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DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 940246-4046; I.D. 012794A]  
RIN 0648-AE51

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Proposed rule.

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SUMMARY: NMFS issues this proposed rule to implement Amendment 6 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP). Amendment 6 would establish management measures necessary to conserve overfished stocks of snowy grouper, golden tilefish, speckled hind, and warsaw grouper in the South Atlantic exclusive economic zone (EEZ). The intended effects of this rule are to rebuild the snapper-grouper resources and to clarify the regulations implementing the FMP.

DATES: Written comments must be received on or before April 11, 1994.

ADDRESSES: Comments on the proposed rule must be sent to Peter J. Eldridge, Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Requests for copies of Amendment 6, which includes an environmental assessment, a regulatory impact review, and an initial regulatory flexibility analysis should be sent to the South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston SC 29407-4699; FAX 803-769-4520.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813-893-3161.

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 stock assessments by NMFS have identified snowy grouper, golden tilefish, speckled hind, and warsaw grouper as being overfished. The management measures in Amendment 6 represent the Council's initial steps to prevent this overfishing and to rebuild the abundance level of these species.

Amendment 6 would establish commercial quotas and trip limits for snowy grouper and golden tilefish; impose a trip limit of one warsaw grouper and one speckled hind per vessel and prohibit sale of these species; include tilefish species in the current grouper bag limit; require that vessel logbooks be submitted by all permitted vessels; and close the Oculina Bank habitat area of particular concern (HAPC) to fishing for snapper-grouper species. In addition, NMFS proposes changes to the regulations to clarify them and conform them to current standards.

## Snowy Grouper and Golden Tilefish

The most recent stock assessment report for the deep water component of the snapper-grouper fishery indicates that a 40 percent reduction in the fishing mortality rate is necessary to rebuild the snowy grouper stock and a 42 percent reduction is necessary for the golden tilefish stock. These reductions in mortality rate should result in a spawning stock ratio of 30 percent, the level at which the stocks are no longer considered to be overfished under the provisions of the FMP. The Council concluded that reductions in fishing mortality should be achieved through reductions in allowable catch, a manageable proxy for fishing mortality, and should be phased in through equal reductions in each of the next 3 years. Such phased-in catch reductions should minimize financial impacts on fishermen and provide additional information for measuring the effectiveness of the rebuilding schedule.

Accordingly, Amendment 6 would establish a commercial quota for snowy grouper and a commercial quota for golden tilefish for each of

the years 1994, 1995, and 1996. To minimize any "derby" fishing that might be caused by the quota system, vessel trip limits are proposed on snowy grouper of 2,500 pounds (1,134 kg) and golden tilefish of 5,000 pounds (2,268 kg). All trip limit weights are either whole weight or gutted weight, at the harvesting vessel's option. Thus, compliance may be determined by weighing the fish without having to sort and weigh whole and gutted fish separately. When a quota for either species is reached, a reduced trip limit of 300 pounds (136 kg) would be implemented for that species for the remainder of the fishing year. The 300-pound level is deemed to be appropriate as a bycatch allowance. Each year's quota would be established at a level that would ensure that bycatch plus the quota would not exceed the catch levels necessary to achieve the targeted reductions in fishing mortalities.

Annual quotas, in gutted weights, are proposed as follows:

	Snowy grouper		Golden tilefish	
	Pounds	Kg	Pounds	Kg
1994.....	540,314	245,082	1,475,795	669,409
1995.....	442,448	200,691	1,238,818	561,918
1996.....	344,508	156,266	1,001,663	454,347

### Warsaw Grouper and Speckled Hind

Amendment 6 proposes to limit the possession of warsaw grouper and speckled hind to one of each per vessel per trip and to ban the sale of these species. Fishermen would be encouraged to donate fish caught under the trip limit to "good causes," such as charitable organizations. This measure would reduce the fishing mortality on these overfished species but, since they are minor components of the snapper-grouper fishery, would not have a significant adverse economic effect on fishermen.

### Tilefish

Amendment 6 proposes to include tilefish species in the bag limit for groupers, currently five fish per person per day. This action would reduce fishing mortality on golden tilefish, which are known to be overfished, and on the other tilefish species, which, because of similar life history characteristics, are suspected to be overfished.

In addition, inclusion of all tilefish species will obviate the necessity for species differentiation among members of the tilefish family, a task that may be difficult for recreational fishermen.

## Fishing Vessel Logbooks

Amendment 6 proposes that all permitted vessels be required to maintain and submit vessel logbooks that provide catch and effort data. Such data are needed for quota monitoring, stock assessments, catch histories, and indications of shifts in effort. Currently, the regulations require vessel logbooks on behalf of vessels selected by the Science and Research Director. Since January 1993, all vessels have been selected. Amendment 6 would not change the level of logbook coverage. Selection of all to report, however, would be in the regulations rather than by individual notification.

## Oculina Bank

The Council is concerned that traditional fishery management measures, such as minimum size limits and quotas, may not be sufficient to protect fully the snapper-grouper resources. The Council considered establishing marine reserves in the EEZ off the southern Atlantic states but deferred action due to public opposition and lack of information on benefits derived from marine reserves. To evaluate the benefits of marine reserves, Amendment 6 proposes to prohibit fishing for snapper-grouper species in the Oculina Bank HAPC. The Oculina Bank is an established HAPC under the regulations governing coral and coral reefs of the Gulf of Mexico and South Atlantic (50 CFR part 638) in which fishing with bottom longlines, traps, pots, dredges, and bottom trawls is prohibited. The Oculina Bank HAPC is located offshore from Ft. Pierce to Sebastian Inlet, Florida, at depths between 30 and 75 fathoms. To aid enforcement of the area restrictions of no bottom fishing, the Council also proposes to prohibit fishing while at anchor in the Oculina Bank HAPC. NMFS is not aware of any fishing that would be conducted in the HAPC while anchored other than fishing for snapper-grouper species. Accordingly, this proposed rule would establish a rebuttable presumption that fishing while anchored constitutes fishing for snapper-grouper species. The Council believes this action will provide protection for overfished species in the management unit and will provide data on the benefits of marine reserves while minimizing adverse impacts upon user groups. This measure will "sunset" after 10 years if not reauthorized by the Council. NMFS is to report to the Council on the effectiveness of the HAPC as soon as data are available,

but no later than the end of 2000.

## Availability of Amendment 6

Additional background and rationale for the measures discussed above are contained in Amendment 6, the availability of which was announced in the Federal Register (59 FR 5562, February 7, 1994).

## Additional Changes Proposed by NMFS

In Sec. 646.1(b), NMFS proposes to clarify that the scope of the regulations in part 646 includes not only fish in the snapper-grouper fishery in or from the South Atlantic EEZ, but also, for data collection and quotas, such fish in adjoining state waters.

In Sec. 646.2 in the definition of "Fish in the snapper-grouper fishery," NMFS proposes to change "Tilefish (Golden)" to "Golden tilefish" for ease of reference, and to change the family designation "Triggerfishes--Balistidae" to "Leatherjackets--Balistidae" in accordance with current scientific nomenclature.

Section 646.4(b)(2)(vi)(C) requires an applicant for a vessel permit authorizing the use of sea bass pots to sign a statement that allows an authorized officer reasonable access to the applicant's property to examine pots for compliance with the regulations. NMFS finds that this requirement is unnecessary. Accordingly, as a technical amendment, this proposed rule would remove Sec. 641.4(b)(2)(vi)(C).

NMFS proposes to remove from the regulatory text specification of the statistical areas used for reporting catches to designees of the Science and Research Director. Such designees have the capability of recording catch areas with the required specificity. Accordingly, reference to the statistical areas in Sec. 646.5(d) and depiction of the areas in Figure 2 to part 646 would be removed.

NMFS proposes to add a prohibition regarding false statements to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of a reef fish. This addition would aid in enforcement of the regulations and conform the regulations to current standards.

## Classification

This rule is not subject to review under E.O. 12866. The Council prepared an initial regulatory flexibility analysis (IRFA) as part of Amendment 6, which concludes that Amendment 6 may have a significant economic impact on a substantial number of small entities. The IRFA is

summarized as follows. Virtually every permitted vessel in the snapper-grouper fishery represents a small entity, at least 20 percent of which could be affected by the amendment. The estimated potential loss of revenues to fishermen over a period of 3 years is \$1.15 million, which may equate to individual reductions in annual gross revenues exceeding 5 percent. Additional analysis and discussion are contained in the IRFA, a copy of which is available (see ADDRESSES).

This rule involves a collection-of-information requirement subject to the Paperwork Reduction Act which has been approved by the Office of Management and Budget under OMB Control Numbers 0648-0016. The public reporting burden for this collection of information is estimated to be 10 minutes.

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of the south Atlantic states. This determination was submitted for review by responsible state agencies under section 307 of the Coastal Zone Management Act.

An informal consultation under the Endangered Species Act was concluded for Amendment 6 on September 27, 1993. As a result of the informal consultation, the Regional Director determined that neither the fishing activities nor the management measures under this rule are likely to adversely affect endangered or threatened species or critical habitat.

The Council prepared an environmental assessment (EA) that discusses the impacts of the amendment's measures on the human environment as a result of this rule. The EA is available (see ADDRESSES) and comments on it are invited.

#### List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 23, 1994.

Samuel W. McKeen,  
Acting Assistant Administrator for Fisheries, National Marine Fisheries Service

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

#### PART 646--SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

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

follows:

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

2. In Sec. 646.1, paragraph (b) is revised to read as follows:

Sec. 646.1 Purpose and scope.

\* \* \* \* \*

(b) This part governs conservation and management of fish in the snapper-grouper fishery in or from the South Atlantic EEZ, except that Secs. 646.5 and 646.24 also apply to such fish in or from adjoining state waters.

Sec. 646.2 [Amended]

3. In Sec. 646.2, in the definition for "Fish in the snapper-grouper fishery", the listing for "Tilefish (Golden)" under the family designation "Tilefishes--Malacanthidae" is revised to read "Golden tilefish" and the family designation "Triggerfishes--Balistidae" is revised to read "Leatherjackets--Balistidae"; and in the definition for "Sea bass pot", in paragraph (3) introductory text, the parenthetical phrase "(see Figure 3)" is revised to read "(see Figure 2)".

Sec. 646.4 [Amended]

4. In Sec. 646.4, in paragraph (b)(2)(vi)(A), the word "and" is added after the concluding semicolon; in paragraph (b)(2)(vi)(B), the semicolon and concluding word "and" are removed and a period is added in their place; and paragraph (b)(2)(vi)(C) is removed.

5. In Sec. 646.5, paragraphs (a)(1), (d) introductory text, and (d)(4) are revised to read as follows:

Sec. 646.5 Recordkeeping and reporting.

(a) \* \* \* (1) The owner or operator of a vessel for which a permit for snapper-grouper, excluding wreckfish, has been issued, as required by Sec. 646.4(a)(1); and

\* \* \* \* \*

(d) Charter vessel and headboat inventory. A person described under paragraph (b) of this section who is not selected to report must provide the following information when interviewed by the Science and Research Director:

\* \* \* \* \*

(4) Fishing areas;

\* \* \* \* \*

6. In Sec. 646.7, paragraph (kk) is revised; paragraph (mm) is redesignated as paragraph (ss); and new paragraphs (mm) through (rr) are added to read as follows:

### Sec. 646.7 Prohibitions.

\* \* \* \* \*

(kk) Transfer at sea--

(1) Warsaw grouper or speckled hind, as specified in Sec. 646.21(j)(6);

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

(3) Snowy grouper or golden tilefish, as specified in Sec. 646.25(e).

\* \* \* \* \*

(mm) 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 Sec. 646.26(d)(2).

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

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

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

(qq) 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 Sec. 646.25(f).

(rr) 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.

\* \* \* \* \*

7. Section 646.20 is revised to read as follows:

Sec. 646.20 Fishing years.

(a) The fishing year for wreckfish begins on April 16 and ends on April 15.

(b) The fishing year for fish in the snapper-grouper fishery other than wreckfish begins on January 1 and ends on December 31.

8. In Sec. 646.21, a new paragraph (j) is added to read as follows:

Sec. 646.21 Harvest limitations.

\* \* \* \* \*

(j) Warsaw grouper and speckled hind. (1) The possession of warsaw grouper in or from the EEZ is limited to one per vessel per trip.

(2) The possession of speckled hind in or from the EEZ is limited to one per vessel per trip.

(3) A warsaw grouper or a speckled hind in or from the EEZ may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

(4) A person who fishes in the EEZ may not combine a possession limit specified in paragraph (j)(1) or (j)(2) of this section with a bag or possession limit applicable to state waters.

(5) The operator of a vessel that fishes in the EEZ is responsible for the possession limit applicable to that vessel.

(6) A warsaw grouper or speckled hind taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place; and a warsaw grouper or speckled hind may not be transferred at sea in the EEZ, regardless of where such fish was taken.

9. In Sec. 646.23, a new paragraph (a)(4) is added and paragraph (b)(3) is revised to read as follows:

Sec. 646.23 Bag and possession limits.

(a) \* \* \*

(4) Special limitations on possession of warsaw grouper and speckled hind apply. (See Sec. 646.21(j).)

(b) \* \* \*

(3) Groupers, excluding jewfish and Nassau grouper, and tilefishes, combined--5.

\* \* \* \* \*

10. Section 646.24 is revised to read as follows:

Sec. 646.24 Commercial quotas.

Persons who are not subject to the bag limits are subject to the following quotas. (See Sec. 646.23(a)(1) for applicability of the bag limits.)

(a) Wreckfish (whole weight)--2 million pounds (907,185 kg), each fishing year.

(b) Snowy grouper (gutted weight, that is, eviscerated but otherwise whole)--

(1) 540,314 pounds (245,082 kg), in the fishing year that commences January 1, 1994.

(2) 442,448 pounds (200,691 kg), in the fishing year that commences January 1, 1995.

(3) 344,508 pounds (156,266 kg), in the fishing year that commences January 1, 1996.

(c) Golden tilefish (gutted weight, that is, eviscerated but otherwise whole)--

(1) 1,475,795 pounds (669,409 kg), in the fishing year that commences January 1, 1994.

(2) 1,238,818 pounds (561,918 kg), in the fishing year that commences January 1, 1995.

(3) 1,001,663 pounds (454,347 kg), in the fishing year that commences January 1, 1996.

Secs. 646.27 and 646.25 [Redesignated as Secs. 646.28 and 646.27]

11. Section 646.27 is redesignated as Sec. 646.28; Sec. 646.25 is redesignated as Sec. 646.27; and a new Sec. 646.25 is added to read as follows:

Sec. 646.25 Commercial trip limits.

Persons who are not subject to the bag limits who fish in the EEZ on a trip are subject to the following vessel trip limits. (See Sec. 646.23(a)(1) for applicability of the bag limits.)

(a) Snowy grouper (whole weight or gutted weight, that is, eviscerated but otherwise whole).

(1) Until the fishing year quota specified in Sec. 646.24(b) is reached, 2,500 pounds (1,134 kg).

(2) After the fishing year quota specified in Sec. 646.24(b) is reached, 300 pounds (136 kg).

(b) Golden tilefish (whole weight or gutted weight, that is, eviscerated but otherwise whole).

(1) Until the fishing year quota specified in Sec. 646.24(c) is reached, 5,000 pounds (2,268 kg).

(2) After the fishing year quota specified in Sec. 646.24(c) is reached, 300 pounds (136 kg).

(c) Reduction of trip limits. When a commercial quota specified in Sec. 646.24 (b) or (c) is reached, or is projected to be reached, the Assistant Administrator will file a notice to that effect with the Office of the Federal Register. On and after the effective date of such notice, for the remainder of the fishing year, the appropriate trip limit applies.

(d) A person who fishes in the EEZ may not combine a trip limit of this section with any trip or possession limit applicable to state waters.

(e) A snowy grouper or golden tilefish taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place; and a snowy grouper or golden tilefish may not be transferred at sea in the EEZ, regardless of where such snowy grouper or golden tilefish was taken.

(f) Snowy grouper or golden tilefish in excess of an applicable trip limit specified in paragraph (a) or (b) of this section may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

12. In Sec. 646.26, a new paragraph (d) is added to read as follows:

#### Sec. 646.26 Area limitations.

\* \* \* \* \*

(d) Habitat area of particular concern (HAPC). (1) The Oculina Bank, which is a coral HAPC under Sec. 638.23(c) of this chapter, is bounded on the north by 27 deg.53' N. latitude, on the south by 27 deg.30' N. latitude, on the east by 79 deg.56' W. longitude, and on the west by 80 deg.00' W. longitude.

(2) No fishing for fish in the snapper-grouper fishery may be conducted in the Oculina Bank HAPC and such fish may not be retained in or from the Oculina Bank HAPC. Fish in the snapper-grouper fishery

taken incidentally in the Oculina Bank HAPC by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water. It is a rebuttable presumption that fishing aboard a vessel that is anchored in the HAPC constitutes fishing for fish in the snapper-grouper fishery.

(3) See Sec. 638.23(c) of this chapter for prohibitions on fishing with bottom longlines, traps, pots, dredges, and bottom trawls in the Oculina Bank HAPC.

13. Figure 2 to part 646 is removed and Figure 3 to part 646 is redesignated as Figure 2 to part 646.

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