Act, NOAA Fisheries Service must publish, at least annually, a List of Fisheries (LOF) that places all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs in each fishery. Of the gear utilized within the snapper grouper fishery, only the black sea bass pot is considered to pose an entanglement risk to marine mammals. The southeast U.S. Atlantic black sea bass pot fishery is included in the grouping of the Atlantic mixed species trap/pot fisheries, which the 2012 List of Fisheries classifies as a Category II. Gear types used in these fisheries are determined to have occasional incidental mortality and serious injury of marine mammals. For the snapper grouper fishery, the best available data on protected species interactions are from the Southeast Fisheries Science Center (SEFSC) Supplementary Discard Data Program initiated in July of 2001 that sub-samples 20% of the vessels with an active South Atlantic Unlimited or 225 Pound Snapper Grouper Permits. Since August 2001, only three interactions with marine mammals have

been documented; each was taken by handline gear and each released alive (McCarthy SEFSC database). The bottom longline/hook-and-line component of the South Atlantic snapper grouper fishery remains a Category III under the 2012 LOF.

Although the black sea bass pot fishery can pose an entanglement risk to large whales due to the whales' distribution and occurrence, sperm, fin, sei, and blue whales are unlikely to overlap with the black sea bass pot fishery operated within the snapper grouper fishery since it is executed primarily off North Carolina and South Carolina in waters ranging from 70-120 feet (21.3-36.6 meters). There are no known interactions between the black sea bass pot fishery and large whales. NOAA Fisheries Service's biological opinion on the continued operation of the South Atlantic snapper grouper fishery determined possible adverse effects resulting from the fishery are extremely unlikely. Thus, the continued operation of the snapper grouper fishery in the southeast U.S. Atlantic exclusive economic zone is not likely to adversely affect sperm, fin, sei, and blue whales (NMFS 2006).

North Atlantic right and humpback whales may overlap both spatially and temporally with the black sea bass pot fishery. Recent revisions to the Atlantic Large Whale Take Reduction Plan have folded the Atlantic mixed species trap/pot fisheries into the plan (72 FR 193; October 5, 2007). These requirements will help further reduce the likelihood of North Atlantic right and humpback whale entanglement in black sea bass pot gear.

The Bermuda petrel and roseate tern occur within the action area. Bermuda petrels are occasionally seen in the waters of the Gulf Stream off the coasts of North Carolina and South Carolina during the summer. Sightings are considered rare and only occurring in low numbers (Alsop 2001). Roseate terns occur widely along the Atlantic coast during the summer but in the southeast region, they are found mainly off the Florida Keys (unpublished US Fish and Wildlife Service data). Interaction with fisheries has not been reported as a concern for either of these species.

Fishing effort reductions have the potential to reduce the amount of interactions between the fishery and marine mammals and birds. Although the Bermuda petrel and roseate tern occur within the action area, these species are not commonly found and neither has been described as associating with vessels or having had interactions with the snapper grouper fishery. Thus, it is believed that the snapper grouper fishery is not likely to negatively affect the Bermuda petrel and the roseate tern.

4.6 Changes in Fishing, Processing, Disposal, and Marketing Costs

Allowing the transfer of black sea bass pot endorsements would not be expected to affect the cost of fishing operations. The endorsements would not accrue a landings history that could be used as a purchasing incentive, and the transfer of endorsements would not affect processing or disposal operations.

4.7 Changes in Fishing Practices and Behavior of Fishermen

Allowing the transfer of black sea bass pot endorsements is not expected to result in changes in fishing behavior beyond transferring the permission to harvest black sea bass with pot gear to the

individual or entity holding the endorsement. A finite number of endorsements has been issued, and this action would not increase or decrease the amount or rate of fishing with black sea bass pot gear.

4.8 Changes in Research, Administration, and Enforcement Costs and Management Effectiveness

Allowing the transfer of black sea bass pot endorsements would involve a slight increase in administrative burden associated with processing transfer requests. However, the small number of endorsements in existence would limit the overall burden, which is expected to be minimal. No changes in research, enforcement, or management effectiveness are likely to occur because of this action.

4.9 Changes in the Economic, Social, or Cultural Value of Fishing Activities and Non-Consumptive Uses of Fishery Resources

The social and/or economic impacts of allowing the black sea bass pot endorsements to be transferred are expected to be beneficial. The socioeconomic benefits of allowing endorsements to be transferred are discussed in Section 4 of Amendment 18A (SAFMC 2012), which is incorporated by reference.

4.10 Changes in the Distribution of Benefits and Costs

The action to allow black sea bass pot endorsements to be transferred is not expected to significantly change the current distribution of benefits and costs among snapper grouper fishery participants. However, the benefit of being allowed to harvest black sea bass with pot gear would be transferred to another South Atlantic Unlimited Snapper Grouper Permit holder if an endorsement is transferred.

4.11 Social Effects

The social effects of allowing black sea bass pot endorsements to be transferred are expected to be beneficial for participants in the snapper grouper fishery. Those benefits are discussed in Section 4 of Amendment 18A (SAFMC 2012), which is incorporated by reference.

4.12 Conclusion

This section evaluates the practicability of taking additional action to minimize bycatch and bycatch mortality using the ten factors provided at 50 CFR 600.350(d)(3)(i). In summary, allowing the transfer of black sea bass pot endorsements is not likely to result in increased bycatch mortality of target or non-target species.

Chapter 5. Research Recommendations

Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Amendment 18A; SAFMC 2012) contains a comprehensive list of biological, social-cultural, recreational, commercial, and ecosystem-based research needs. This list appears in Sections 4.13-4.15 of Amendment 18A, which are incorporated by reference.

Chapter 6. Fishery Impact Statement

The Magnuson-Stevens Fishery Conservation and Management Act requires a Fishery Impact Statement (FIS) be prepared for all amendments to Fishery Management Plans. The FIS contains an assessment of the likely biological and socioeconomic effects of the conservation and management measures on: 1) fishery participants and their communities; 2) participants in the fisheries conducted in adjacent areas under the authority of another Council; and 3) the safety of human life at sea.

6.1 Actions Contained in the Resubmitted Amendment 18A Action Amendment

This amendment is intended to allow for transferability of black sea bass pot endorsements.

6.2 Assessment of Biological Effects

Allowing black sea bass pot endorsements to be transferred independently of South Atlantic Unlimited Snapper Grouper Permits may result in minimal biological impacts if those endorsements are transferred to individuals who are more likely to fish them.

6.3 Assessment of Economic Effects

Conceptually, the degree of transfer flexibility influences industry profitability and the average individual profitability. The greater the degree of endorsement transferability allowed, the greater the value of the endorsement is expected. Also, the greater the degree of transferability allowed, the greater the profitability of the individual who owns the endorsement because they have the ability to sell it when they need to switch to more profitable fisheries or when they are unable to fish. The preferred endorsement transferability alternative would enhance profitability for fishermen who qualify for black sea bass endorsements.

6.4 Assessment of the Social Effects

Any ability to transfer endorsements may result in equity criticisms, similar to complaints associated with transferable catch share programs. Although the black sea bass pot endorsement would not contain an entitlement to a specific harvest quantity, it would bestow asset rights to the recipient because endorsement possession would enable harvest, and the recipient would possess a new marketable asset. The value of this asset (the endorsement) would represent a windfall profit for the endorsement recipient, in addition to any benefits from actual harvests; a circumstance that may seem inequitable to entities denied an endorsement upon their initial issuance.

6.5 Assessment of Effects on Safety at Sea

Overall, management measures contained in this amendment would not present safety at sea concerns. Allowing black sea bass pot endorsements to be transferred under the conditions specified

in this amendment would not result in any safety at sea issues, and therefore, require no related mitigation measures to counter any potential safety concerns.

Chapter 7. Regulatory Flexibility Act Analysis

7.1 Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA does not contain any decision criteria; instead, the purpose of the RFA is to inform the agency, as well as the public, of the expected economic impacts of various alternatives contained in the FMP or amendment (including framework management measures and other regulatory actions). The RFA is also intended to ensure that the agency considers alternatives that minimize the expected impacts while meeting the goals and objectives of the FMP and applicable statutes.

With certain exceptions, the RFA requires agencies to conduct a regulatory flexibility analysis for each proposed rule. The regulatory flexibility analysis is designed to assess the impacts various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those impacts. In addition to analyses conducted for the RIR, the regulatory flexibility analysis provides: 1) A statement of the reasons why action by the agency is being considered; 2) a succinct statement of the objectives of, and legal basis for the proposed rule; 3) a description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; 4) a description of the projected reporting, record-keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirements of the report or record; 5) an identification, to the extent practical, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; and 6) a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

Additional information on the description of affected entities may be found in Section 2.3 and additional information on the expected economic effects of the proposed action may be found in Section 3.3.

7.2 Statement of Need for, Objectives of, and Legal Basis for the Rule

The purpose and need, issues, problems, and objectives of the proposed rule are presented in Section 1.3. The purpose of this proposed action is to allow black sea bass pot endorsements, created through Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic

Region (Amendment 18A; SAFMC 2012), to be transferred among Unlimited South Atlantic Snapper Grouper Permit holders.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended, provides the statutory basis for the proposed rule.

7.3 Identification of All Relevant Federal Rules, Which May Duplicate Overlap or Conflict with the Proposed Rule

No duplicative, overlapping, or conflicting Federal rules have been identified.

7.4 Description and Estimate of the Number of Small Entities to Which the Proposed Rule will Apply

NOAA Fisheries Service expects the proposed action to directly affect commercial fishers. The Small Business Administration established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, other qualifiers apply and the annual receipts threshold is \$7.0 million (NAICS code 713990, recreational industries).

During 2005-2010, an annual average of 247 vessels with valid South Atlantic Unlimited Snapper Grouper Permits to operate in the commercial snapper grouper fishery landed black sea bass, generating dockside revenues of approximately \$1.103 million (2010 dollars). Each vessel, therefore, generated an average of approximately \$4,465 in gross revenues from black sea bass. Vessels that operate in the black sea bass segment of the snapper grouper fishery may also operate in other segments of the snapper grouper fishery, the revenues of which are not reflected in these totals. Based on average revenue information, all commercial vessels affected by the rule can be considered small entities.

7.5 Description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or records

The proposed action would not introduce any changes to reporting, record-keeping, and other compliance requirements that are currently required.

7.6 Substantial Number of Small Entities Criterion

NOAA Fisheries Service expects the proposed action to directly affect all federally permitted commercial vessels harvesting black sea bass using pots or wishing to use pots in the South Atlantic snapper grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, it is determined that the proposed action will affect a substantial number of small entities.

7.7 Significant Economic Impact Criterion

The outcome of ‘significant economic impact’ can be ascertained by examining two issues: disproportionality and profitability.

Disproportionality: Do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities?

All entities that are expected to be affected by the proposed rule are considered small entities, so the issue of disproportional effects on small versus large entities does not arise in the present case.

Profitability: Do the regulations significantly reduce profit for a substantial number of small entities?

A discussion of the economic effects of the proposed action is presented in Section 3.3. The proposed action is expected to increase industry profitability and individual profitability of those owning the endorsement. There would be about 31 endorsements that will be issued through Amendment 18A (SAFMC 2012). Because of the limited number of endorsements, the overall profit increase would not be significant relative to the size of the black sea bass commercial sector and of the commercial sector of the snapper grouper fishery.

7.8 Description of Significant Alternatives to the Proposed Action

This proposed rule, if implemented, is not expected to have a significant economic effect on a substantial number of small entities. As a result, the issue of significant alternatives is not relevant.

Chapter 8. Regulatory Impact Review

The NOAA Fisheries Service requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: (1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem; and (3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR also serves as the basis for determining whether the proposed regulations are a “significant regulatory action” under the criteria provided in Executive Order (E.O.) 12866 and provides information that may be used in conducting an analysis of impacts on small business entities pursuant to the Regulatory Flexibility Act (RFA). This RIR analyzes the expected effects that this action would be expected to have on the commercial and recreational sectors of the snapper grouper fisheries, with emphasis on the black sea bass segment. Additional details on the expected economic effects of this action are included in Section 3 and are incorporated herein by reference.

8.1 Problems and Objectives

The problems and objectives of the proposed rule are stated in Section 1.3. The purpose of this proposed action is to allow black sea bass pot endorsements, created through Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region, to be transferred among South Atlantic Unlimited Snapper Grouper Permit holders.

8.2 Methodology and Framework for Analysis

This RIR assesses management measures from the standpoint of determining the resulting changes in costs and benefits to society. The net effects of the proposed action are stated in qualitative terms due to data limitations. The public and private costs associated with the process of developing and enforcing regulations on fishing for snapper grouper in waters of the U.S. South Atlantic are provided.

8.3 Description of the Fishery

A description of the South Atlantic snapper grouper fishery, with particular reference black sea bass, is contained in Section 2.3.1 and is incorporated herein by reference.

8.4 Effects of the Management Measure

Details on the economic effects of the action can be found in Section 3 and are included herein by reference. The following is a summary discussion of the expected effects of the proposed measure.

This amendment action would allow transferability of black sea bass pot endorsement between individuals or entities with South Atlantic Unlimited Snapper Grouper Permits. Allowing transferability of black sea bass pot endorsements would open opportunities for increasing the value of the endorsement asset and for

the more efficient operators to engage in the fishery. Such opportunities, however, would still be limited by the requirement that transfers of endorsements be made between individuals/entities possessing South Atlantic Unlimited Snapper Grouper Permits. These permits are now under a limited entry program. At any rate, the proposed measure is expected to increase the profits of those owning an endorsement as well as the profits of the entire industry.

8.5 Public and Private Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any federal action involves the expenditure of public and private resources, which can be expressed as costs associated with the regulations. Costs associated with this amendment include:

Council costs of document preparation, meetings, public hearings, and information dissemination.....	\$100,000
NOAA Fisheries administrative costs of document preparation, meetings and review	\$50,000
Annual law enforcement costs	unknown
TOTAL	\$150,000

Law enforcement currently monitors regulatory compliance in these fisheries under routine operations and does not allocate specific budgetary outlays to these fisheries, nor are increased enforcement budgets expected to be requested to address components of this action. In practice, some enhanced enforcement activity might initially occur while the fishery becomes familiar with the new regulations. However, the costs of such enhancements cannot be forecast. Thus, no specific law enforcement costs can be identified.

8.6 Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is expected to result in: (1) an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this executive order. Based on the information provided above, this regulatory action would not meet the first criterion. Therefore, this regulatory action is determined to not be economically significant for the purposes of E.O. 12866.

Chapter 9. Other Applicable Law

Appendix I of Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Amendment 18A; SAFMC 2012) contains a complete list and discussion of other applicable laws that were considered during the development of Amendment 18A. Appendix I considers the implications of the Administrative Procedure Act, the Information Quality Act, the Coastal Zone Management Act, the Endangered Species Act, Executive Order 12612: Federalism, Executive Order 12866: Regulatory Planning and Review, Executive Order 12898: Environmental Justice, Executive Order 12962: Recreational Fisheries, Executive Order 13089: Coral Reef Protection, Executive Order 12158: Marine Protected Areas, the Marine Mammal Protection Act, National Environmental Policy Act, the National Marine Sanctuaries Act, the Paperwork Reduction Act, the Regulatory Flexibility Act, the Small Business Act, and Public Law 99-659: Vessel Safety as they relate to the actions contained in Amendment 18A including transferability of black sea bass pot endorsements. Therefore, Appendix I of Amendment 18A is hereby incorporated by reference.

Chapter 10. Other Things to Consider

10.1 Unavoidable Adverse Effects

There are no significant unavoidable adverse effects on the socioeconomic environment that would result from the action to allow transferability of black sea bass endorsements. A minimal amount of staff time and resources would be spent on processing endorsement transfers from one South Atlantic Unlimited Snapper Grouper Permit holder to another. If this amendment is approved for implementation by the Secretary of Commerce, the administrative time and cost associated with processing endorsement transfer requests would be considered an unavoidable adverse impact.

10.2 Effects of the Fishery on the Environment

The biological impacts of the proposed actions are described in Section 3.0, including potential impacts on habitat. The action proposed in this amendment is not anticipated to have any adverse impact on Essential Fish Habitat (EFH) or EFH-Habitat Areas of Particular Concern (EFH-HAPCs) for managed species. Nor is the action likely to jeopardize the sustainability of any target or non-target species.

10.3 Damage to Ocean and Coastal Habitats

The proposed action is not expected to have any adverse effect on the ocean and coastal habitat. Management measures implemented in the original Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Snapper Grouper FMP) through Amendment 7 to the Snapper Grouper FMP combined have significantly reduced the impact of the snapper grouper fishery on EFH. The South Atlantic Fishery Management Council has reduced the impact of the fishery and protected EFH by: prohibiting the use of poisons and explosives; prohibiting use of fish traps and entanglement nets in the exclusive economic zone; banning use of bottom trawls on live/hard bottom habitat north of Cape Canaveral, Florida; restricting use of bottom longline to depths greater than 50 fathoms north of St. Lucie Inlet, Florida; and prohibiting use of black sea bass pots south of Cape Canaveral, Florida. These gear restrictions have significantly reduced the impact of the fishery on coral and live/hard bottom habitat in the South Atlantic Region.

Additional management measures in Amendment 8 to the Snapper Grouper FMP (SAFMC 1997), including specifying allowable bait nets and capping effort, have protected habitat by making existing regulations more enforceable. Establishing a controlled effort program limited overall fishing effort and to the extent there is damage to the habitat from the fishery (e.g., black sea bass pots, anchors from fishing vessels), limited such impacts.

In addition, measures in Amendment 9 to the Snapper Grouper FMP (SAFMC 1998a), that include further restricting longlines to retention of only deepwater species and requiring that black sea bass pots have escape panels with degradable fasteners, reduce the catch of undersized fish and bycatch and ensure that the pot, if lost, will not continue to “ghost” fish. Amendment 13C to the Snapper Grouper FMP (SAFMC 2006) increased mesh size in the back panel of pots, which has reduced bycatch and retention of undersized fish.

Amendment 15B to the Snapper Grouper FMP (SAFMC 2008b) implemented sea turtle bycatch release equipment requirements and sea turtle and smalltooth sawfish handling protocols and/or guidelines in the federally-permitted commercial and for-hire snapper grouper fishery effective February 15, 2010. Modifications to these requirements were approved in the Comprehensive Ecosystem-Based Amendment 2 (SAFMC 2011c).

Amendment 16 to the Snapper Grouper FMP (SAFMC 2009) included an action to reduce bycatch mortality of snapper grouper species by requiring that fishermen use dehooking devices effective July 29, 2009. Limiting the overall fishing mortality reduces the likelihood of over-harvesting of species with the resulting loss in genetic diversity, ecosystem diversity, and sustainability.

Measures adopted in the Coral and Shrimp Fishery Management Plans have further restricted access by fishermen that had potential adverse impacts on essential snapper grouper habitat. These measures include the designation of the *Oculina* Bank HAPC and the rock shrimp closed area (see the Shrimp and Coral Fishery Management Plan/Amendment documents for additional information).

The South Atlantic Council's Habitat Plan (SAFMC 1998b) contains measures that expanded the *Oculina* Bank HAPC and added two additional satellite HAPCs. Amendment 14 to the Snapper Grouper FMP (SAFMC 2007), established eight marine protected areas where fishing for or retention of snapper grouper species is prohibited.

10.4 Relationship of Short-Term Uses and Long-Term Productivity

The relationship between short-term uses and long-term productivity will be beneficially affected by this amendment. The proposed action would allow black sea bass pot endorsements to be transferred and thus perpetuate the existence of the black sea bass pot component of the snapper grouper fishery. Allowing transfer of black sea bass pot endorsements would help prevent endorsements from being lost due to termination via expiration if fishermen transfer unused endorsements before they expire to fishery participants who wish to use them.

10.5 Irreversible and Irretrievable Commitments of Resources

Irreversible commitments are defined as commitments that cannot be reversed, except perhaps in the extreme long-term, whereas irretrievable commitments are lost for a period of time. There are no irreversible commitments for this amendment.

Since the Snapper Grouper FMP and its implementing regulations are always subject to future changes, proceeding with the development of this Resubmitted Action Amendment 18A to the Snapper Grouper FMP does not represent an irreversible or irretrievable commitment of resources. NOAA Fisheries Service always has discretion to amend its regulations and may do so at any time, subject to the Administrative Procedure Act.

10.6 Monitoring and Mitigation Measures

The proposed action would benefit South Atlantic Unlimited Snapper Grouper Permit holders who would like to obtain a black sea bass pot endorsement to deploy black sea bass pot gear to harvest the species. The action would also benefit holders of the black sea bass pot endorsement as they would be able to transfer their endorsement to another South Atlantic Unlimited Snapper Grouper Permit holder for a profit. The NOAA Fisheries Service Southeast Regional Office would oversee black sea bass pot endorsement transfers, and NOAA Fisheries Service Office of Law Enforcement would be responsible for enforcement of the use of the subject endorsements. The action contained in this amendment is believed to best mitigate the unavoidable, short-term, adverse effects of limiting participation in the black sea bass fishery through the black sea bass endorsement program implemented in Amendment 18A to the Snapper Grouper FMP.

10.7 Unavailable or Incomplete Information

The Council on Environmental Quality, in its implementing regulations for the National Environmental Policy Act, addressed incomplete or unavailable information at 40 CFR 1502.22 (a) and (b). That direction has been considered. There are two tests to be applied: 1) Does the incomplete or unavailable information involve “reasonable foreseeable adverse effects...;” and 2) is the information about these effects “essential to a reasoned choice among alternatives...”.

Stock assessments have been conducted on black sea bass using the best available data available. Status determinations for the species were derived from the Southeast Data, Assessment, and Review (SEDAR) process, which involves a series of three workshops designed to ensure each stock assessment reflects the best available scientific information. The findings and conclusions of each SEDAR workshop are documented in a series of reports, which are ultimately reviewed and discussed by the Council and their Scientific and Statistical Committee. SEDAR participants, the South Atlantic Council’s Advisory Panels, the South Atlantic Council, and NOAA Fisheries Service staff reviewed and considered any concerns about the adequacy of the data. Amendment 18A (SAFMC 2012) contains a comprehensive list of biological, social-cultural, recreational, commercial, and ecosystem-based research needs. This list appears in Sections 4.13-4.15 of Amendment 18A, which are incorporated by reference.

Chapter 11. References

- Alsop, F.J. 2001. Birds of North America, Eastern Region. Smithsonian Handbooks. DK Publishing 375 Hudson St. New York, NY 10014.
- McGovern, J.C., M. R. Collins, O. Pashuk, and H.S. Meister. 2002. Changes in the life history of black sea bass, *Centropristis striata*, from the southeastern United States during 1978-1998. N. Am. J. Fish. Manag. 22:1151–1163.
- Robins, C.R. and G.C. Ray. 1986. A field guide to Atlantic coast fishes of North America. Houghton Mifflin Company, Boston, U.S.A. 354 p.
- NMFS (National Marine Fisheries Service). 2006. Endangered Species Act Section 7 consultation on the Continued Authorization of snapper grouper Fishing under the South Atlantic Snapper Grouper Fishery Management Plan (RFFMP) and Proposed Amendment 13C. Biological Opinion. June 7.
- SAFMC (South Atlantic Fishery Management Council). 1997. Amendment Number 8, Regulatory Impact Review, Social Impact Assessment, Initial Regulatory Flexibility Analysis and Supplemental Environmental Impact Statement for the Fishery Management Plan for the Snapper grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 1 Southpark Cir., Ste 306, Charleston, S.C. 29407-4699. 124 pp.
- SAFMC (South Atlantic Fishery Management Council). 1998a. Amendment Number 9, Final Environmental Assessment, Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement for the Fishery Management Plan for the Snapper grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 1 Southpark Cir., Suite 306, Charleston, S.C. 29407-4699. 311 pp.
- SAFMC (South Atlantic Fishery Management Council). 1998b. Final Habitat Plan for the South Atlantic Region: Essential Fish Habitat Requirements for Fishery Management Plans of the South Atlantic Fishery Management Council. South Atlantic Fishery Management Council, 1 Southpark Cir., Suite 306, Charleston, S.C. 29407-4699. 457 pp.
- SAFMC (South Atlantic Fishery Management Council). 2006. Amendment Number 13C, Final Environmental Assessment, Initial Regulatory Flexibility Analysis/Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement for the Fishery Management Plan for the Snapper grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 1 Southpark Cir., Ste 306, Charleston, S.C. 29407-4699. 631 pp.
- SAFMC (South Atlantic Fishery Management Council). 2007. Final Amendment Number 14, Final Environmental Impact Statement, Initial Regulatory Flexibility Analysis/Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement for the Fishery Management Plan for the Snapper grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.
- SAFMC (South Atlantic Fishery Management Council). 2008a. Amendment Number 15A, Final Environmental Impact Statement, Initial Regulatory Flexibility Analysis/Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement for the Fishery

Management Plan for the Snapper grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

SAFMC (South Atlantic Fishery Management Council). 2008b. Amendment Number 15B, Final Environmental Impact Statement, Initial Regulatory Flexibility Analysis/Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement for the Fishery Management Plan for the Snapper grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

SAFMC (South Atlantic Fishery Management Council). 2009. Amendment Number 16, Final Environmental Impact Statement, Initial Regulatory Flexibility Analysis/Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement for the Fishery Management Plan for the Snapper grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

SAFMC (South Atlantic Fishery Management Council). 2011a. Regulatory Amendment 9 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

SAFMC (South Atlantic Fishery Management Council). 2011b. Comprehensive Annual Catch Limit (ACL) Amendment for the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

SAFMC (South Atlantic Fishery Management Council). 2011c. Comprehensive Ecosystem-Based Amendment 2. South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

SAFMC (South Atlantic Fishery Management Council). 2012. Amendment 18A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

SEDAR 25. 2011. Stock Assessment Report. South Atlantic Black Sea Bass. October 2011. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405. Available from the SEDAR website:
http://www.sefsc.noaa.gov/sedar/download/SEDAR25_BlackSeaBass_SAR.pdf?id=DOCUMENT

Vaughan, D.S., M.R. Collins, and D.J. Schmidt. 1995. Population characteristics of the U.S. South Atlantic black sea bass *Centropristis striata*. Bulletin of Marine Science 56:250-267.

Wenner, C.A., W.A. Roumillat, and C.W. Waltz. 1986. Contributions to the life history of black sea bass, *Centropristis striata*, off the southeastern United States. Fish. Bull. 84(3): 723-741.