Amendment 50

Catch Level Adjustments, Rebuilding Schedule, and Allocations for Red Porgy

Decision Document

March 2022

Background

The most recent assessment of the red porgy stock in the South Atlantic followed a standard approach with data through 2017 (SEDAR 60 2020) and incorporated revised recreational landings estimates (Fishing Effort Survey). The findings of the assessment indicated that the South Atlantic red porgy stock is overfished and undergoing overfishing. The Council's Scientific and Statistical Committee (SSC) reviewed the assessment during their April 2020 meeting and found that the assessment represented the best scientific information available. The Council received the results of the assessment and the SSC's recommendations at their June 2020 meeting and directed staff to begin work on a plan amendment to end overfishing as well as address rebuilding. Overfishing limit (OFL) and acceptable biological catch (ABC) recommendations are in **Appendix A** along with stock status determination criteria from SEDAR 60.

The Council received notification from the National Marine Fisheries Service (NMFS) (via letter dated June 12, 2020) of the status of the red porgy stock in the South Atlantic and indicated management has not made adequate progress in rebuilding the population. Following such notification, the Magnuson-Stevens Fishery Conservation and Management Act requires the Council to develop a fishery management plan amendment with actions that end overfishing immediately and rebuild the affected stock. The Council has two years to develop an amendment; hence, the statutory deadline would be June 12, 2022.

Management actions in this amendment

Action 1: Establish a rebuilding plan for red porgy
Action 2: Revise the red porgy acceptable biological catch, total annual catch limit, and annual optimum yield
Action 3: Revise the red porgy sector allocations and sector annual catch limits
Action 4: Modify red porgy commercial trip limits
Action 5: Modify red porgy recreational management measures
Sub-Action 5a. Bag limits
Sub-Action 5b. Recreational fishing season
Action 6: Modify red porgy recreational accountability measures

Amendment timing

September 2020	Review options paper and provide guidance to staff
December 2020	Review draft amendment and approve for scoping
Feb 3 & 4, 2021	Conduct scoping hearings
March 2021	Review scoping comments, review preliminary analyses, and provide guidance to staff
June 2021	Review modifications to the amendment, select preferred alternatives, and approve for public hearings
September 2021	Review updated analyses and obtain public comment (public hearings) actions
December 2021	Review and approve all actions and rationale
March 2022	**Approve for formal review**
Mid to late 2022	Regulations effective

Objectives for this meeting

- Review and approve modifications to language of alternatives in Action 3 (sector allocations)
- Provide rationale for only two sector allocation alternatives in Action 3
- Consider input from Law Enforcement Advisory Panel for Sub-action 5a (recreational bag limit)
- Review the draft Council Conclusions for all actions and modify as needed
- Consider approval or formal review

Proposed Actions

Note: Only the No Action and Preferred Alternative(s) are presented for each action.

Action 1. Establish a rebuilding plan for red porgy

Alternative 1 (No Action). The South Atlantic red porgy stock is overfished and undergoing overfishing. The red porgy stock in the South Atlantic was under an 18-year rebuilding plan that was expected to rebuild the stock by the end of 2017. Red porgy did not rebuild by the end of 2017.

Preferred Alternative 5. Establish the rebuilding plan to equal the time estimated to rebuild the stock while maintaining fishing mortality at 75% of the Maximum Fishing Mortality Threshold (MFMT) during the rebuilding period. For red porgy, 75%MFMT = 75%F_{MSY}. This would equal 26 years with the rebuilding period ending in 2047. 2022 would be Year 1.

Draft Conclusion:

The Council acknowledges that the red porgy stock in the South Atlantic has been experiencing low recruitment for many years and management efforts to rebuild the stock have had limited success. In this plan amendment, the Council is addressing the stock's overfished determination by establishing a new rebuilding plan. The Council selected the longest allowable timeframe for rebuilding as mandated by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The preferred timeframe for rebuilding is intended to reduce the severity of the management measures and thus result in fewer short-term negative socio-economic impacts on fishing communities. The Council is also embarking on discussions that would address the snapper grouper fishery as a whole and it is expected that actions resulting from such an evaluation would benefit the red porgy stock in the South Atlantic and further support the Council's preferred rebuilding timeframe.

The Council determined that **Preferred Alternative 5** would best meet the purpose of rebuilding the red porgy stock while minimizing adverse social and economic effects. **Preferred Alternative 5** best meets the goals and objectives of the Snapper Grouper FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

COMMITTEE ACTION: REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED

Action 2. Revise the red porgy acceptable biological catch, total annual catch limit, and annual optimum yield

Alternative 1 (No Action). The total annual catch limit and annual optimum yield for red porgy are equal to the current acceptable biological catch (328,000 pounds whole weight/315,384 pounds gutted weight).

Preferred Alternative 2. Revise the acceptable biological catch based on the recommendation of the Scientific and Statistical Committee. Revise the total annual catch limit and annual optimum yield for red porgy, and set them equal to the recommended acceptable biological catch. The 2026 acceptable biological catch, total annual catch limit, and annual optimum yield would remain in place after 2026 until modified.

Year	ABC (lbs ww)	Annual OY (lbs ww)	Total ACL (lbs ww)	Total ACL (lbs gw)
2022	75,000	75,000	75,000	72,115
2023	81,000	81,000	81,000	77,885
2024	87,000	87,000	87,000	83,654
2025	91,000	91,000	91,000	87,500
2026+	95,000	95,000	95,000	91,346

Draft Conclusion:

The proposed catch levels are based on the Council's SSC recommendation using the best scientific information available. Therefore, setting the total ACL and annual OY at the recommended levels ensures that overfishing is ended, and the level of harvest does not compromise rebuilding targets. Setting the total ACL and annual OY equal to the recommended ABCs decreases the likelihood of accountability measures being triggered, thus reducing negative impacts to fishing communities. Council members emphasized the need to try to limit negative impacts to communities over the short-term while also acknowledging that the stock has been under rebuilding plans in the South Atlantic for many years. The stock has not responded as expected to management indicating that other factors, beyond the Council's ability to change, may be at play.

The Council determined that **Preferred Alternative 2** would best meet the purpose of adjusting catch levels to end overfishing of the red porgy stock using the best scientific information available while minimizing adverse social and economic effects. **Preferred Alternative 2** best meets the goals and objectives of the Snapper Grouper FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

Note: economic analyses for this action were revised to update net economic benefits for the commercial sector. Revisions did not directionally alter the previous determination of net benefits or ranking of alternatives, however.

COMMITTEE ACTION:
REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED

Action 3. Revise the red porgy sector allocations and sector annual catch limits

Note: The revised total annual catch limit in Alternative 1 (No Action) and 2 reflects Preferred Alternative 2 in Action 2: ABC=ACL=OY with implementation in 2022.

Alternative 1 (No Action). Retain the current commercial and recreational sector allocations, as applied to the revised total annual catch limit for red porgy. The current red porgy total annual catch limit is allocated 50% to the commercial sector and 50% to the recreational sector~~. An equal allocation was selected because it was closest to status quo at the time it was chosen by the Council (2001-2003 landings were 51% recreational and 49% commercial).~~ The commercial annual catch limit is split into two seasons with 30% allocated to season 1 (January through April) and 70% allocated to season 2 (May through December).

Year	Commercial ACL (lbs gw)			Recreational ACL (lbs gw)
	Total	Season 1 quota	Season 2 quota	
2022	36,058	10,817	25,240	36,058
2023	38,942	11,683	27,260	38,942
2024	41,827	12,548	29,279	41,827
2025	43,750	13,125	30,625	43,750
2026+	45,673	13,702	31,971	45,673

Preferred Alternative 2. Allocate 51.43% of the red porgy total annual catch limit to the commercial sector and 48.57% to the recreational sector. ~~This allocation is based on the allocation formula: Annual catch limit = ((mean landings 2006-2008)*0.5)) + ((mean landings 1986-2008)*0.5) applied to the revised total annual catch limit that includes recreational landings from the Marine Recreational Information Program using the Fishing Effort Survey method.~~ Retain the commercial annual catch limit allocation with 30% allocated to season 1 (January through April) and 70% allocated to season 2 (May through December).

Year	Commercial ACL (lbs gw)			Recreational ACL (lbs gw)
	Total	Season 1 quota	Season 2 quota	
2022	37,089	11,127	25,962	35,026
2023	40,056	12,017	28,039	37,829
2024	43,023	12,907	30,116	40,631
2025	45,001	13,500	31,501	42,499
2026+	46,979	14,094	32,886	44,367

Draft Conclusion:

Red porgy are harvested incidentally with other snapper grouper species (e.g., vermilion snapper and gray triggerfish) in the commercial fishery and are not targeted recreationally. Utilizing the allocation formula would incorporate revised recreational landings from the Fishing Effort Survey, which would result in a slight shift of allocation to the commercial sector. Although commercial fishing tends to occur in deeper water than recreational fishing, where mortality of

discarded fish is higher, the Council reasoned that a slightly higher allocation to the commercial sector would potentially reduce the number of fish that are discarded if the commercial ACL is reached in-season and a closure becomes necessary.

The Council determined that **Preferred Alternative 2** would best meet the purpose of revising sector allocations and ACLs using the best scientific information available while minimizing adverse social and economic effects. **Preferred Alternative 2** best meets the goals and objectives of the Snapper Grouper FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

Note: economic analyses for this action were revised to update net economic benefits for the commercial sector. Revisions did not directionally alter the previous determination of net benefits or ranking of alternatives, however.

Draft Rationale for two alternatives:

The Council is only considering two allocation scenarios for red porgy. The update to the recreational landings stream did not substantially change the historical landings ratio between sectors. Because red porgy is most often an incidentally harvested species, the Council is satisfied with the two alternatives presented.

COMMITTEE ACTION:

- APPROVE THE IPT'S SUGGESTED EDIT TO THE LANGUAGE OF ALTERNATIVES
- REVIEW RATIONALE FOR ONLY TWO ALTERNATIVES AND MODIFY AS NEEDED
- REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED

Action 4. Modify red porgy commercial trip limits

Alternative 1 (No Action). The commercial trip limit for red porgy in the South Atlantic exclusive economic zone is 60 fish from January 1 through April 30 and 120 fish from May 1 through December 31.

Alternative 2. Reduce the commercial trip limit for red porgy from January 1 – April 30 to:
Preferred 2a. 15 fish per trip

Alternative 3. Reduce the commercial trip limit for red porgy from May 1 – December 31 to:
Preferred 3a. 15 fish per trip

Note: An interactive tool to explore the effect of proposed trip limits can be accessed here: Red Porgy Decision Tool.

Draft Conclusion:

The Council removed the sale and purchase prohibition of red porgy during January through April with implementation of Regulatory Amendment 27 to the FMP in 2020 (SAFMC 2019a). This was to allow commercial fishermen to retain a small number of fish instead of discarding them. Because of the depths where commercial fishing typically occurs, mortality of released fish is relatively high. Council members reiterated that the proposed reduction in the ACL in this amendment does not affect the Council's original rationale stating that minimizing the number of dead discards was still beneficial for the red porgy stock. Hence, the Council did not reconsider prohibiting harvest of red porgy from January through April, as was recommended by the Snapper Grouper AP.

Council members acknowledged the importance of red porgy to the seafood market and the need to maintain a consistent choice of fresh fish for consumers year-round. When a species is reintroduced to the market after a long hiatus, it can "lose its place" resulting in negative economic effects. Commercial fishermen prefer to maintain access to as many species as possible so they can "put a trip together" throughout the year. Limiting the commercial harvest to 15 fish per trip, the lowest trip limit that was considered, would increase the likelihood of the fishery remaining open and available to consumers for as long as possible. The Council discussed aligning the red porgy commercial season to when fishermen are targeting vermilion snapper and gray triggerfish with small hooks, particularly during January through April when shallow-water grouper are closed to harvest and during the summer months when fishing effort is highest. Given the substantial reduction in the commercial ACL, however, such a modification was not discussed further as it was deemed unlikely to offer much benefit to the commercial sector. Additionally, the current split season (January-April and May-December) has only been in place since early 2020 and the Council reasoned that more time was needed for the expected effects of that modification to be realized. The Council acknowledged that the proposed reduction in the commercial trip limit would likely result in closures in both seasons, but a small trip limit would be helpful in reducing dead discards in the fishery.

The Council determined that **Preferred Sub-alternatives 2a** and **3a** would best meet the purpose of ending overfishing of the red porgy stock and achieving OY, while minimizing

adverse social and economic effects. **Preferred Sub-alternatives 2a** and **3a** best meet the goals and objectives of the Snapper Grouper FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

COMMITTEE ACTION:
REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED

Action 5. Modify red porgy recreational management measures

Sub-Action 5a. Bag limit

Alternative 1 (No Action). The recreational bag limit for red porgy in the South Atlantic exclusive economic zone is 3 per person per day, or 3 per person per trip, whichever is more restrictive.

Preferred Alternative 2. Reduce the recreational bag limit for red porgy to 1 fish per person per day, or 1 fish per person per trip, whichever is more restrictive.

Note: Bag limit alternatives can be explored using the Red Porgy Decision Tool.

IPT Comments:

- Note that the action would affect other possession regulations-622.187 (c)(i)(ii):

  (c) Possession limits.

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

  (i) A person aboard a charter vessel or headboat on a trip that spans more than 24 hours may possess no more than two daily bag limits of species other than red porgy.

  (ii) A person aboard a headboat on a trip that spans more than 48 hours and who can document that fishing was conducted on at least 3 days may possess no more than three daily bag limits of species other than red porgy.

  (2) A person aboard a vessel may not possess red porgy in or from the EEZ in excess of three per day or three per trip, whichever is more restrictive.

Law Enforcement Advisory Panel Comments:

- The Council could consider changing the regulation to exclude the "per trip" restriction. However, this could allow retention of multiple daily limits in areas where multiple trips can be taken in a single day. It was noted that it would be unlikely that a vessel would be boarded more than once in one day, however.
  Recommendation: Retain the current language in the regulations and reduce to one fish, to read: A person aboard a vessel may not possess red porgy in or from the EEZ in excess of ONE per day or ONE per trip, whichever is more restrictive.
- The AP noted that the "per trip" restriction is more conservative.

Draft Conclusion:

Given the substantial reduction in harvest needed to end overfishing immediately and the red porgy stock on track to rebuild, the Council selected the lowest bag limit that was considered to continue to allow recreational access and to help constrain harvest to the reduced recreational ACL. The Council considered implementing vessel limits for charter vessels and headboats but removed those alternatives from further consideration at its June 2021 meeting citing concerns over potentially creating complications for headboats to manage their red porgy harvest. Council

members reasoned that vessel limits would be overly complicated at this time given the significant reductions in harvest considered in the amendment.

The Council determined that **Preferred Alternative 2** would best meet the purpose of ending overfishing of the red porgy stock and achieving OY, while minimizing adverse social and economic effects. **Preferred Alternative 2** best meets the goals and objectives of the Snapper Grouper FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

COMMITTEE ACTION:

- CONSIDER RECOMMENDATION FROM LE AP AND MAKE MODIFICATIONS AS NEEDED
- REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED

Sub-Action 5b. Recreational fishing season

Alternative 1 (No Action). Recreational harvest is allowed year-round until the recreational annual catch limit is met or is projected to be met.

Preferred Alternative 2. Establish a recreational fishing season for red porgy; harvest would be allowed during **May through June**.

Note: Recreational season alternatives can be explored using the Red Porgy Decision Tool.

Draft Conclusion:

As stated previously, substantial reductions in harvest are needed to address the stock's overfishing and overfished determinations. Shortening the time recreational fishing is allowed for red porgy in the South Atlantic region contributes to ensuring recreational catches do not exceed the adjusted ACL. The Council selected the most conservative alternative to reduce the chance that the recreational ACL would be exceeded while still allowing some harvest to recreational anglers. Under **Preferred Alternative 2**, **Alternatives 3**, and **4**, according to the analyses, there is some probability that the catch limit could be met within the timeframe that the fishery is open. However, there is notable uncertainty surrounding those predictions. The longer the open season, the higher the likelihood that the ACL could be exceeded. Therefore, **Preferred Alternative 2**, which would implement a 2-month season in May and June, is the best choice to ensure landings remain below the ACL and overfishing is prevented. Additionally, under **Preferred Alternative 2**, recreational fishing would not be occurring during late summer, when weather events tend to be more disruptive of fishing activity.

The Council determined that **Preferred Alternative 2** would best meet the purpose of ending overfishing of the red porgy stock and achieving OY, while minimizing adverse social and economic effects. **Preferred Alternative 2** best meets the goals and objectives of the Snapper Grouper FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

COMMITTEE ACTION: REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED

Action 6. Modify red porgy recreational accountability measures

Alternative 1 (No Action). If recreational landings reach or are projected to reach the recreational annual catch limit, recreational harvest of red porgy is closed for the remainder of the fishing year, regardless of stock status, unless National Marine Fisheries Service determines that no closure is necessary based on the best scientific information available.

If recreational landings exceed the recreational annual catch limit, then during the following fishing year recreational landings will be monitored for a persistence in increased landings. If the total annual catch limit is exceeded and red porgy are overfished, the length of the recreational fishing season and the recreational annual catch limit are reduced by the amount of the recreational annual catch limit overage.

Preferred Alternative 3. If recreational landings exceed the recreational annual catch limit, reduce the length of the following year's recreational fishing season by the amount necessary to prevent the recreational annual catch limit from being exceeded in the following year. However, the length of the recreational season will not be reduced if the Regional Administrator determines, using the best scientific information available, that it is not necessary.

Draft Conclusion:

Given the modification to recreational management measures being proposed in this amendment, particularly the establishment of a recreational season under Sub-action 5b, the Council is proposing modifying the recreational accountability measures accordingly. **Preferred Alternative 3** is the most suitable among the alternatives considered for a short recreational season. Eliminating the in-season closure when the recreational ACL is met or is projected to be met makes the most sense as data are not available in time to implement in-season management under the proposed two-month season. Council members agreed that it would also be appropriate to uncouple the post-season recreational accountability measure (payback of the overage if the ACL is exceeded) from the total ACL to prevent potential disruptions to the commercial sector because of post-season paybacks. **Preferred Alternative 3** also maintains the intent to reduce the season length the following year in the event of an overage.

The Council determined that **Preferred Alternative 3** would best meet the purpose of preventing overfishing of the red porgy stock. **Preferred Alternative 3** best meets the goals and objectives of the Snapper Grouper FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

COMMITTEE ACTION:

REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED
CONSIDER APPROVAL OF AMENDMENT 50 FOR FORMAL REVIEW

DRAFT MOTION: APPROVE AMENDMENT 50 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER GROUPER FISHERY OF THE SOUTH ATLANTIC REGION FOR FORMAL SECRETARIAL REVIEW AND DEEM THE CODIFIED TEXT AS NECESSARY AND APPROPRIATE. GIVE STAFF EDITORIAL LICENSE TO MAKE ANY

NECESSARY EDITORIAL CHANGES TO THE DOCUMENT/CODIFIED TEXT AND GIVE THE COUNCIL CHAIR AUTHORITY TO APPROVE THE REVISIONS AND RE-DEEM THE CODIFIED TEXT.

Appendix A

Acceptable Biological Catch and Overfishing Limit

The SSC reviewed the red porgy stock assessment (SEDAR 60 2020) at their April 2020 meeting. The SSC recommended revising the overfishing limit (OFL) based on projections under a fishing mortality rate that would produce maximum sustainable yield ($F = F_{MSY}$) and recommended the $F = 75\% F_{MSY}$ scenario be used to set the acceptable biological catch (ABC) for red porgy. Both projections used average recruitment from the last three assessment years instead of long-term recruitment. The findings of SEDAR 60 indicated average recruitment showed a declining trend throughout the time series and has been below the recruitment levels corresponding to MSY for most of the past three decades.

The updated OFL and ABC values are based on **landed catch in pounds whole weight (lbs ww)** and are highlighted in blue (**Table 1**).

Table 1. South Atlantic red porgy OFL and ABC recommendations (in pounds and numbers of fish) based on management starting in 2022 (SEFSC, September 2020). NOTE: Catch levels in numbers of fish were included in the SSC's recommendations; hence, they are provided here for completeness.

OFL Recommendations		
Year	**Landings (lbs ww)**	**Numbers of Fish**
2022	97,000	62,000
2023	102,000	65,000
2024	107,000	67,000
2025	110,000	69,000
2026	113,000	71,000
ABC Recommendations		
Year	**Landings (lbs ww)**	**Numbers of Fish**
2022	75,000	47,000
2023	81,000	51,000
2024	87,000	54,000
2025	91,000	57,000
2026	95,000	59,000

Note: The SSC had a difficult time implementing the ABC control rule because red porgy has made little to no progress towards rebuilding given low recruitment in recent years. The projections indicate the ABCs will have only a very minor impact on stock rebuilding. If recruitment continues to be low, the productivity of the stock and the benchmark reference points will need to be reevaluated.

Stock Status Determination Criteria

Table 2. South Atlantic red porgy stock status criteria recommendations based on the results of SEDAR 60 2020 (SSC Meeting Report, April 2020).

Criteria	Deterministic	Probabilistic
Overfished evaluation (SSB/SSB_{msy})	0.271	0.285
Overfishing evaluation	1.730	1.664
MFMT (F_{msy})	0.18	0.18
SSB_{MSY} (mt)	2,883.7	2,902.6
MSST (mt)	2,162.8	2,177.0
MSY (1000 lbs.)	531.4	538.2
Y at 75% F_{MSY} (1000 lbs.)	515.7	521.9