

**PART 1825—FOREIGN ACQUISITION**

**1825.7200 [Amended]**

28. In section 1825.7200, "Procurement Policy Division" is revised to read "Acquisition Liaison Division."

**PART 1829—TAXES**

**1829.203 [Amended]**

29. In paragraph (a) to section 1829.203, "Procurement Policy Division" is revised to read "Acquisition Liaison Division."

**PART 1833—PROTESTS, DISPUTES, AND APPEALS**

**1833.103 [Amended]**

30. In section 1833.103, paragraph (a) is revised to read as follows:

**1833.103 Protests to the agency.**

(a) When a protest is filed directly with an installation, any determination under (FAR) 48 CFR 33.103(a) to award the contract before the protest is resolved will be made by the contracting officer. If the protest is filed with NASA Headquarters, any such determination will be made by the Associate Administrator for Procurement.

31. In paragraph (c) of 1833.103, "Procurement Policy Division" is revised to read "Acquisition Liaison Division."

**PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING**

**1835.016-70 [Amended]**

32. In section 1835.016-70, paragraph (b)(6) is removed.

**1837.202-71 [Amended]**

33. In paragraph (b) of section 1837.202-71, "(Code HM)" is revised to read "(Code HC)."

**PART 1842—CONTRACT ADMINISTRATION**

**1842.101 [Amended]**

34. In section 1842.101, "Procurement Policy Division" is revised to read "Acquisition Liaison Division."

**1842.1004 [Amended]**

35. In section 1842.1004, "Contract Pricing and Financing Division" is revised to read "Analysis Division."

**1842.1203 [Amended]**

36. In paragraph (a) introductory text of section 1842.1203, "Director, Procurement Systems Division (Code HM)" is revised to read "Director, Analysis Division (Code HC)."

37. In paragraph (c)(1) of section 1842.1203, "Code HM" is revised to read "Code HC."

**1842.1203-70 [Amended]**

38. In section 1842.1203-70, paragraph (c), "Code HM" is revised to read "Code HC."

**PART 1844—SUBCONTRACTING POLICIES AND PROCEDURES**

**1844.305 [Amended]**

39. In section 1844.305, "Code HM" is revised to read "Code HK."

**PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

40. Section 1852.103-70 is amended by revising the example to read as follows:

**1852.103-70 Identification of modified provisions and clauses.**

52.232-28 Electronic Funds Transfer Payment Methods (APR 1989)—as modified by 48 CFR 1832.908(a) (NASA FAR Supplement 1832.908(a))

**1852.204-70 [Amended]**

41. In the clause of section 1852.204-70, paragraphs (a) introductory text, (b) and (e)(2), "(Code HM)" is revised to read "(Code HC)."

**PART 1853—FORMS**

**1853.103 [Amended]**

42. In section 1853.103, "Procurement Policy Division" is revised to read "Acquisition Liaison Division."

**1853.108 [Amended]**

43. In section 1853.108, "Procurement Policy Division" is revised to read "Acquisition Liaison Division."

**PART 1870—NASA SUPPLEMENTARY REGULATIONS**

**1870.103 [Amended]**

44. In section 1870.103, App. I, Chapter 7, Appendix B, paragraph XI, subparagraph 2., the phrase "and the clause at NFS 1852.227-73, 'Patent Rights Clause for Subcontracts,'" is removed.

45. In section 1870.303, App. I, Chapter 1, paragraph 101, subparagraphs 4.i. and 4.j. are revised to read as follows:

**1870.303 Source Evaluation Board Procedures.**

4. i. Establish an SEB advisory group or individual at the field installation to ensure proper source selection procedures are employed;

j. Ensure an environment exists in which evaluation and selection activities can be effectively conducted; and

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 204 and 646**

[Docket No. 940953-4347; I.D. 061594A]

RIN 0648-AE52

**Snapper-Grouper Fishery Off the Southern Atlantic States**

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 7 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This rule changes the minimum size limits of certain species, requires charter vessels/headboats and dealers to obtain Federal permits, clarifies one of the earned income requirements for a vessel permit, restricts the sale/purchase of snapper-grouper species, modifies the criteria for determining when a vessel is operating as a headboat, modifies the requirements for possessing multi-day bag limits, specifies allowable gear, authorizes permits for experimental fishing, modifies the management unit for scup, clarifies the management unit for sea bass, and corrects and clarifies the regulations. The intended effects of this rule are to conserve snapper-grouper species and enhance effective management of the snapper-grouper fishery. This rule also informs the public of the approval by the Office of Management and Budget (OMB) of three new collection-of-information requirements contained in this rule.

EFFECTIVE DATE: January 23, 1995, except that §§ 646.4 (d) and (e), (f) and (g), and 646.7(e) are effective December 23, 1994; and §§ 646.4 (a)(3) and (a)(4), 646.7 (c), (d), and (mm), and 646.26(a) are effective March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813-570-5305.

SUPPLEMENTARY INFORMATION: Snapper-grouper species off the southern Atlantic States are managed under the

FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council), and is implemented through regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The background and rationale for the measures in Amendment 7 and the additional measures proposed by NMFS were contained in the preamble to the proposed rule (59 FR 47833, September 19, 1994) and are not repeated here.

#### Comments and Responses

Comments on the proposed rule were received from a commercial dive fisherman, the U.S. Fish and Wildlife Service, the Council, and the operator of a charter vessel.

*Comment:* The U.S. Fish and Wildlife Service supported the proposed management measures in Amendment 7.

*Response:* NMFS agrees.

*Comment:* The Council reiterated its desire for the prohibition on use of powerheads in the EEZ off South Carolina and for the prohibition on bottom longlines south of St. Lucie Inlet. This was done by copying appropriate sections of Amendment 7 and resubmitting them.

*Response:* NMFS agrees.

*Comment:* The charter vessel operator commented that it is unfair to allow an excursion vessel to possess a 3-day bag limit of snappers and groupers when charter vessels are restricted to a 2-day bag limit.

*Response:* This management measure was contained in Amendment 4, not Amendment 7, and therefore is outside the scope of this rulemaking. The commenter's letter has been forwarded to the Council for consideration.

*Comment:* The commercial diver opposed the prohibition on use of powerheads in the EEZ off South Carolina. He commented that the South Carolina law banning the use of powerheads in State waters is unconstitutional because it limits interstate commerce and would not allow a fisherman to ship powerheaded fish through South Carolina. The commenter asked why enforcement of powerheading restrictions is a major problem with only 17 vessels using dive gear in that State. He asked why the Council has not prohibited sea bass trappings, because hundreds of vessels are engaged in that activity, which is also banned in special management zones (SMZs). He stated that if enforcement of the law on SMZs warrants prohibition of powerheads, it should warrant the prohibition of sea bass traps. He reported that South

Carolina would like to make the entire EEZ off its border an SMZ, which would be unacceptable. He concluded by stating that no provisions have been made for transit of the EEZ off South Carolina with fish taken legally in other waters and that he would be unable to fish in Georgia and travel to North Carolina.

*Response:* After reviewing the administrative record supporting the powerhead prohibition measure, NMFS believes that this measure is necessary to avoid serious user group conflicts in Federal waters off South Carolina. Additionally, the Council believes that South Carolina will be unable to enforce its prohibition on the use of powerheads and the prohibition on the use of powerheads in the SMZs off South Carolina unless powerheads are banned throughout the entire EEZ off South Carolina. This measure will result in consistent Federal and State regulations in the EEZ off South Carolina, which should enhance compliance with management measures. Also, fishermen may continue to use traditional spearfishing gear without powerheads. Fishermen will still be able to use powerheads for safety purposes. Although it is true that fishermen will not be able to transit the EEZ off South Carolina with mutilated fish and a powerhead, there are no impediments to shipping fish through the State of South Carolina. Fishermen that catch fish with powerheads in the EEZ outside of South Carolina must land them in a state where the practice is legal. Since there is relatively little powerheading activity off South Carolina, few fishermen will be affected by this aspect of the measure. The Council believes that there is an increasing problem of competition between recreational and commercial fishermen using dive gear. This measure will reduce the possibility of conflict between these user groups. Sea bass potting has been a traditional fishing practice off South Carolina. The Council and NMFS do not believe that it is a law enforcement problem. Thus, it is not necessary to prohibit the use of sea bass pots in the EEZ.

#### Changes From the Proposed Rule

This final rule clarifies that management of bank, rock, and black sea bass under the FMP and the regulations in part 646 applies only south of Cape Hatteras, North Carolina. This geographical limitation on the management of sea bass is contained in the FMP and is based on the fact that Cape Hatteras is the boundary between two distinct stocks of sea bass. The limitation as to black sea bass was discussed in the preamble to the

proposed rule to implement the FMP (48 FR 26843, June 10, 1983) and is reflected in the regulations by limitation of the minimum size limit to "black sea bass south of Cape Hatteras, North Carolina \* \* \*" (50 CFR 646.21(a)(1)(i)). As with scup, this geographical limitation of the management unit allows the Mid-Atlantic Fishery Management Council to manage the northern stock of sea bass throughout its range.

In lieu of amending the prohibitions in § 646.7 via complex instructions involving redesignation of current paragraphs, this final rule publishes the entire section, even though a majority of the paragraphs are not substantively changed.

The table in 50 CFR part 204 containing OMB control numbers for NOAA collection-of-information requirements is amended by adding the collection-of-information control numbers issued by the Office of Management and Budget (OMB), under provisions of the Paperwork Reduction Act (PRA), for the new collections contained in this rule.

#### Effective Dates

This final rule requires the owners/operators of charter vessels/headboats and dealers to obtain permits for the snapper-grouper fishery. In order to allow sufficient time for them to obtain and submit applications for permits and for NMFS to process such applications and issue permits, the measures and prohibitions regarding activities that may be conducted only with such permits, §§ 646.4 (a)(3) and (a)(4), 646.7 (c), (d), and (mm), and 646.26(a), do not become effective until March 1, 1995.

In order for permits to be issued by March 1, 1995, it is essential that the application and permitting process begin as soon as possible. To accomplish this, §§ 646.4 (d), (e), (f), and (g), which set forth procedures for making applications for such permits including the specification of what information is required and other related permit process matters, and § 646.7(e), which prohibits falsification of any information on a permit application, are effective December 23, 1994. To the extent that any of these provisions are substantive rather than procedural, the Assistant Administrator for Fisheries, NOAA, finds that, because a delay in the effectiveness of these provisions would not be in the public interest, good cause exists under section 553(d)(3) of the Administrative Procedure Act not to delay their effective date.

All other measures and related prohibitions are effective January 23, 1995.

**Classification**

The Regional Director determined that Amendment 7 is necessary for the conservation and management of the snapper-grouper fishery off the southern Atlantic states and that it is consistent with the Magnuson Act and other applicable law.

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when the proposed rule was published that this rule would not have a significant economic impact on a substantial number of small entities. The reasons for this certification were published in the preamble to the proposed rule (59 FR 47833, September 19, 1994). As a result, a regulatory flexibility analysis was not prepared.

This rule contains collection-of-information requirements subject to the PRA—namely, applications for charter vessel/headboat permits, applications for dealer permits, and applications for experimental fishing permits. These collections of information have been approved by OMB under OMB control number 0648-0205. The public reporting burdens for these collections of information are estimated to average 20 minutes, 5 minutes, and 1 hour per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these reporting burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702 and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention: NOAA Desk Officer).

**List of Subjects**

**50 CFR Part 204**

Reporting and recordkeeping requirements.

**50 CFR Part 646**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 16, 1994.

**Gary Matlock,**  
*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 204 and 646 are amended as follows:

**PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS**

1. The authority citation for part 204 continues to read as follows:

**Authority:** Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

**§ 204.1 [Amended]**

2. In § 204.1(b), the table is amended by adding in the first column “§ 646.29” and adding in the corresponding position in the second column “-0205”.

**PART 646—SNAPPER-GROUPER FISHERY OFF THE SOUTHERN ATLANTIC STATES**

1. The title of part 646 is revised to read as set out above.

2. The authority citation for part 646 continues to read as follows:

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

3. Section 646.1 is revised to read as follows:

**§ 646.1 Purpose and scope.**

(a) The purpose of this part is to implement the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region prepared by the South Atlantic Fishery Management Council under the Magnuson Act.

(b) This part governs conservation and management of fish in the snapper-grouper fishery in or from the EEZ off the southern Atlantic states, except that—

(1) Sections 646.5 and 646.24 also apply to such fish in or from adjoining state waters; and

(2) This part does not apply to bank, rock, or black sea bass or scup north of 35°15.3' N. lat., the latitude of Cape Hatteras Light, NC.

(c) “EEZ” in this part refers to the EEZ off the southern Atlantic states, unless the context clearly indicates otherwise.

4. In § 646.2, the definition of “South Atlantic” is removed; the definitions of “Charter vessel”, “Headboat”, and “Regional Director” are revised; and new definitions of “Off North Carolina”, “Off South Carolina”, and “Off the southern Atlantic states” are added, in alphabetical order, to read as follows:

**§ 646.2 Definitions.**

\* \* \* \* \*

*Charter vessel* means a vessel less than 100 gross tons (90.8 metric tons)

that meets the requirements of the Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

\* \* \* \* \*

*Headboat* means a vessel that holds a valid Certificate of Inspection issued by the Coast Guard to carry passengers for hire. A headboat is considered to be operating as a headboat when it carries a passenger who pays a fee or when there are more persons aboard than the number of crew specified in the vessel's Certificate of Inspection.

*Off North Carolina* means the waters off the east coast from 36°34'55" N. lat. (extension of the boundary between Virginia and North Carolina) to a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina boundary, as marked by the border station on Bird Island at 33°51'07.9" N. lat., 78°32'32.6" W. long.

*Off South Carolina* means the waters off the east coast from a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina boundary, as marked by the border station on Bird Island at 33°51'07.9" N. lat., 78°32'32.6" W. long., to a line extending in a direction of 104° from true north from the seaward terminus of the South Carolina/Georgia boundary.

*Off the southern Atlantic states* means the waters off the east coast from 36°34'55" N. lat. (extension of the boundary between Virginia and North Carolina) to the boundary between the Atlantic Ocean and the Gulf of Mexico, as specified in § 601.11(c) of this chapter.

\* \* \* \* \*

*Regional Director* means the Director, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, telephone 813-570-5301; or a designee.

\* \* \* \* \*

5. In § 646.4, paragraphs (e) through (m) are redesignated as paragraphs (f) through (n), respectively; paragraphs (a)(3), (b)(2)(vii)(B), (b)(2)(vii)(C), (d), the first sentences of newly designated paragraphs (f), (g)(1), (i)(1), and (i)(2), newly designated paragraph (j), and the first sentence of newly redesignated paragraph (n) are revised; and new paragraphs (a)(4), (a)(5), and (e) are added to read as follows:

**§ 646.4 Permits and fees.**

(a) \* \* \*

(3) *Annual charter vessel/headboat permits for snapper-grouper.* A vessel that is operating as a charter vessel or headboat that fishes for fish in the snapper-grouper fishery in the EEZ, or possesses fish in the snapper-grouper fishery in or from the EEZ, must have on board a charter vessel/headboat permit for the snapper-grouper fishery.

(4) *Annual dealer permits for snapper-grouper, excluding wreckfish.* A dealer who receives fish in the snapper-grouper fishery, excluding wreckfish, that were harvested in the EEZ must obtain an annual dealer permit for snapper-grouper, excluding wreckfish. To be eligible for such permit, an applicant must have a valid state wholesaler's license in the state where he or she operates and must have a physical facility for the receipt of fish at a fixed location in that state.

(5) *Annual dealer permits for wreckfish.* A dealer who receives a wreckfish must obtain an annual dealer permit for wreckfish. To be eligible for such permit, an applicant must have a valid state wholesaler's license in the state where he or she operates and must have a physical facility for the receipt of fish at a fixed location in that state.

(b) \* \* \*  
(2) \* \* \*  
(vii) \* \* \*

(B) Gross sales of fish harvested by his or her vessels were more than \$20,000; or

(C) For a vessel owned by a corporation or partnership, the gross sales of fish harvested by the corporation's or partnership's vessels were more than \$20,000;

\* \* \* \* \*

(d) *Application for a charter vessel/headboat permit for snapper-grouper.* (1) An application for a charter vessel/headboat permit for fish in the snapper-grouper fishery must be submitted and signed by the owner (in the case of a corporation, a qualifying officer or shareholder; in the case of a partnership, a qualifying general partner) or operator of the vessel. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:  
(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of its state registration certificate.

(ii) The vessel's name and official number.  
(iii) Name, mailing address, including zip code, and telephone number of the owner of the vessel.

(iv) Name, mailing address, including zip code, and telephone number of the applicant, if other than the owner.

(v) Social security number and date of birth of the applicant and the owner (if the owner is a corporation/partnership, the employer identification number, if one has been assigned by the Internal Revenue Service, and the date the corporation/partnership was formed).

(vi) Any other information concerning vessel, gear characteristics, principal fisheries engaged in, or fishing areas requested by the Regional Director and included on the application form.

(vii) Any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director and included on the application form.

(e) *Application for an annual dealer permit.* (1) An application for a dealer permit for snapper-grouper, excluding wreckfish, or for a dealer permit for wreckfish must be submitted and signed by the dealer or an officer of a corporation acting as a dealer. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:

(i) A copy of each state wholesaler's license held by the dealer.

(ii) Business name; mailing address, including zip code, of the principal office of the business; telephone number; employer identification number, if one has been assigned by the Internal Revenue Service; and date the business was formed.

(iii) The address of each physical facility at a fixed location where the business receives fish.

(iv) Applicant's name; official capacity in the business; address, including zip code; telephone number; social security number; and date of birth.

(v) Any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director and included on the application form.

(f) \* \* \* A fee is charged for each permit application submitted pursuant to this section and for each sea bass pot identification tag required under § 646.6(d). \* \* \*

(g) \* \* \*  
(1) The Regional Director will issue a permit at any time to an applicant if the application is complete and the specific requirements for the requested permit have been met. \* \* \*

\* \* \* \* \*

(i) \* \* \* (1) A vessel permit issued pursuant to this section is not transferable or assignable. \* \* \*

(2) A dealer permit issued pursuant to this section may be transferred upon sale of the dealer's business. \* \* \*

(j) *Display.* A vessel permit issued pursuant to this section must be carried on board the vessel and such vessel must be identified as provided for in § 646.6. A dealer permit issued pursuant to this section must be available on the dealer's premises. The operator of a vessel or a dealer must present the permit for inspection upon request of an authorized officer.

\* \* \* \* \*

(n) \* \* \* The owner or operator of a vessel with a permit for snapper-grouper, excluding wreckfish; the wreckfish shareholder of a vessel with a permit for wreckfish; the owner or operator of a vessel with a charter vessel/headboat permit for snapper-grouper; or a dealer with a permit issued pursuant to this section must notify the Regional Director within 15 days after any change in the application information required by paragraph (b), (c), (d), or (e) of this section. \* \* \*

**§ 646.5 [Amended]**

6. In § 646.5, in paragraphs (b) and (c)(1), the phrase "off the South Atlantic states" is removed.

7. Section 646.7 is revised to read as follows:

**§ 646.7 Prohibitions.**

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Engage in a directed fishery for tilefish in the EEZ or use a sea bass pot in the EEZ north of Cape Canaveral, Florida, aboard a vessel that does not have a vessel permit for snapper-grouper, excluding wreckfish, as specified in § 646.4(a)(1).

(b) Fish for wreckfish in the EEZ, possess wreckfish in or from the EEZ, off-load wreckfish from the EEZ, or sell wreckfish in or from the EEZ aboard a vessel that does not have a vessel permit for wreckfish, as specified in § 646.4(a)(2).

(c) Own or operate a vessel that operates as a charter vessel or headboat that fishes for snapper-grouper species in the EEZ, or possesses snapper-grouper species in or from the EEZ, without a charter vessel/headboat permit on board, as specified in § 646.4(a)(3).

(d) As a dealer, receive fish in the snapper-grouper fishery without a dealer permit, as specified in § 646.4(a)(4) or (5).

(e) Falsify information specified in § 646.4 (b)(2), (c)(2), (d)(2), or (e)(2) on an application for a permit.

(f) Fail to display a permit, as specified in § 646.4(j).

(g) Falsify or fail to maintain, submit, or provide information required to be maintained, submitted, or provided, as specified in § 646.5 (a) through (d), or as may be required by § 646.29.

(h) Fail to make fish in the snapper-grouper fishery, or parts thereof, available for inspection, as specified in § 646.5(e)(1).

(i) Fail to make available records of off-loadings, purchases, barter, or sales of wreckfish, as specified in § 646.5(e)(2); or fail to make available individual transferable quota (ITQ) coupons, as specified in § 646.10(c)(8).

(j) Falsify or fail to display and maintain vessel and gear identification, as specified in § 646.6 (a) through (e).

(k) Possess an ITQ coupon not issued to him or, if received by transfer, without all required sale endorsements properly completed thereon, as specified in § 646.10(c)(3).

(l) Possess wreckfish on board a fishing vessel in an amount exceeding the total of the ITQ coupons on board the vessel, or without a vessel permit, or without a logbook form for recording the fishing trip, as specified in § 646.10(c)(4).

(m) Fail to sign and date the "Fisherman" part of ITQ coupons or fail to submit such coupon parts with the record of the fishing trip, as specified in § 646.10(c)(5).

(n) Fail to give a dealer the "Fish House" part of ITQ coupons, or transfer a wreckfish to a dealer who does not hold a permit, as specified in § 646.10(c)(6).

(o) Receive a wreckfish from a vessel that does not have a vessel permit for wreckfish, as specified in § 646.10(c)(7).

(p) Fail to receive the "Fish House" part of ITQ coupons from a fisherman; fail to enter the permit number of the vessel from which the wreckfish were received, the date of receipt, and the dealer's permit number on such parts; fail to sign such parts; or fail to submit such parts with the dealer report; as specified in § 646.10(c)(7).

(q) Possess a fish in the snapper-grouper fishery smaller than the minimum size limit, as specified in § 646.21(a)(1).

(r) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter fish in the snapper-grouper fishery smaller than the minimum size limit, as specified in § 646.21(a)(2).

(s) Possess a fish in the snapper-grouper fishery without its head and fins intact, as specified in § 646.21(b).

(t) Operate a vessel with fish in the snapper-grouper fishery aboard that are smaller than the minimum size limits, do not have head and fins intact, or are in excess of the cumulative bag limit, as specified in §§ 646.21(c) and 646.23(e).

(u) Transfer wreckfish at sea, as specified in § 646.21(d)(1).

(v) Off-load a wreckfish at a time not authorized or without prior notification, as specified in § 646.21(d)(3) and (4).

(w) Harvest or possess a jewfish or Nassau grouper in or from the EEZ or fail to release a jewfish or Nassau grouper taken in the EEZ, as specified in § 646.21 (e) and (f).

(x) During the wreckfish spawning season closure, harvest, possess, off-load, sell, purchase, trade, or barter wreckfish in or from the EEZ, or attempt any of the foregoing, as specified in § 646.21(g).

(y) During the greater amberjack and mutton snapper spawning seasons, exceed the possession limits for those species, as specified in § 646.21 (h) and (i).

(z) Possess a warsaw grouper or speckled hind in excess of the vessel trip limit, as specified in § 646.21(j) (1) or (2).

(aa) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, a warsaw grouper or speckled hind, as specified in § 646.21(j)(3).

(bb) [Reserved]

(cc) Fish with poisons or explosives or possess on board a fishing vessel any dynamite or similar explosive substance, as specified in § 646.22(a).

(dd) Use a fish trap in the EEZ, or use a sea bass pot in the EEZ south of Cape Canaveral, Florida, as specified in § 646.22(b) and (c)(1).

(ee) Use or possess in the EEZ north of Cape Canaveral, Florida, a sea bass pot that does not conform to the requirements for openings and degradable fasteners specified in § 646.22(c)(2)(i).

(ff) Use or possess in the EEZ north of Cape Canaveral, Florida, sea bass pots in a multiple configuration, as specified in § 646.22(c)(2)(ii).

(gg) Pull or tend another person's sea bass pot, except as specified in § 646.22(c)(2)(iii).

(hh) Use a longline to fish for fish in the snapper-grouper fishery in the EEZ south of 27°10' N. lat., in the EEZ north of 27°10' N. lat. where the charted depth is less than 50 fathoms (91.4 m), or without a vessel permit for snapper-grouper, excluding wreckfish, on board; as specified in § 646.22(d)(1)(i).

(ii) Aboard a vessel with a longline on board that fishes on a trip in the EEZ south of 27°10' N. lat., in the EEZ north of 27°10' N. lat. where the charted depth

is less than 50 fathoms (91.4 m), or without a vessel permit for snapper-grouper, excluding wreckfish, on board, possess fish in the snapper-grouper fishery exceeding the limits, as specified in § 646.22(d)(1)(ii).

(jj) Fish for wreckfish with a bottom longline, or possess a wreckfish aboard a vessel that has a longline aboard, as specified in § 646.22(d)(2).

(kk) In the EEZ off South Carolina, harvest fish in the snapper-grouper fishery with a powerhead, as specified in § 646.22(e).

(ll) Harvest fish in the snapper-grouper fishery with spearfishing gear while using a rebreather, as specified in § 646.22(f).

(mm) Use unauthorized gear in a directed fishery for snapper-grouper or exceed the possession limits for snapper-grouper species when unauthorized gear is aboard, as specified in § 646.22(g)(2)(i) and (ii).

(nn) Transfer at sea any fish in the snapper-grouper fishery from a vessel with unauthorized gear aboard to another vessel, or receive at sea any such fish, as specified in § 646.22(g)(2)(iii) and (iv).

(oo) Exceed the bag and possession limits, as specified in § 646.23(a) through (c).

(pp) Transfer at sea—

(i) Warsaw grouper or speckled hind, as specified in § 646.21(j)(6);

(ii) Fish in the snapper-grouper fishery subject to a bag limit, as specified in § 646.23(f); or

(iii) Snowy grouper or golden tilefish, as specified in § 646.25(e).

(qq) Exceed a commercial trip limit for snowy grouper or golden tilefish, as specified in § 646.25(a) or (b).

(rr) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, snowy grouper or golden tilefish in excess of an applicable trip limit, as specified in § 646.25(f).

(ss) Sell, trade, or barter or attempt to sell, trade, or barter snapper-grouper species, excluding wreckfish, harvested in the EEZ to a dealer who does not have a permit, as specified in § 646.26(a).

(tt) Purchase, trade, or barter or attempt to purchase, trade, or barter snapper-grouper species, excluding wreckfish, harvested in the EEZ unless the harvesting vessel has a permit for snapper-grouper, excluding wreckfish, or the seller has a commercial license to sell fish, as specified in § 646.26(b).

(uu) Except for snapper-grouper species harvested by a vessel for which a permit for snapper-grouper, excluding wreckfish, has been issued, sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter snapper-

grouper species, excluding wreckfish, harvested in the EEZ in excess of the bag limits, as specified in § 646.26(c).

(vv) Use prohibited or unauthorized fishing gear in a special management zone, as specified in § 646.27(b) and (c).

(ww) Fish for fish in the snapper-grouper fishery in the Oculina Bank habitat area of particular concern (HAPC), retain such fish in or from the Oculina Bank HAPC, or fail to release immediately such fish taken in the Oculina Bank HAPC by hook-and-line gear, as specified in § 646.27(d)(2).

(xx) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of a fish in the snapper-grouper fishery.

(yy) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

8. In § 646.21, paragraphs (a)(1)(iv), (a)(1)(v), and (a)(1)(vi) are redesignated as paragraphs (a)(1)(v), (a)(1)(vii), and (a)(1)(viii), respectively; paragraphs (a)(1)(i) and (a)(1)(iii) are revised; and new paragraphs (a)(1)(iv) and (a)(1)(vi) are added to read as follows:

**§ 646.21 Harvest limitations.**

(a) \* \* \*  
 (1) \* \* \*  
 (i) Black sea bass—8 inches (20.3 cm), total length.

(iii) Blackfin, cubera, dog, gray, mahogany, queen, schoolmaster, silk, and yellowtail snappers; and red porgy—12 inches (30.5 cm), total length.  
 (iv) Hogfish—12 inches (30.5 cm), fork length.

(vi) Mutton snapper—16 inches (40.6 cm), total length.

9. In § 646.22, paragraphs (d), (e), and (f) are removed; paragraph (g) is redesignated as paragraph (d); in newly designated paragraph (d)(1)(iii), the reference to "paragraph (g)(1)" is revised to read "paragraph (d)(1)(ii)"; newly designated paragraphs (d)(1)(i) and (d)(1)(ii) introductory text are revised; and new paragraphs (e), (f), (g), and (h) are added to read as follows:

**§ 646.22 Gear restrictions.**

(i) A longline may not be used to fish for fish in the snapper-grouper fishery in the EEZ—  
 (A) South of 27°10' N. lat. (due east of the entrance to St. Lucie Inlet, FL);

(B) North of 27°10' N. lat. where the charted depth is less than 50 fathoms (91.4 m), as shown on the latest edition of the largest scale NOAA chart of the location; or

(C) Without a permit for snapper-grouper, excluding wreckfish, on board.

(ii) A person aboard a vessel with a longline on board that fishes on a trip in the EEZ south of 27°10' N. lat., north of 27°10' N. lat. where the charted depth is less than 50 fathoms (91.4 m), or without a permit for snapper-grouper, excluding wreckfish, on board, is limited on that trip to:

(e) *Powerheads off South Carolina.* In the EEZ off South Carolina, a powerhead may not be used to harvest fish in the snapper-grouper fishery. The possession of a mutilated fish in the snapper-grouper fishery in or from the EEZ off South Carolina and a powerhead is prima facie evidence that such fish was harvested by a powerhead.

(f) *Rebreathers and spearfishing gear.* In the EEZ, a person using a rebreather may not harvest fish in the snapper-grouper fishery with spearfishing gear. The possession of a fish in the snapper-grouper fishery while in the water with a rebreather is prima facie evidence that such fish was harvested with spearfishing gear while using a rebreather.

(g) *Authorized and unauthorized gear—(1) Authorized gear.* Subject to the specific gear limitations in paragraphs (a) through (f) of this section and in § 646.26, the following are the only gear types authorized in a directed fishery for snapper-grouper in the EEZ:

- (i) Vertical hook-and-line gear, including hand-held rods and rods attached to a vessel ("bandit" gear), in either case, with manual, electric, or hydraulic reels;
- (ii) Spearfishing gear;
- (iii) Bottom longlines; and
- (iv) Sea bass pots.

(2) *Unauthorized gear.* All gear types other than those listed in paragraph (g)(1) of this section are unauthorized gear and the following possession and transfer limitations apply.

(i) A vessel with trawl gear aboard that fishes in the EEZ on a trip may possess no more than 200 lb (90.7 kg) of fish in the snapper-grouper fishery, excluding wreckfish, in or from the EEZ on that trip. It is a rebuttable presumption that a vessel with more than 200 lb (90.7 kg) of fish in the snapper-grouper fishery, excluding wreckfish, aboard harvested such fish in the EEZ.

(ii) Except as specified in paragraph (h) of this section, a person aboard a

vessel with unauthorized gear aboard, other than trawl gear, that fishes in the EEZ on a trip is limited on that trip to:

(A) Species for which a bag limit is specified in § 646.23(b)—the bag limit; and

(B) All other species in the snapper-grouper fishery—zero.

(iii) A vessel with unauthorized gear aboard may not transfer at sea any fish in the snapper-grouper fishery—

(A) Taken in the EEZ, regardless of where the transfer takes place; or

(B) In the EEZ, regardless of where such fish were taken.

(iv) No vessel may receive at sea any fish in the snapper-grouper fishery from a vessel with unauthorized gear aboard, as specified in paragraph (g)(2)(iii) of this section.

(h) *Use of sink nets off North Carolina.* A vessel that has on board a permit for snapper-grouper, excluding wreckfish, that fishes in the EEZ off North Carolina on a trip with a sink net aboard, may retain otherwise legal fish in the snapper-grouper fishery taken on that trip with vertical hook-and-line gear or sea bass pots. For the purpose of this paragraph (h), a sink net—

- (1) Is a flat net, designed to be suspended vertically in the water to entangle the head or body parts of fish that attempt to pass through the meshes;
- (2) Has stretched mesh measurements of 3 to 4¾ inches (7.6 to 12.1 cm); and
- (3) Is attached to the vessel when deployed.

10. In § 646.23, paragraphs (a)(2) and (a)(3) are removed; paragraph (a)(4) is redesignated as paragraph (a)(3); new paragraph (a)(2) is added; and paragraph (c)(2) introductory text is revised to read as follows:

**§ 646.23 Bag and possession limits.**

(2) Special limitations on possession and transfer of fish in the snapper-grouper fishery apply to a person fishing with unauthorized gear in the EEZ. See § 646.22(g)(2).

(2) Provided each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the duration of the trip—

**§§ 646.26 through 646.28 [Redesignated as §§ 646.27 through 646.29]**

11. Sections 646.26, 646.27, and 646.28 are redesignated as §§ 646.27, 646.28, and 646.29, respectively.

12. In subpart B, new § 646.26 is added to read as follows:

**§ 646.26 Restrictions on sale/purchase.**

Subject to the restrictions regarding sale/purchase of fish in the snapper-grouper fishery in §§ 646.21(a)(2), (g), and (j)(3); and 646.25(f)—

(a) A person may sell, trade, or barter or attempt to sell, trade, or barter fish in the snapper-grouper fishery, excluding wreckfish, harvested in the EEZ, only to a dealer who has a valid permit for snapper-grouper, excluding wreckfish;

(b) A person may purchase, trade, or barter or attempt to purchase, trade, or barter fish in the snapper-grouper fishery, excluding wreckfish, harvested in the EEZ, only from a vessel for which a valid permit for snapper-grouper, excluding wreckfish, has been issued or from a person who has a valid commercial license to sell fish in the state where the purchase, trade, or barter or attempted purchase, trade, or barter occurs.

(c) Except for the sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of fish in the snapper-grouper fishery, excluding wreckfish, harvested in the EEZ by a vessel for which a valid permit for snapper-grouper, excluding wreckfish, has been issued, the sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of such fish is limited to the bag limits specified in § 646.23(b).

**§ 646.28 [Amended]**

13. In newly designated § 646.28, the word "Region" is added after the words "South Atlantic" and before the comma.

14. Newly designated § 646.29 is revised to read as follows:

**§ 646.29 Specifically authorized activities.**

The Regional Director may authorize, for the acquisition of information and data, activities that are otherwise prohibited by this part. In addition, the Regional Director may issue a permit for experimental fishing, provided that, as a condition of such permit, data on the gear used and fish caught in such experimental fishing must be maintained and provided to the Science and Research Director.

[FR Doc. 94-31421 Filed 12-22-94; 8:45 am]  
BILLING CODE 3510-22-W

**50 CFR Part 642**

[Docket No. 940710-4293; I.D. 121994B]

**Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure of a commercial fishery for king mackerel.

**SUMMARY:** NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast sub-zone. This closure is necessary to protect the overfished Gulf king mackerel resource.

**EFFECTIVE DATE:** December 20, 1994, through June 30, 1995

**FOR FURTHER INFORMATION CONTACT:** Mark F. Godcharles, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act.

Catch limits recommended by the Councils and implemented by NMFS for the Gulf of Mexico migratory group of king mackerel set the commercial quota of king mackerel in the Florida west coast sub-zone at 865,000 lb (392,357 kg). That quota was further divided into two equal quotas of 432,500 lb (196,179 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook and line gear.

Under 50 CFR 642.26(a), NMFS is required to close any segment of the king mackerel commercial fishery when its allocation or quota is reached, or is projected to be reached, by publishing notification in the *Federal Register*. NMFS has determined that the commercial quota of 432,500 lb (196,179 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the Florida west coast sub-zone was reached on December 19, 1994. Hence, the commercial fishery for king mackerel for such vessels in the Florida west coast sub-zone is closed effective 12:01 a.m., local time, December 20, 1994, through June 30, 1995, the end of the fishing year.

The Florida west coast sub-zone extends from the Alabama/Florida boundary (87°31'06" W. long.) to: (1) the Dade/Monroe County, Florida boundary (25°20.4' N. lat.) from November 1 through March 31; and (2) the Monroe/Collier County, Florida boundary

(25°48' N. lat.) from April 1 through October 31.

NMFS previously determined that the commercial quota of king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on September 24, 1994 (59 FR 49356, September 28, 1994). Consequently, with this closure the only commercial king mackerel fishery remaining open in the Gulf of Mexico EEZ is the fishery in the Florida west coast sub-zone by vessels permitted to use run-around gillnets.

**Classification**

This action is taken under 50 CFR 642.26(a) and is exempt from review under E.O. 12866.

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

Dated: December 19, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94-31514 Filed 12-19-94; 4:24 pm]

BILLING CODE 3510-22-F

**50 CFR Part 675**

[Docket No. 931100-4043; I.D. 121994C]

**Groundfish of the Bering Sea and Aleutian Islands Area**

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the allowance of the total allowable catch (TAC) of pollock for the offshore component in the BS.

**EFFECTIVE DATE:** 12 noon, Alaska local time (A.l.t.), December 20, 1994, until 12 midnight, A.l.t., December 31, 1994.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Sloan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by

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or (g) of the  
regard to the  
updated

interest was known but not reported.  
We believe that the changed language  
presents the contractor with less risk  
than the current language. The  
determination of organizational conflict

the Regulatory Flexibility Act of 1980,  
Pub. L. 96-354, which requires  
preparation of a regulatory flexibility  
analysis for any rule which is likely to  
have significant economic impact on a

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regulations implementing the FMP at 50  
CFR parts 620 and 675.  
The allowance of pollock TAC for  
vessels catching pollock for processing  
by the offshore component in the BS  
was established by the final 1994 initial  
groundfish specifications (59 FR 7656,  
February 16, 1994) and a subsequent  
reserve apportionment (59 FR 21673,  
April 26, 1994) as 799,662 metric tons  
(mt).  
The Director of the Alaska Region,  
NMFS, (Regional Director), determined,  
in accordance with § 675.20(a)(8), that  
the allowance of pollock TAC for

vessels catching pollock for the offshore  
component in the BS soon will be  
reached. Therefore, the Regional  
Director established a directed fishing  
allowance of 799,562 mt after  
determining that 100 mt will be taken as  
incidental catch in directed fishing for  
other species in the BS. Consequently,  
NMFS is prohibiting directed fishing for  
pollock by operators of vessels catching  
pollock for processing by the offshore  
component in the BS effective from 12  
noon, A.l.t., December 20, 1994, until 12  
midnight, A.l.t., December 31, 1994.  
Directed fishing standards for applicable

gear types may be found in the  
regulations at § 675.20(h).

**Classification**

This action is taken under § 675.20  
and is exempt from review under E.O.  
12866.

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

Dated: December 20, 1994.

**David S. Crestin,**  
Acting Director, Office of Fisheries  
Conservation and Management, National  
Marine Fisheries Service.

[FR Doc. 94-31610 Filed 12-20-94; 2:15 pm]  
BILLING CODE 3510-22-F