

discretion, ask these questions (40 CFR 750.7(a) and (b)). See 40 CFR 750.7(c) for the rule governing the submission of additional material by the hearing participants.

After the close of the hearing, any participant in the hearing may submit a written request for cross-examination. The request shall be received by EPA no later than 1 week after a full transcript of the hearing becomes available (to determine when the transcript is available, interested persons should call the number listed under **FOR FURTHER INFORMATION CONTACT**). See 40 CFR 750.8(a) for a description of the information that shall be included in such a request.

Interested persons may file reply comments. Reply comments shall be received on or before December 15, 1994, and shall be restricted to comments on: (1) Other comments; (2) material in the hearing record; and (3) material which was not available to the commenting party within a sufficient amount of time before main comments were due on July 8, 1994 (40 CFR 750.4(b)). Extensions of time for filing reply comments may be granted pursuant to 40 CFR 750.4(c). Reply comments and a transcript of the hearing will be placed in the TSCA Nonconfidential Information Center as part of the rulemaking record for the proposed rule (docket number OPPTS-62134) and will be available for inspection and copying (see TSCA Docket Receipt Office listed under **ADDRESSES**). Any information claimed as Confidential Business Information (CBI) that is part of the record for this rulemaking is not available for public review. A public version of the record, from which information claimed as CBI has been excluded, is available for inspection.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead, Recordkeeping and notification requirements.

Dated: September 12, 1994.

Mark Greenwood,

Director, Office of Pollution Prevention and Toxics.

(FR Doc. 94-23116 Filed 9-16-94; 8:45 am)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 940953-4253; I.D. 081594A]

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: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 7 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This rule would change the minimum size limits of certain species, require charter vessels/headboats and dealers to obtain Federal permits, clarify one of the earned income requirements for a vessel permit, restrict the sale/purchase of snapper-grouper species, modify the criteria for determining when a vessel is operating as a headboat, modify the requirements for possessing multi-day bag limits, specify allowable gear, authorize permits for experimental fishing, and modify the management unit for scup. In addition, NMFS proposes changes to correct and clarify certain regulations, or conform them to current standards. The intended effects of this rule are to conserve snapper-grouper species and enhance effective management of the snapper-grouper fishery.

DATES: Written comments must be received on or before October 31, 1994.

ADDRESSES: Comments on the proposed rule must be sent to Peter J. Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702.

Requests for copies of Amendment 7, which includes a regulatory impact review and an environmental assessment, should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; FAX 803-769-4520.

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention: NOAA Desk Officer).

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).

Background

Recent scientific stock assessments and public testimony have identified a number of snapper-grouper species as being overfished. The management measures in Amendment 7 are designed to prevent this overfishing, rebuild the overfished species, and manage the fishery in a more orderly manner.

Size Limits for Hogfish and Mutton Snapper

Amendment 7 would establish a minimum size limit of 12 inches (30.5 cm), fork length, for hogfish and increase the minimum size limit for mutton snapper from 12 inches (30.5 cm) to 16 inches (40.6 cm), total length. The proposed 12-inch (30.5-cm) minimum size limit for hogfish is based on the minimum size/age at which hogfish transform from female to male. The proposed 16-inch (40.6-cm) minimum size limit for mutton snapper corresponds to the size/age of sexual maturity. Sex transformation of hogfish and sexual maturity for mutton snapper are essential to prevent overfishing and maintain the productivity of these species. In addition, the proposed minimum size limits would increase yield-per-recruit for each species.

Annual Charter Vessel and Headboat Permits

Amendment 7 would require a vessel that operates as a charter vessel or headboat in the snapper-grouper fishery in the exclusive economic zone (EEZ), or that possesses fish in the snapper-grouper fishery in or from the EEZ while so operating, to have on board a charter vessel/headboat permit for such fishery. Charter vessels and headboats catch substantial quantities of snapper-grouper species, and it is essential that these landings be documented for assessment purposes. A permit system would provide a census for this sector of the fishery.

Annual Dealer Permits

Amendment 7 would require a dealer to obtain a permit in order to receive snapper-grouper species, excluding wreckfish, that are harvested in the EEZ.

Currently, a permit is required for a dealer to receive wreckfish. To be eligible for a dealer permit for snapper-grouper, excluding wreckfish, an applicant would have to have a valid state wholesaler's license in the state where he or she operates and a physical facility for the receipt of fish at a fixed location in that state. Dealer permits for snapper-grouper, excluding wreckfish, would (1) improve quota monitoring by providing a census of snapper-grouper dealers, (2) enhance the enforceability of commercial trip limits for snowy grouper and golden tilefish, and (3) aid in verifying required fishing vessel logbook submissions.

Earned Income Requirement for Commercial Permits

Amendment 7 proposes to clarify the gross-sales-of-fish alternative requirement for a vessel permit for snapper-grouper, excluding wreckfish. Currently, an applicant may show gross sales of fish exceeding \$20,000 during 1 of the 3 years preceding the application. Under Amendment 7, such sales would have to be of fish harvested by the applicant for the permit. The Council is concerned that some vessel owners may have obtained permits through the artifice of purchasing and reselling fish harvested by others. Such practice does not meet the Council's intent for qualifying for a permit. In FMP Amendment 4, the Council clearly stated that the income and gross sales requirements are intended to allow those who are committed to commercial fishing, in terms of capital investment or earned income, to continue making their livelihood from fishing. Specifically, the Council intends that the commercial fishing permits be for those vessels whose owners or operators have a history of income from harvesting and selling fish.

Restrictions on Sale/Purchase of Snapper-Grouper

Amendment 7 proposes requirements that snapper-grouper species, excluding wreckfish, harvested in the EEZ (1) be sold only to a dealer with a valid permit for snapper-grouper, excluding wreckfish; and (2) be purchased only from a vessel that has a valid permit for snapper-grouper, excluding wreckfish, or from a person with a valid state commercial license to sell fish. In addition, sale/purchase of such fish would be limited to the bag limit amounts unless sale/purchase involved snapper-grouper harvested by a vessel with a valid permit for snapper-grouper, excluding wreckfish. These measures would improve fishery statistics that will be used in assessments of the

biological condition of snapper-grouper species. The improved data base will also allow scientists to estimate more accurately the social and economic value of various fishing sectors. Economic and social analyses based on fishery statistics allow managers to evaluate the effectiveness of management measures.

Headboat Crew Specification

The current regulations specify that, if a headboat has a vessel permit for snapper-grouper, excluding wreckfish, it is considered to be operating as a headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew. When operating as a headboat, the bag limits apply. Amendment 7 proposes to remove the specification of three persons aboard and, in its place, allow the number of persons aboard to be up to the number of crew specified in the vessel's Certificate of Inspection. This measure would, in some cases, allow a permitted headboat to be exempt from the bag limits when it has more than three persons aboard. The Council believes that the number of crew specified on the Certificate of Inspection would allow safer operation of the vessel when fishing and, to the extent that the number of crew allowed exceeds three, should improve the economic efficiency of affected headboats if they operate as commercial fishing vessels.

Possession Limits

A current criterion for the possession aboard a charter vessel or headboat of multi-day bag limits is that the vessel have two licensed operators aboard. Amendment 7 would delete this criterion. The Council believes the two-licensed operators aboard criterion has no reasonable biological or management correlation with multi-day bag limits. NMFS believes that this action should have little impact on the fishery, notwithstanding the Council's indication in Amendment 7 that this measure possibly may decrease income to operators/owners of charter vessels and headboats.

Gear Limitations

Under Amendment 7, the only gear authorized in a directed fishery for snapper-grouper species would be 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; spearfishing gear; bottom longlines; and sea bass pots. All other gear would be prohibited. Limits would be imposed on the possession and transfer of snapper-

grouper species by vessels with unauthorized gear aboard. An exception to the possession limits would apply in the case of a permitted vessel that fishes in the EEZ off North Carolina with a sink net aboard.

In addition, the use of bottom longlines to fish for snapper-grouper species in the EEZ south of St. Lucie Inlet, FL, would be prohibited; the use of powerheads to harvest snapper-grouper species in the EEZ off South Carolina would be prohibited; and the use of rebreathers to harvest snapper-grouper species with spearfishing gear in the EEZ off the southern Atlantic states would be prohibited.

The concept of allowable gear allows managers to regulate the fishery more efficiently by enabling managers to test gear before it becomes widespread. This concept would enhance law enforcement by establishing standard gear. Environmental damage to the habitat would be minimized because gear would have to be evaluated before it could be used. Testing of experimental gear would minimize the possibility that very efficient gear could cause recruitment failure of the snapper grouper resource if it were allowed to be used throughout the fishery.

The exception applicable to the use of sink nets off North Carolina would allow fishermen in that area to operate with multiple gears on a trip, that is, it would allow retention of snapper-grouper harvested with sea bass pots and/or vertical hook-and-line gear and fish harvested with a sink net. A sink net has virtually no bycatch of snapper-grouper species and is continuously tended, which minimizes the possibility of lost gear and ghost fishing. Therefore, the Council believes that sink nets, as used off North Carolina, do not pose the problems to the snapper-grouper fishery normally associated with entanglement nets. This exception would improve the economic efficiency of fishermen in North Carolina who are accustomed to using sink nets and authorized gear on a trip.

The Council is proposing to ban the use of bottom longlines to fish for snapper-grouper species south of St. Lucie, FL, to increase the standing stock of tilefish in that area. The Council believes that the prohibition of bottom longlines will decrease fishing mortality on tilefish; hence, it should aid in the prevention of growth and recruitment overfishing. Also, the Council believes that banning bottom longline gear will reduce competition among traditional bandit gear commercial fishermen, recreational anglers, and longline fishermen and will result in reduced habitat damage. The Council noted that

the continental shelf edge is quite narrow south of St. Lucie Inlet, and does not want a bottom longline fishery to develop that would lead to conflict among the competing user groups in that area.

South Carolina prohibits the use of powerheads in its waters, and powerheads cannot be used in the special management zones in the EEZ off South Carolina. The Council's proposed ban on the use of powerheads in the entire EEZ off South Carolina is intended to enhance enforceability of the prohibition of powerheads in State waters. This measure would result in consistent State and Federal regulations off South Carolina. The Council also believes that the ban on use of powerheads in the EEZ would reduce conflict between recreational and commercial divers that appears to be a particular problem in the EEZ off South Carolina.

The Council believes that the use of rebreathers significantly increases the efficiency of divers using spearfishing gear. The use of rebreathers eliminates bubbles, thus allowing divers to stalk fish more easily. The Council is concerned about the status of gag, which are particularly vulnerable to divers when they aggregate to spawn. The prohibition of rebreathers would lessen fishing mortality on the spawning aggregations, which will assist in prevention of recruitment overfishing. Amberjack are also targeted by divers during spawning periods, and this measure would also reduce fishing mortality on that species and lessen the chance of recruitment overfishing.

Experimental Fishing

Under Amendment 7, the Director, Southeast Region, NMFS, (Regional Director) would be authorized to issue permits for experimental fishing, provided that, as a condition of such permits, data on the gear used and fish caught in such experimental fishing must be maintained and provided to the Science and Research Director. Experimental fishing would provide an opportunity to test new gear for possible authorization for use in the snapper-grouper fishery.

Management Unit for Scup

Amendment 7 proposes to modify the management unit for scup, *Stenotomus chrysops*, so that management under the FMP would apply only south of Cape Hatteras. Scup are found from the North/South Carolina border to the U.S.-Canada border with a division of stocks at Cape Hatteras. The northern stock of scup is overfished and the Mid-Atlantic Fishery Management Council is

considering measures to rebuild that stock. The proposed modification of the management unit would allow the Mid-Atlantic Council to manage the northern stock of scup throughout its range. This is a conservation measure that would result in more efficient management of this resource.

Comments Requested

While NMFS is inviting comments on all of the measures in Amendment 7, comments are specifically invited on the following concerns about provisions of the allowable gear measure. (1) What are the effects of prohibiting the use of bottom longlines south of St. Lucie Inlet, FL? (2) What are the effects of prohibiting the use of powerheads in the EEZ off South Carolina?

Additional Measures in Amendment 7

In addition to the measures in this rule, discussed above, Amendment 7 would add localized depletion to the FMP's list of problems in the snapper-grouper fishery. It would add FMP objectives to evaluate and minimize localized depletion and modify the framework procedure for implementing or adjusting certain management measures to allow the Council to react more quickly to changing resource conditions. The proposed change to the framework procedure would allow the Council to initiate and implement necessary changes at any time during the fishing year instead of only prior to each fishing year. Revision of 50 CFR part 646 is not required to effect these changes.

Background and rationale for the additional measures in Amendment 7, and for the measures in this rule, discussed above, are contained in Amendment 7, the availability of which was announced in the *Federal Register* (59 FR 42570, August 18, 1994).

Additional Measures Proposed by NMFS

NMFS proposes to change the title of part 646 to "Snapper-Grouper Fishery Off the Southern Atlantic States," with concomitant changes of the language in the codified text, to more correctly indicate the geographical scope of the regulations.

The address in the definition of "Regional Director" would be changed to reflect a recent move.

The requirement that an applicant for a dealer permit for wreckfish must have a physical facility at a fixed location would be changed to clarify that such facility must be for the receipt of fish, rather than merely a mailing address.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the amendment and regulations. At this time, NMFS has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

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 that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities because neither gross revenues nor compliance costs would be significantly changed. All participants in the fishery are small entities. As a result, a regulatory flexibility analysis was not prepared.

This rule contains three collection-of-information requirements subject to the Paperwork Reduction Act—namely, applications for charter vessel/headboat permits, applications for dealer permits, and applications for experimental fishing permits. These requirements have been submitted to the Office of Management and Budget (OMB) for approval. 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 collection-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 NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 13, 1994.

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

For the reasons set out in the preamble, 50 CFR part 646 is proposed to be amended as follows:

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

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

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

PART 646—[AMENDED]

2. The title of part 646 is revised to read "Snapper-Grouper Fishery Off the Southern Atlantic States".

3. In § 646.1, in paragraph (a) add the word "Region" after the phrase "Snapper-Grouper Fishery of the South Atlantic"; paragraph (b) is revised; and new paragraph (c) is added to read as follows:

§ 646.1 Purpose and scope.

* * * * *

(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 scup north of 35°15.3' N. lat., the lat. of Cape Hatteras Light, NC.

(c) EEZ in this part 646 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, 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. In § 646.7, paragraph (dd) is removed; paragraphs (g) through (cc) are redesignated as paragraphs (h) through (dd), respectively; paragraphs (ll) through (ss) are redesignated as paragraphs (pp) through (ww), respectively; paragraphs (jj) and (kk) are redesignated as paragraphs (kk) and (ll), respectively; in newly designated paragraph (pp), the reference to "§ 646.26" is revised to read "§ 646.27"; in newly designated paragraph (qq), the reference to "§ 646.26" is revised to read "§ 646.27"; paragraphs (c) through (f) and (ee) through (ii) are revised; and new paragraphs (g), (jj), and (mm) through (oo) are added to read as follows:

§ 646.7 Prohibitions.

* * * * *

(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 (a)(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.

* * * * *

(ee) 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;

or, 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 such vessel permit on board, possess fish in the snapper-grouper fishery exceeding the limits, as specified in § 646.22(d)(1)(ii).

(ff) 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).

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

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

(ii) 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).

(jj) 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).

* * * * *

(mm) 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).

(nn) 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).

(oo) 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).

* * * * *

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; paragraph (a)(1)(iii) is revised; and new paragraphs (a)(1)(iv) and (a)(1)(vi) are added to read as follows:

§ 646.21 Harvest limitations.

(a) * * *

- (1) * * *
- (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.

- * * * * *
- (d) * * *
- (1) * * *
- (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—

(i) 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;

(ii) Has stretched mesh measurements of 3 to 4¾ inches (7.6 to 12.1 cm); and

(iii) 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.

(a) * * *

(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).

* * * * *

(c) * * *

(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, 646.27, and 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, add the word "Region" 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.

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