

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Colorado Oil and Gas Conservation Commission requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Colorado Oil and Gas Conservation Commission to regulate Class II oil and natural gas related injection wells.

DATES: Requests to present oral testimony should be filed by July 11, 1983. The public hearing will be held on July 12, 1983, in two sessions: 10:00 a.m. and 7:00 p.m. Written comments must be received by July 12, 1983.

ADDRESSES: Comments and requests to testify should be mailed to Patrick A. Crotty, Drinking Water Branch (8WM-DW), Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. Copies of the application and pertinent materials are available between 8:30 a.m. and 4:00 p.m., Monday through Friday, at the following locations:

Environmental Protection Agency, Region VIII, Drinking Water Branch, 1860 Lincoln Street, Sixth Floor, Denver, Colorado 80295, PH: (303) 827-2731
Colorado Oil and Gas Conservation Commission, Room 721, Centennial Building, 1313 Sherman Street, Denver, Colorado 80203, PH: (303) 866-3531.

The Hearing will be held in the Federal Building, Room 239, 1961 Stout Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Patrick A. Crotty, Chief, Colorado/North Dakota/Wyoming Section, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. (303) 837-2731.

SUPPLEMENTARY INFORMATION: This application from the Colorado Oil and Gas Conservation Commission is for the regulation of all Class II oil and natural gas related injection wells in the State.

Class II injection wells include those which inject fluids: (1) Which have been brought to the surface in connection with conventional oil and natural gas production and are disposed of through such injections; (2) for enhanced recovery of oil or natural gas (i.e. water

flooding); and (3) for storage of hydrocarbons which are liquid at standard pressure and temperature. There are approximately 1,000 Class II injection wells in the State of Colorado.

This application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and the memorandum of agreement between the Colorado Oil and Gas Conservation Commission and the Region VIII office of the Environmental Protection Agency.

Dated: June 6, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 30606-102]

Snapper-Grouper Fishery of the South Atlantic; Implementation of Conservation and Management Measures

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues and requests comments on this proposed rule to implement conservation and management measures as prescribed in the proposed Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic. Currently, a number of the major species in the fishery are being harvested at less than optimal sizes, and certain harvest techniques have resulted in controversy among user groups. The proposed rule would: (1) Establish minimum sizes for certain species and (2) establish limitations on the use of certain gear including poisons, explosives, fish traps, and trawls for the taking of fish in the snapper-grouper fishery. The intended effect of the proposed rule is to prevent overfishing, restore to the optimum level those species that are overfished, and promote orderly utilization of the resource.

DATE: Comments on the proposed rule must be received on or before July 25, 1983.

ADDRESSES: Comments on the proposed rule, and requests for copies of the plan, the regulatory impact review/initial regulatory flexibility analysis, or final

environmental impact statement should be sent to Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813-893-3141.

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council (Council) prepared the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP). A notice of availability of the FMP was published in the *Federal Register* on May 13, 1983 (48 FR 21607). These proposed regulations implement the FMP.

The FMP manages the snapper-grouper fishery throughout the fishery conservation zone (FCZ) off the southern Atlantic coastal States from the Virginia-North Carolina border south to the boundary line between the Gulf of Mexico and South Atlantic Fishery Management Councils. A more precise definition of the southern boundary line is found in § 646.2.

The FMP covers 69 species of fish including snappers, sea basses, groupers, porgies, grunts, tilefishes, triggerfishes, wrasses, and jacks. Minimum sizes are proposed for red snapper, vermilion snapper, yellowtail snapper, red grouper, Nassau grouper, and black sea bass. For black sea bass the management regime applies only south of Cape Hatteras, North Carolina. Black sea bass north of Cape Hatteras are considered a separate stock and will be managed by the Mid-Atlantic Fishery Management Council under a separate plan. In addition, jewfish are protected from being harvested by certain gear.

Background

Species in the snapper-grouper fishery support valuable commercial and recreational fisheries in the South Atlantic area. Approximately 1,400 vessels are currently engaged in the commercial sector of the fishery. These vessels are capable of operating in both the nearshore and distant offshore fishing grounds. The four dominant types of commercial gear are hook and line, bottom longline, trap, and trawl. In 1981, the total commercial harvest equaled about 9.9 million pounds and had an exvessel value of \$9.6 million. The total regional economic impact of the commercial snapper-grouper fishery was estimated to have been \$28.4 million in 1981.

The recreational sector includes 95 head boats, 71 charter boats, and approximately 48,000 private boats. Total recreational landings of species in

the fishery were approximately 14.4 million pounds in 1979. The most recent data indicated that the direct economic impact of recreational fishing for snapper-grouper in the South Atlantic area in 1975 was \$135 million, including related expenditures for such items as bait, fuel, and lodging.

Yield-Per-Recruit

The principal focus of this FMP is to maximize yield-per-recruit (YPR) from the fishery. The Council concluded that YPR is the appropriate methodology for evaluating management approaches directed at such maximization. YPR is a theoretical calculation based on known growth and natural mortality rates that allows an estimate of relative yield (i.e., the quantity of fish available to be harvested) from a fishery without knowing landings. Yield is predicted according to the growth pattern of individual fish, rather than the growth of the entire population. An index of yield per fish rather than an absolute total weight per year from the fishery is calculated. This index is called YPR.

Biological data exist for conducting YPR analysis on 17 of the 69 species in the snapper-grouper fishery. Evaluation of the 17 species indicates that red hind, graysby, white grunt, and tomtate are not in the range of growth overfishing. (Growth overfishing means that the fish are being harvested before reaching their optimum harvest size; this results in a decreased yield from the fishery.) Thirteen species are likely to be in a range of growth overfishing: vermilion snapper, red snapper, yellowtail snapper, black sea bass, red grouper, Nassau grouper, gray snapper, speckled hind, scamp, gag grouper, yellowfin grouper, black grouper, and red porgy.

The Council concluded that growth overfishing should be resolved by imposing minimum sizes. Each minimum size was evaluated in the following manner: (1) Choice of the minimum size; (2) internal rate of return (IRR) analysis, which compares the short-term loss by weight against the long-term gain by weight for 20 years after a minimum size is implemented, taking into account the survival rate of released fish; and (3) evaluation of distributional impacts (which occur when minimum size restrictions force one group of fishermen to forego harvesting small fish that are then harvested later (when they are larger) by another group of fishermen. Based on these three steps and the criteria outlined in each, a minimum harvest size for vermilion snapper, red snapper, yellowtail snapper, black sea bass, red grouper, and Nassau grouper is justified.

Those species for which data do not permit evaluation will be monitored and when the catch indicates that a species is in or near the range of growth overfishing, minimum sizes will be evaluated and if justified will be implemented by the Secretary of Commerce (Secretary) amending the regulations rather than through amendments to the FMP itself. This procedure is outlined under the discussion of minimum sizes.

Optimum Yield

Optimum Yield (OY) for each species (other than jewfish) is the yield that results from the recommended minimum size. The numerical estimate of OY is the estimated numerical value of YPR (measured in grams) derived from the best estimate of population parameters available. At this time, OY is the YPR that occurs with the population parameters specified in the YPR Appendix (Appendix A in the FMP) for each species regulated by a minimum size:

	Mini- mum harvest size (inches)	Opti- mum yield ¹
Vermilion snapper.....	12	177.19
Red snapper	12	540.64
Yellowtail snapper	12	450.10
Black sea bass	8	100.30
Red grouper	12	263.83
Nassau grouper	12	263.83

¹ Yield-per-recruit in grams with minimum size.

OY for jewfish is all jewfish harvested by U.S. fishermen utilizing lawful gear. The numerical estimate is the 1981 recorded commercial landings of 19,000 pounds.

Minimum Sizes

Existing data justify imposition of a minimum size (total length) on six species to control growth overfishing: vermilion snapper, 12 inches; red snapper, 12 inches; yellowtail snapper, 12 inches; black sea bass, 8 inches; red grouper, 12 inches; Nassau grouper, 12 inches.

These minimum sizes will result in increases in yield ranging between 8 and 91 percent depending on the species and assuming constant recruitment. Size limits are not proposed for the seven remaining species (of the 13 in the range of growth overfishing) because of unknown survival rates of released fish and unknown or unacceptable distributional impacts.

Additional minimum sizes for other species or changes in minimum size will be implemented in the following manner. A monitoring team will analyze

relevant fishery data. When the data indicate that a species is in or near the range of growth overfishing, the monitoring team will evaluate alternative minimum sizes in accordance with criteria established in the FMP. The team will then submit a report to the Council recommending adopting or rejecting further minimum sizes.

The team's report, along with an environmental assessment or supplemental environmental impact statement and/or regulatory impact review as appropriate, will be submitted to the Council for its consideration. If the Council concurs with the team's suggestions, the Council will recommend implementation of additional minimum sizes and appropriate adjustments to OY, domestic annual harvest, and total allowable level of foreign fishing to the Secretary. If the Secretary concurs, these regulations will be proposed to modify the existing regime.

Gear Limitations

Vermilion snapper are taken primarily by trawls and the majority of the fish retained are very small (i.e., 5 to 10 inches). The taking of such undersized fish results in approximately a 34 percent reduction in potential yield and results in an economic loss, particularly since larger fish command a higher price. A 4-inch minimum mesh size for trawl nets targeting species in the snapper-grouper fishery is proposed to increase the minimum size of vermilion snapper retained to 12 inches. However, any vermilion snapper taken using trawl nets with a mesh size of 4 inches or larger may be retained even if the fish is shorter than 12 inches. The size limits proposed for other species must be complied with when using trawls. Fishermen utilizing such trawl nets will be given one year from the date of implementation of the FMP to comply with the minimum-mesh-size regulation.

In recent years, there has been an increase in the use of fish traps that has resulted in intense competition among user groups in narrow shelf areas off south Florida. In 1980, the State of Florida banned the use and possession of fish traps; these prohibitions apply to all persons within, and to Florida residents fishing beyond, State waters.

The Council has elected to allow and regulate the use of fish traps by specifying proposed management measures which address concerns regarding their use; such regulation will supersede the application of Florida trap law with respect to fishing beyond Florida's seaward boundary. Fish traps are prohibited shoreward of the 100-foot

contour, south of 25° 35.5' N. latitude (Fowey Rocks Light, Florida). This prohibition would separate traps from other gear along the narrow shelf area where competition, primarily with recreational fishermen, is most intense. Any fish traps deployed within the prohibited area may be seized by an authorized officer. Degradable panels or degradable door fasteners will be required on all fish traps to prevent lost traps from retaining fish and thus wasting the resource. Also, a minimum trap mesh size of 1 x 2 inches or 1.5-inch hexagonal is proposed to be effective one year after the FMP is implemented. This measure will prevent the use of mesh smaller than is currently used, thereby minimizing the potential harvest of small, unmarketable fish. The one-year grace period is designed to allow fishermen to replace traps as they wear out.

The FMP proposes to prohibit the harvest of jewfish by spears, spearguns, pole guns, and powerheads. Thus, the esthetic enjoyment of seeing large jewfish for recreational divers is preserved.

The use of poisons and explosives (exclusive of powerheads) for taking fishes of the snapper-grouper fishery is prohibited. However, poisons may be used if authorized by permit under State or Federal law. This measure will prevent alteration and destruction of habitat and incidental mortality of non-target species.

Harvest Limitations

The FMP proposes certain limitations on harvest practices involving fish traps to reduce conflicts within the fishery and aid in the enforcement of these regulations. No person may tend or pull another's fish traps without the owner's written permission. South of 28° 24.5' N. latitude (Cape Canaveral, Florida) fish traps may only be pulled between the period one hour before sunrise and one hour after sunset, and must be identified as belonging to the boat or vessel fishing them. (This gear identification provision is being held in reserve until a region-wide system is developed.)

The FMP indicates that traps and trap buoys will be identified as belonging to the boat or vessel fishing the traps. However, further discussion with the Council revealed that its intent was that the measure would apply only south of Cape Canaveral. This intent is indicated in the FMP by the exclusion of black sea bass traps (fished primarily north of Cape Canaveral) from the identification requirement.

Special Management Zones

Holders of U.S. Army Corps of Engineers artificial reef or fish attraction device permits may petition the Council to designate the area surrounding their artificial reef or fish attraction device as a special management zone (SMZ). Such designation would prohibit or restrain, in the SMZ, the use of fishing gear which is incompatible with the purpose for which such artificial reef or device was established. A Council monitoring team will consider such petition and report its recommendation thereon to the Council. If the Council concludes that such a SMZ should be established, it may refer the matter to the Secretary with a recommendation that he promulgate implementing regulations.

Catch Monitoring

To monitor attainment of OY, provide information necessary for further YPR analysis, and to evaluate other stock assessment methods, the FMP proposes that statistical reporting agents will sample and inspect recreational and commercial landings. Fishermen and dealers whose catch is selected for sampling and inspection must make their fish available to statistical reporting agents. This sampling method will be supplemented by information regarding landings and value as compiled in "Fishery Statistics of the United States."

Procedures for Disposition of Illegally Fished Fish Traps

The regulations provide abandonment procedures for fish traps deployed within the prohibited area. These procedures authorize the disposition of the traps by the Secretary or an authorized officer. The procedures supplement the procedures provided for seizure, forfeiture, and disposal in 50 CFR Part 219. Special characteristics of the trap fishery necessitate this additional method of abandonment and disposal of fish traps deployed in the prohibited area. First, the traps are heavy and bulky, which makes them difficult to handle without proper equipment. Currently, this equipment is not available to law enforcement officers. Second, limited resources, both in terms of time and money, make it impracticable, if not impossible, for authorized enforcement officers to haul all illegal traps to shore and to store them for the one-year time period required by 50 CFR 219.29 before the traps can be destroyed. The procedure of abandonment and destruction provided in these regulations will discourage illegal fishing with fish traps.

Classification

Section 304(a)(1) (C)(ii) of the Magnuson Fishery Conservation and Management Act, as amended, (Magnuson Act), requires the Secretary to publish regulations proposed by a council within 30 days of receipt of the FMP and regulations. At this time the Secretary has not determined that this FMP is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared a draft environmental impact statement for this FMP; a notice of availability was published on August 20, 1982, (47 FR 36468).

The NOAA Administrator determined that this proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The Council proposed a regulatory impact review (RIR) which concludes that this rule will have a following economic effects.

The proposed regulations will result in benefits to the fishermen and to the economy that are greater than the associated Federal costs to manage the fishery on a continuing basis. Benefits that will accrue from implementing the proposed measures come from the minimum sizes on red snapper, vermilion snapper, yellowtail snapper, black sea bass, red grouper, and Nassau grouper. The benefit/cost analysis was performed utilizing a 20-year planning horizon. The benefit/cost ratio is defined as present value benefits divided by present value costs. There are alternative benefit/cost ratios depending on the assumed per pound value of the fish to commercial and recreational fishermen:

Assumed per pound value	Benefit/cost ratio
\$0.75	\$15,539,462/\$4,085,128 = 3.80.
\$1.00	\$20,719,283/\$4,085,128 = 5.07.
\$1.25	\$25,899,104/\$4,085,128 = 6.34.
\$1.50	\$31,078,925/\$4,085,128 = 7.61.

The conclusion is that the return for government investment, in implementing minimum size restrictions for the six fish species, ranges from \$3.80 to \$7.61 for each dollar invested. You may obtain a copy of this review from the Regional Director at the address listed above.

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. Deadlines imposed under section 304 of the Magnuson Act require the Secretary

to publish this proposed rule 30 days after its receipt. Accordingly, the proposed rule is being reported to the Director, Office of the Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The rules to implement the FMP are subject to provisions of the Regulatory Flexibility Act (RFA). The Council prepared an initial regulatory flexibility analysis (IRFA) in conjunction with the RIR, as provided by section 605(a) of the RIR/IRFA; this analysis is summarized above. On the basis of this RIR/IRFA, the NOAA Administrator determined that this proposed rule will have a significant economic impact on a substantial number of small entities. You may obtain a copy of the RIR/IRFA from the Regional Director at the address noted above.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council 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 Florida, South Carolina, and North Carolina. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 646

Fish, Fisheries, Fishing.

Dated: June 7, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, Chapter VI of 50 CFR is proposed to be amended by adding a new Part 646 to read as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

- 646.1 Purpose and scope.
- 646.2 Definitions.
- 646.3 Relationship to other laws.
- 646.4 Catch monitoring.
- 646.5 Gear identification. [Reserved]
- 646.6 Prohibitions.
- 646.7 Facilitation of enforcement.
- 646.8 Penalties.

Subpart B—Management Measures

- 646.20 Harvest limitations.
- 646.21 Size limitations.
- 646.22 Gear limitations.
- 646.23 Specifically authorized activities.

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

Subpart A—General Provisions

§ 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 prepared by the South Atlantic Fishery Management Council under the Magnuson Act.

(b) This part regulates fishing for fish in the snapper-grouper fishery by fishing vessels within the South Atlantic portion of the fishery conservation zone.

§ 646.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meaning:

Authorized officer means—

- (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Authorized statistical reporting agent means—

- (a) Any person so designated by the Center Director;
- (b) Any person so designated by the head of any Federal or State agency which has entered into an agreement with the Secretary to collect fishery data.

Center Director means the Center Director or a designee, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305-361-5761.

Commercial fisherman means a person who sells, trades, or barter any part of his catch of fish.

Dealer means the person who first receives by way of purchase, barter, or trade fish from a commercial fisherman.

Fish in the snapper-grouper fishery means the following species:

Snappers—Lutjanidae

- Black snapper—*Apsilus dentatus*
- Queen snapper—*Etelis oculatus*
- Mutton snapper—*Lutjanus analis*
- Schoolmaster—*Lutjanus apodus*
- Blackfin snapper—*Lutjanus buccanella*
- Red snapper—*Lutjanus campechanus*
- Cubera snapper—*Lutjanus cyanopterus*
- Gray snapper—*Lutjanus griseus*
- Mahogany snapper—*Lutjanus mahogoni*

- Dog snapper—*Lutjanus jocu*
- Lane snapper—*Lutjanus synagris*
- Silk snapper—*Lutjanus vivanus*
- Yellowtail snapper—*Ocyurus chrysurus*
- Vermilion snapper—*Rhomboplites aurorubens*

Sea Basses—Serranidae

- Bank sea bass—*Centropristis ocyurus*
- Rock sea bass—*Centropristis philadelphica*
- Black sea bass—*Centropristis striata*

Groupers—Serranidae

- Rock hind—*Epinephelus adscensionis*
- Graysby—*Epinephelus cruentatus*
- Speckled hind—*Epinephelus drummondhayi*
- Yellowedge grouper—*Epinephelus flavolimbatus*
- Coney—*Epinephelus fulvus*
- Red hind—*Epinephelus guttatus*
- Jewfish—*Epinephelus itajara*
- Red grouper—*Epinephelus morio*
- Misty grouper—*Epinephelus mystacinus*
- Warsaw grouper—*Epinephelus nigritus*
- Snowy grouper—*Epinephelus niveatus*
- Nassau grouper—*Epinephelus striatus*
- Black grouper—*Mycteroperca bonaci*
- Yellowmouth grouper—*Mycteroperca interstitialis*
- Gag—*Mycteroperca microlepis*
- Scamp—*Mycteroperca phenax*
- Tiger grouper—*Mycteroperca tigris*
- Yellowfin grouper—*Mycteroperca venenosa*

Porgies—Sparidae

- Sheepshead—*Archosargus probatocephalus*
- Grass porgy—*Calamus arctifrons*
- Jolthead porgy—*Calamus bajondo*
- Saucereye porgy—*Calamus calamus*
- Whitebone porgy—*Calamus leucosteus*
- Knobbed porgy—*Calamus nodosus*
- Red porgy—*Pagrus pagrus*
- Longspine porgy—*Stenotomus caprinus*
- Scup—*Stenotomus chrysops*

Grunts—Haemulidae

- Black margate—*Anisotremus surinamensis*
- Porkfish—*Anisotremus virginicus*
- Margate—*Haemulon album*
- Tomtate—*Haemulon aurolineatum*
- Smallmouth grunt—*Haemulon chrysargyreum*
- French grunt—*Haemulon flavolineatum*
- Spanish grunt—*Haemulon macrostomum*
- Cottonwick—*Haemulon melanurum*
- Sailors choice—*Haemulon parrai*
- White grunt—*Haemulon plumieri*
- Blue striped grunt—*Haemulon sciurus*

Tilefishes—Malacanthidae

- Blueline tilefish—*Caulolatilus microps*

Tilefish (Golden)—*Lopholatilus chamaeleonticeps*
Sand tilefish—*Malacanthus plumieri*

Triggerfishes—Balistidae

Gray triggerfish—*Balistes capriscus*
Queen triggerfish—*Balistes vetula*
Ocean triggerfish—*Canthidermis sufflamen*

Wrasses—Labridae

Hogfish—*Lachnolaimus maximus*
Puddingwife—*Halichoeres radiatus*

Jacks—Carangidae

Yellow jack—*Caranx bartholomaei*
Blue runner—*Caranx crysos*
Crevalle jack—*Caranx hippos*
Bar jack—*Caranx ruber*
Greater amberjack—*Seriola dumerili*
Almac jack—*Seriola rivoliana*

Fish trap means any trap and the component parts thereof used for or capable of taking finfish, regardless of the construction material, except those traps historically used in the directed fisheries for crustaceans (blue crab, stone crab, and spiny lobster). Fish trap further means those traps used to fish for black sea bass.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*)

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means—

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage; or

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Powerhead means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

Regional Director means the Regional Director, or a designee, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813-893-3141.

Secretary means the Secretary of Commerce, or a designee.

South Atlantic means that portion of the FCZ along the Atlantic coastal states south of the Virginia-North Carolina border to the boundary between the Gulf of Mexico and the Atlantic Ocean. The boundary between the Gulf of Mexico and the Atlantic Ocean begins at the intersection of the outer boundary of the FCZ and 83° W. longitude, proceeds, north to 24° 35' N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida Keys to the mainland.

Total length means the distance from the tip of the head (snout) to the furthestmost tip of the tail (caudal fin).

U.S. fish processors means facilities located within the United States for, and vessels of the United States, used for or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means—

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than five net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

§ 646.3 Relationship to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection, issuance of permits, and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

(c) These regulations are intended to apply within the FCZ portion of the following National Marine Sanctuaries and National Park unless regulations establishing such Sanctuaries or Park prohibit their application:

(1) Looe Key National Marine Sanctuary (15 CFR Part 937).

(2) Key Largo Coral Reef Marine Sanctuary (15 CFR Part 929).

(3) Biscayne National Park (Title 16 U.S.C. 410gg).

(4) Gray's Reef National Marine Sanctuary (15 CFR Part 938).

(5) Monitor Marine Sanctuary (15 CFR Part 924).

§ 646.4 Catch monitoring.

Data will be collected by authorized statistical reporting agents from a sample of commercial and recreational catch for YPR analysis. Those fishermen and dealers selected by the Center Director must make their fish available for inspection by those agents.

§ 646.5 Gear identification. [Reserved]

§ 646.6 Prohibitions.

It is unlawful for any person to—

(a) Refuse to make fish available for inspection when requested to do so by an authorized statistical reporting agent, as specified in § 646.4.

(b) Pull or tend fish traps except during the hours specified in § 646.20(a);

(c) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another person's fish traps except as provided in § 646.20(b);

(d) Possess in or harvest from the FCZ red snapper, yellowtail snapper, red grouper, or Nassau grouper under the minimum size specified in § 646.21(a);

(e) Possess in or harvest from that portion of the FCZ south of 35° 15' N. latitude (Cape Hatteras, North Carolina)

black sea bass under the minimum size specified in § 646.21(b);

(f) Possess in the FCZ any fish in the snapper-grouper fishery without the heads and fins intact as specified in § 646.21(c);

(g) Land any fish in the snapper-grouper fishery, taken from the FCZ, without the heads and fins intact as specified in § 646.21(c);

(h) Fish for fish in the snapper-grouper fishery with explosives or poisons as provided in § 646.22(a)(1) and (2);

(i) Fish for jewfish with the fishing gear specified in § 646.22(a)(3);

(j) Fish for fish in the snapper-grouper fishery in the FCZ with trawl nets and fish traps except as specified in § 646.20(a) and (b) or § 646.22(b);

(k) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish or parts thereof taken or retained in violation of the Magnuson Act, this part, any other regulation or any permit issued to a foreign vessel under the Magnuson Act;

(l) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(m) forcibly to assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (1) of this section;

(n) Resist a lawful arrest for any act prohibited by this part;

(o) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(p) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel, while such foreign vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under § 204 of the Magnuson Act which authorized the receipt by such vessel of the U.S.-harvested fish of the species concerned.

(q) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 646.7 Facilitation of enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part must immediately comply with instructions issued by an authorized officer to facilitate safe boarding and

inspection of the vessel, its gear, equipment, logbook, permit, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel must be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used—

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you,"

(3) "AA AA AA etc." which is the call to an unknown station, to which the signaled vessel should respond by identifying the vessel by radio, visual signals or illuminating the vessel identification number, and

(4) "RY-CY" meaning "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* A vessel signaled to stop or heave to for boarding must—

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) Provide a safe ladder, enough light, and a safety line when necessary or requested by the authorized officer to facilitate the boarding and inspection; and

(3) Take such other actions as necessary to ensure the safety of the authorized officer and his party to facilitate the boarding.

§ 646.8 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations), 50 CFR Part 621, and 15 CFR Part 904 (Civil Procedures), and other applicable Federal law.

Subpart B—Management Measures

§ 646.20 Harvest limitations.

(a) Fish traps may be pulled or tended only during the period beginning one hour before official sunrise to one hour after official sunset in the South Atlantic portion of the FCZ south of 28° 24.5' N. latitude (Cape Canaveral, Florida).

(b) Fish traps may be tended or pulled only by persons (other than authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has on board written consent of the fish trap owner.

§ 646.21 Size limitations.

(a) The minimum size limit for the harvest or possession in the FCZ of red snapper, yellowtail snapper, red grouper, and Nassau grouper is 12 inches total length.

(b) The minimum size for the harvest or possession in the FCZ of black sea bass south of Cape Hatteras, North Carolina is eight inches total length.

(c) All fish in the snapper-grouper fishery subject to minimum size limits specified in this section may be possessed in the FCZ or landed, if harvested from the FCZ, only with the head and fins intact.

§ 646.22 Gear limitations.

(a) (1) Explosives (except explosives in powerheads) may not be used to fish for fish in the snapper-grouper fishery.

(2) Poisons may not be used to fish for fish in the snapper-grouper fishery except as authorized by permit under State or Federal law.

(3) Powerheads, spearguns, pole spears or Hawaiian slings and spears may not be used to fish for jewfish.

(b) (1) Fish traps must have a degradable panel or a door attached with degradable fasteners or material such as jute or sisal twines which normally deteriorate within 42 days. The opening must be at least as large as the entry ports.

(2) Effective (insert date 1 year after effective date of final rule), fish traps must have a minimum mesh size of 1×2 inches or 1.5-inch hexagonal (the distance between parallel sides).

(3) Effective (insert date-1 year after effective date of final rule), trawl nets targeting fish in the snapper-grouper fishery (25 percent or more of the fish on board by weight are fish in the snapper-grouper fishery) must have a minimum stretched mesh size of 4 inches. Shrimp trawls, calico scallop trawls, and rock shrimp trawls are specifically exempt from this requirement.

(4) Fish traps may not be placed shoreward of the 100-foot contour in that portion of the South Atlantic FCZ south of 25° 35.5' N. latitude (Fowey Rocks Light, Florida). Fish traps so deployed will be considered unclaimed or abandoned property and may be disposed of in any appropriate manner by the Secretary (including an authorized officer).

§ 646.23 Specifically authorized activities.

The Secretary may authorize for the acquisition of information and data, activities which are otherwise prohibited by these regulations.

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