



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

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Charlie Phillips, Chair | Captain Mark Brown, Vice Chair
Gregg T. Waugh, Executive Director

June 26, 2018
LN#201843

Mr. Chris Oliver
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Oliver:

The South Atlantic Fishery Management Council (SAFMC) met June 10-15, 2018 and discussed the National Marine Fisheries Service (NMFS) request to the Fishery Management Councils to review regulations as directed by Executive Order (E.O.) 13771 and E.O. 13777. The SAFMC reviewed a list of candidate regulations recommended for consideration by SAFMC/NMFS staff, the SAFMC Scientific and Statistical Committee, the SAFMC Advisory Panels, and from public comments received.

Based on these recommendations, the SAFMC sorted the regulations into three categories:

- 1) regulations which the SAFMC considers to be unnecessary, unneeded, or outdated and therefore ought to be considered for removal;
- 2) regulations which the SAFMC is considering for modification currently, or in the future; and
- 3) recommended regulations which the SAFMC decided should not be considered for removal or modification at this time.

Items from the first category (regulations recommended for removal) are in the attached document.

The SAFMC continually revises its fisheries regulations in an effort to meet the changing needs and demands of the dynamics of South Atlantic fisheries. The SAFMC appreciates the opportunity to make these regulatory reform suggestions and looks forward to our joint efforts with the NMFS to maintain efficient and effective regulations. Should you or your staff have any questions or require further assistance, please feel free to contact SAFMC Executive Director, Gregg Waugh, or SAFMC Deputy Executive Director for Management, Dr. Brian Chevront.

Still diggin,

A handwritten signature in cursive script, appearing to read "Charlie Phillips".

Charlie Phillips, Chair
South Atlantic Fishery Management Council

cc: Council Members and Staff
Mr. Sam Rauch, NMFS, Deputy Assistant Administrator for Regulatory Programs
Mr. Alan Risenhoover, NMFS, Director, Office of Sustainable Fisheries
Monica Smit-Brunello, NOAA General Counsel
Jack McGovern and Rick DeVactor, NMFS SERO
Clay Porch, Theo Brainerd and Erik Williams, Southeast Fisheries Science

SAFMC Recommendations for removal from 50 CFR 622

(Recommended removals are in strikethrough. Reasons for recommended removal are given at the end of each CFR.)

Subpart I – Snapper-Grouper Fishery of the South Atlantic Region

§622.182 Gear-restricted areas

~~(c) Powerhead prohibited area. A powerhead may not be used in the EEZ off South Carolina to harvest South Atlantic snapper grouper. The possession of a mutilated South Atlantic snapper grouper in or from the EEZ off South Carolina, and a powerhead is prima facie evidence that such fish was harvested by a powerhead.~~

Reason for consideration: Powerheads are allowed in the EEZ off the other South Atlantic states. South Carolina has requested that the Council take action to remove prohibition off its coast to be consistent with regulations in the rest of South Atlantic federal waters. The SAFMC is currently considering removal of powerhead gear prohibitions in the EEZ off South Carolina.

§622.185 Size limits.

All size limits in this section are minimum size limits unless specified otherwise. A fish not in compliance with its size limit, as specified in this section, in or from the South Atlantic EEZ, may not be possessed, sold, or purchased. A fish not in compliance with its size limit must be released immediately with a minimum of harm. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on board are in compliance with the size limits specified in this section.

(a) Snapper—(1) [Reserved]

(2) Vermilion snapper—12 inches (30.5 cm), TL.

~~*(3) Blackfin, cubera, gray, queen, silk, and yellowtail snappers—12 inches (30.5 cm), TL.*~~

Reason for consideration: The SAFMC is considering the removal of minimum size limits for blackfin, queen, and silk snappers because are caught in deep water. Due to barotrauma, released undersized fish do not survive. Fishermen would be allowed to keep any of these species of any size, as opposed to making those less than 12” regulatory discards.

Subpart J—Shrimp Fishery of the South Atlantic Region

§622.210 Adjustment of management measures.

In accordance with the framework procedures of the FMP for the Shrimp Fishery of the South Atlantic Region, the RA may establish or modify the items specified in paragraph (a) of this section for South Atlantic shrimp.

(a) Biomass levels, age-structured analyses, BRD certification criteria, BRD specifications, BRD testing protocol, certified BRDs, nets required to use BRDs, times and locations when the use of BRDs is required, definitions of essential fish habitat, and essential fish habitat HAPCs ~~or Coral HAPCs.~~

Reason for consideration: Given the need for significant public input and detailed analyses necessary to establish new Coral HAPCs, it is not likely the SAFMC would establish them in a framework amendment.

Subpart L – Golden Crab Fishery of the South Atlantic

§622.241 South Atlantic golden crab controlled access.

(a) General. In accordance with the procedures specified in the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region, initial commercial vessel permits have been issued for the fishery. All permits in the fishery are issued on a fishing-year (calendar-year) basis. ~~No additional permits may be issued except for the northern zone as follows:~~

~~(1) The RA will issue up to two new vessel permits for the northern zone. Selection will be made from the list of historical participants in the South Atlantic golden crab fishery. Such list was used at the October 1995 meeting of the South Atlantic Fishery Management Council and was prioritized based on pounds of golden crab landed, without reference to a specific zone. Individuals on the list who originally received permits will be deleted from the list.~~

~~(2) The RA will offer in writing an opportunity to apply for a permit for the northern zone to the individuals highest on the list until two individuals accept and apply in a timely manner. An offer that is not accepted within 30 days after it is received will no longer be valid.~~

~~(3) An application for a permit from an individual who accepts the RA's offer must be received by the RA no later than 30 days after the date of the individual's acceptance. Application forms are available from the RA.~~

Reason for consideration: This regulation can be removed because it is outdated. The actions described here were put in place by the SAFMC when the golden crab fishing zones were initially set up and they are no longer applicable, therefore they are unneeded.

Subpart M—Dolphin and Wahoo Fishery Off the Atlantic States

§622.270 Permits.

(a) Commercial vessel permits. (1) For a person aboard a vessel to be eligible for exemption from the bag and possession limits for dolphin or wahoo in or from the Atlantic EEZ or to sell such dolphin or wahoo, a commercial vessel permit for Atlantic dolphin and wahoo must be issued to the vessel and must be on board, except as provided in paragraph (a)(2) of this section. (See paragraph (c)(1) of this section for the requirements for operator permits in the Atlantic dolphin and wahoo fishery).

(2) The provisions of paragraph (a)(1) of this section notwithstanding, a fishing vessel, except a vessel operating as a charter vessel or headboat, that does not have a commercial vessel permit for Atlantic dolphin and wahoo but has a Federal commercial vessel permit in any other fishery, is exempt from the bag and possession limits for dolphin and wahoo and may sell dolphin and wahoo, subject to the trip and geographical limits specified in §622.278(a)(2). (A charter vessel/headboat permit is not a commercial vessel permit.)

(b) Charter vessel/headboat permits. (1) For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess Atlantic dolphin or wahoo, in or from the Atlantic EEZ, a valid charter vessel/headboat permit for Atlantic dolphin and wahoo must have been issued to the vessel and must be on board. ~~(See paragraph (c)(1) of this section for the requirements for operator permits in the dolphin and wahoo fishery.)~~

(2) A charter vessel or headboat may have both a charter vessel/headboat permit and a commercial vessel permit. However, when a vessel is operating as a charter vessel or headboat, a person aboard must adhere to the bag limits. See the definitions of “Charter vessel” and “Headboat” in §622.2 for an explanation of when vessels are considered to be operating as a charter vessel or headboat, respectively.

~~(c) Operator permits. (1) An operator of a vessel that has or is required to have a charter vessel/headboat or commercial permit for Atlantic dolphin and wahoo issued under this section is required to have an operator permit.~~

~~(2) A person required to have an operator permit under paragraph (c)(1) of this section must carry on board such permit and one other form of personal identification that includes a picture (driver's license, passport, etc.).~~

~~(3) An owner of a vessel that is required to have a permitted operator under paragraph (c)(1) of this section must ensure that at least one person with a valid operator permit is aboard while the vessel is at sea or offloading.~~

~~(4) An owner of a vessel that is required to have a permitted operator under paragraph (c)(1) of this section and the operator of such vessel are responsible for ensuring that a person whose operator permit is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904 is not aboard that vessel.~~

(d) Dealer permits and conditions—(1) Permits. For a dealer to first receive Atlantic dolphin or wahoo harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(2) State license and facility requirements. To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(e) Permit procedures. See §622.4 for information regarding general permit procedures including, but not limited to application, fees, duration, transfer, renewal, display, sanctions and denials, and replacement.

[78 FR 22952, Apr. 17, 2013, as amended at 79 FR 19496, Apr. 9, 2014]

Reason for consideration: The SAFMC would like to consider removal of the operator permit requirement because the permits are not currently being used for law enforcement and because of the burden to permit holders associated with annual renewal requirements.

Subpart Q—Coastal Migratory Pelagic Resources (Gulf of Mexico, South Atlantic, and Mid-Atlantic)

§622.369 Description of zones.

~~(2) Atlantic migratory group. In the EEZ, the Atlantic migratory group is bounded by a line extending from the intersection point of New York, Connecticut, and Rhode Island (as described~~

~~in §600.105(a) of this chapter) and a line extending due east of the Florida/Georgia border. See Table 3 of this section for the boundary coordinates. (See Figure 3 in Appendix G of this part for illustration.)~~

§622.375 Authorized and unauthorized gear.

~~(i) Cobia in the Mid-Atlantic and South Atlantic EEZ—automatic reel, bandit gear, handline, rod and reel, pelagic longline, and spear (including powerheads).~~

§622.380 Size limits.

~~(2) In the Mid-Atlantic or South Atlantic. (i) 33 inches (83.8), fork length, for cobia that are sold (commercial sector).~~

~~(ii) 36 inches (91.4 cm), fork length, for cobia that are not sold (recreational sector).~~

§622.382 Bag and possession limits.

~~(vi) Atlantic migratory group cobia that are not sold (recreational sector)—1, not to exceed 6 fish per vessel per day.~~

§622.384 Quotas.

~~(d) Cobia—~~

~~(2) Atlantic migratory group. The following quotas apply to persons who fish for cobia and sell their catch. For the 2014 and 2015 fishing years, the quota for the Atlantic migratory group of cobia is 60,000 lb (27,216 kg). The quota for the 2016 fishing year and subsequent fishing years is 50,000 lb (22,680 kg).~~

§622.385 Commercial trip limits.

~~(c) Cobia. (1) Atlantic migratory group. Until the commercial ACL specified in §622.384(d)(2) is reached, 2 fish per person, not to exceed 6 fish per vessel.~~

§622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

~~(f) Atlantic migratory group cobia. (1) The following ACLs and AMs apply to cobia that are sold (commercial sector):~~

~~(i) If the sum of the cobia landings that are sold, as estimated by the SRD, reach or are projected to reach the quota specified in §622.384(d)(2) (ACL), the AA will file a notification with the Office of the Federal Register to prohibit the sale and purchase of cobia for the remainder of the fishing year.~~

~~(ii) In addition to the measures specified in paragraph (f)(1)(i) of this section, if the sum of the cobia landings that are sold and not sold in or from the Atlantic migratory group, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (f)(3) of this section, and Atlantic migratory group cobia are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the applicable quota (ACL), as~~

~~specified in paragraph (f)(1)(i) of this section, for that following year by the amount of any applicable sector-specific ACL overage in the prior fishing year.~~

~~(2) The following ACLs and AMs apply to cobia that are not sold (recreational sector). If recreational landings for cobia, as estimated by the SRD, exceed both the recreational ACL of 620,000 lb (281,227 kg), and the stock ACL, as specified paragraph (f)(3) of this section, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings, and, if necessary, the AA will file a notification with the Office of the Federal Register to reduce the recreational vessel limit, specified in §622.382(a)(1)(vi), to no less than 2 fish per vessel to ensure recreational landings achieve the recreational ACT, but do not exceed the recreational ACL in that fishing year. Any recreational vessel limit reduction that is implemented as described in this paragraph is only applicable for the fishing year in which it is implemented. Additionally, if the reduction in the recreational vessel limit is determined by the AA to be insufficient to ensure that recreational landings will not exceed the recreational ACL, the AA will also reduce the length of the recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in that fishing year. The recreational vessel limit and the length of the recreational fishing season will not be reduced if NMFS determines, based on the best scientific information available, that a recreational vessel limit and fishing season reduction are unnecessary. The recreational ACT is 500,000 lb (226,796 kg).~~

~~(3) The stock ACL for Atlantic migratory group cobia is 670,000 lb (303,907 kg)~~

Reason for consideration: These regulations would be removed from the CFR if Atlantic migratory group cobia is removed from the Coastal Migratory Pelagics Fishery Management Plan by Amendment 31 which was approved by the South Atlantic Council at their June 2018 meeting. The majority of Atlantic cobia harvest, particularly in recent years, has occurred in state waters and there has been little the Coastal Migratory Pelagics Fisheries Management Plan could do to constrain landings to the ACL. Additionally, the Atlantic States Marine Fisheries Commission has developed an Interstate FMP to more effectively constrain harvest and has requested regulations for federal waters be implemented under the Atlantic Coastal Fisheries Cooperative Management Act.