

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 000502120-0215-02; I.D. 041000E]

RIN 0648-AN39

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 12

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 12 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This rule limits the harvest and possession of red porgy in or from the exclusive economic zone (EEZ) off the southern Atlantic states to specified incidental catch amounts, adds to the parameters that may be established or modified via the FMP's framework procedure for regulatory adjustments (framework procedure), and modifies the snapper-grouper limited access system to allow transfers of a trip-limited permit among vessels owned by the same person regardless of vessel size (length and tonnage). The intended effect is to protect and rebuild the currently overfished red porgy resource; to facilitate timely implementation of measures for the protection of snapper-grouper essential fish habitat (EFH) and essential fish habitat areas of particular concern (EFH HAPCs) through the framework procedure; and to remove an unnecessary restriction on the transfer of snapper-grouper trip-limited permits.

DATES: This final rule is effective September 22, 2000, except for the amendments to §§ 622.39(d)(1)(vi), 622.39(d)(2), and 622.44(c)(4)(i) which are effective August 29, 2000.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments regarding the collection-of-information requirements contained in this rule should be sent to F/SER22, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and

Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer). Comments on any ambiguity or unnecessary complexity arising from the language used in this rule should be directed to the Southeast Regional Office, NMFS, at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Eldridge, 727-570-5305; fax 727-570-5583; e-mail Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and approved and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 19, 2000, NMFS announced the availability of Amendment 12 and requested comments on the amendment (65 FR 20939). A proposed rule to implement the measures in Amendment 12, with a request for comments through July 6, 2000, was published on June 6, 2000. (65 FR 35877). NMFS approved Amendment 12 on July 19, 2000. The background and rationale for the measures in the amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here.

The red porgy resource is overfished. In an emergency interim rule (EIR) published September 3, 1999 (64 FR 48324), NMFS prohibited the harvest and possession of red porgy in or from the EEZ off the southern Atlantic states. NMFS extended the prohibition on harvest and possession of red porgy through August 28, 2000 (65 FR 10039, February 25, 2000). The detailed analysis that led to the conclusion that the red porgy resource is overfished was summarized in the EIR (64 FR 48324) and is not repeated here.

Comments and Responses

Comment 1: One commenter supports the management measures in Amendment 12 and notes that the management actions have over a 50-percent probability of rebuilding the red porgy resource during the specified rebuilding time frame. The commenter believes that the actions taken in Amendment 12, coupled with the limited entry provisions of Amendment 8, are more than adequate to address the Council's concerns with red porgy. The commenter opposes an extension of the harvest moratorium, as established by the emergency interim rule, because continuing the moratorium would result

in excessive discard mortality of red porgy due to the depth at which fish are captured (depending upon the depth caught, many or most fish are dead when brought to the boat). The commenter notes that the bycatch allowance will provide valuable size and age information which can be used to evaluate the effectiveness of the rebuilding program for red porgy. Also, the commenter suggests that anecdotal accounts by North Carolina fishermen indicate that the red porgy resource may not be in as serious an overfished condition as indicated in the most recent NMFS stock assessment.

Response: NMFS agrees that the management measures in Amendment 12 should lead to recovery of the red porgy resource within the prescribed stock rebuilding time frame. Specifically, if one assumes a total release mortality of 18 percent, there is over a 75-percent probability that the management measures in Amendment 12 will result in a complete recovery of the red porgy resource within the prescribed rebuilding period. NMFS also believes that the information obtained from sampling the catch associated with the bycatch allowance will provide useful information on the size and age structure of the red porgy resource as it recovers. These size and age data, along with limited fishery-independent information, will allow the Council (and NMFS) to evaluate the status of the recovery of the red porgy resource every 2 years and propose appropriate management actions based upon the assessed condition of the resource. The bycatch allowance should mitigate some of the temporary, negative economic impacts on headboats and commercial vessels, while allowing the red porgy resource to recover within the prescribed time frame. As for the comment that red porgy is not overfished, see response to Comment 4.

Comment 2: The Environmental Protection Agency (EPA) commented on the final supplemental environmental impact statement for Amendment 12. While EPA supports Amendment 12 overall (including the 14-inch (35.6-cm) minimum size limit, the one fish recreational bag limit, the one fish per person possession limit for charter and commercial vessels during the period January through April, and the Council's intent to review the status of the red porgy resource every two years, it prefers to maintain the moratorium on harvest and possession of red porgy (no commercial trip limit), as implemented under the emergency regulations. EPA references the possible adverse impacts on stock recovery of the bycatch allowance and notes that the stock

recovery period of red porgy should be shorter with a harvest moratorium.

Response: While NMFS agrees that harvest moratorium could result in a quicker recovery of red porgy, the commercial trip limit will still allow the resource to recover during the prescribed stock rebuilding time frame. Additionally, NMFS believes that the bycatch allowance will provide useful information for scientists to evaluate the rate of recovery of this resource and that it will mitigate some of the temporary, negative economic impacts on headboats and commercial vessels. As noted before, depending upon the depth caught, many or most red porgy are dead when brought to the boat.

Comment 3: Two commenters support the management measures in Amendment 12, but recommend that the commercial trip limit be increased from 50 to 100 lb (22.7 to 45.4 kg).

Response: Under the Magnuson-Stevens Act, NMFS, when reviewing an FMP amendment proposed by a Council, can only approve or disapprove a management measure, it can not alter it. Thus, NMFS can only approve or disapprove the 50-lb (22.7-kg) commercial trip limit in Amendment 12. It cannot change it.

Comment 4: Six commenters oppose the conservation measures in Amendment 12 because they believe that the red porgy resource is not overfished, that large red porgy are abundant, and that red porgy caught in deep water will not survive (i.e., whatever conservation measures are established, they will not prevent this bycatch mortality). They prefer no trip limit.

Response: The Council and NMFS agree that many red porgy that are taken in deep water may not survive. It follows that these dead fish will not help the resource to recover and would be considered wasted if not utilized. The Council considered this and, in part to prevent such waste, allowed a 1-fish recreational bag limit (year-round) and a 50-lb (22.7-kg) commercial trip limit from May through December. Additionally, the commercial trip limit will provide fishery-dependent data that will allow scientists to evaluate the status of recovery of the resource. The Council and NMFS disagree with the belief that red porgy are not overfished. NMFS' 1999 stock assessment clearly shows that red porgy are overfished and that there is a clear need to rebuild this resource. Commercial and recreational landings have declined substantially. A failure to act at this time would exacerbate the resource decline as older fish die and are not replaced by younger fish. Further, national standard 1 of the

Magnuson-Stevens Act requires that conservation and management measures prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

Comment 5: Three commenters wanted to subdivide the South Atlantic EEZ into several zones and have different management measures for each zone. They inferred that one zone could be off Georgia and Florida and another could be off South Carolina and North Carolina.

Response: The red porgy resource is managed as one stock throughout the South Atlantic region. Although adults may not move great distances, they appear to move inshore and offshore depending upon environmental conditions. Further, eggs and larvae do move depending upon prevailing currents. Catch information indicates that the abundance of red porgy has been reduced more or less over the entire area, even though the center of abundance appears to be in the northern portion of the region. Given that the best available scientific information indicates that there is only one stock of red porgy, national standard 3 of the Magnuson-Stevens Act requires that, to the extent practicable, the individual stock of fish be managed as a unit throughout its range. Because fishing zones were not included in Amendment 12, they are not addressed further.

Comment 6: Four hundred and ninety identical comments were received from individuals. They stated that the moratorium on harvest of red porgy (as established by the emergency rule) should be continued and that the 50-lb (22.7-kg) commercial trip limit and 1-fish recreational bag limit in Amendment 12 should be disapproved. They recommended that "no take" zones be established where fishing would not be allowed. Finally, they recommended that an interim rule be issued that would prevent any harvest of red porgy should NMFS be unable to implement Amendment 12 prior to the expiration of the emergency interim rule on August 28, 2000.

Response: Amendment 12 does not contain a management measure to implement "no take" zones, so such a measure cannot be approved and implemented under Amendment 12. Consequently, this comment is not addressed further. At this time, it appears that the approved measures of Amendment 12 to conserve and rebuild the red porgy resource can be implemented prior to the expiration of the current EIR. If this expectation changes, NMFS will consider implementing an interim rule to ensure

that red porgy are not further overfished.

Red porgy are one of several species that occur in relatively deep water. Thus, fishing for other species at those depths will result in an incidental bycatch of red porgy. Most fish, including red porgy, that are hooked in deep water and hauled to the surface will not survive. The 1-fish recreational bag limit and the 50-lb (22.7-kg) commercial trip limit will allow recovery of this resource according to the approved stock rebuilding plan. In addition, those fish caught and retained as bycatch will provide useful information on the size and age structure of the red porgy resource. This information will facilitate the determination of the effectiveness of the red porgy stock rebuilding program. Additionally, the bycatch allowance will mitigate the temporary, economic hardship on fishermen due to the reduced harvests.

Comment 7: Three commenters recommended that NMFS: (1) issue an interim rule extending the closure of the red porgy fishery until long-term management measures are implemented that will clearly prevent overfishing, minimize bycatch, and help the population rebuild; (2) disapprove Amendment 12 and return it to the Council for revision of the 50-lb (22.7-kg) commercial trip limit for May 1 through December 31, the 1-fish commercial trip (possession) limit for January through April, and the year-round 1-fish recreational bag limit, in accordance with the precautionary approach to fisheries management; and (3) require the Council to establish marine reserves to prevent bycatch of red porgy. They commented that an interim rule should be in place prior to the expiration of the current emergency rule on August 28, 2000. Further, they commented that Amendment 12 will not prevent overfishing and, thus, violates national standard 1. They also believe that Amendment 12 will not minimize bycatch and may actually increase bycatch in violation of national standard 9. Also, they commented that Amendment 12 may violate the rebuilding requirements of the Magnuson-Stevens Act for overfished stocks because it adopts an 18-year rebuilding schedule. They believe it may be possible, in some instances, to rebuild the stock within 10 years. Finally, they commented that NMFS' alleged position in favor of Amendment 12 resulted in private discussions among Council staff and others and that there was no public involvement or access to these discussions, which, they further allege, resulted in NMFS

changing its position from opposing to supporting the measures in Amendment 12. They also stated that all information, including a scientific assessment of the management measures and alternatives in Amendment 12, should have been made available to the public prior to permanent rulemaking.

Response: Because of the complexity of these comments, a brief chronology of events is provided to orient the reader regarding the issues. In March 1999, the Council received NMFS' comprehensive assessment of the red porgy resource, which showed that overfishing was occurring and that conservation measures were required. The Council requested that NMFS issue an EIR to prohibit all harvest and possession of red porgy, and immediately began development of Amendment 12 that would establish permanent measures to prevent overfishing and to rebuild the overfished resource. Based on the Council's request and the condition of the red porgy resource, NMFS issued an EIR, effective September 8, 1999, through March 1, 2000. Because of the shortage of time and the need to safeguard the red porgy resource, the Council took final action on Amendment 12 at its December 1999 meeting and also requested that the EIR be extended through August 28, 2000. At its December 1999 meeting, the Council was briefed on the likely economic consequences of the red porgy harvest moratorium, received input on bycatch mortality of red porgy from its Snapper-Grouper Advisory Panel and others, discussed the NMFS stock assessment, and heard various opinions concerning the status of the resource. During the meeting, the NMFS Regional Administrator (RA) commented that he supported rebuilding the red porgy resource but that NMFS had not taken a position on a harvest moratorium under Amendment 12, if that was the Council's preferred choice. After considering all of the above factors, the Council adopted the measures in Amendment 12 at its December 1999 meeting, with the expectation that the red porgy resource would recover from its currently overfished state within the prescribed recovery time frame. Subsequent to the Council's December 1999 meeting and prior to its March 2000 meeting, discussions continued among NMFS and state scientists regarding the red porgy data and assessment assumptions. In particular, scientists and managers scrutinized two different growth rates for red porgy and considered whether fishing effort had declined in recent years. NMFS then held a conference call among Council

staff, NMFS staff, and state personnel to identify issues of concern and to determine whether these issues should be reviewed by the Council at its March 2000 meeting. The conference call results were discussed at the Council's Snapper-Grouper Committee meeting on March 8, 2000, as well as at the Council meeting on March 9, 2000. Primarily, these discussions were regarding the age and growth model used in the virtual population analysis, recent levels of fishing effort, and possible Council action, given the present status of the scientific information. (This is summarized on page 65 of the Council minutes from its March 2000 meeting.) As a result of this discussion, the RA stated that he would encourage the scientists to meet and discuss the scientific issues, perform whatever analyses are appropriate, and obtain a peer review of any analyses outside the NMFS Southeast Region. He also suggested that the Council's Scientific and Statistical Committee review any new information and analyses, preferably before the Council's September 2000 meeting. In summary, Council members had an opportunity to discuss publicly these red porgy scientific and related management issues and take any further necessary and appropriate action at their March 2000 meeting. In this context, it should be noted that the Council took final action on Amendment 12 at the December 1999 meeting, subject to the understanding that it would consider and address any critical comments received on the draft supplemental environmental impact statement at the March 2000 meeting.

The statement that NMFS underwent an "apparent" change of view regarding the management measures in Amendment 12 is incorrect. As noted previously, the Council took final action at the December 1999 meeting. Subsequently, a discussion among NMFS and state scientists revealed differences of opinion concerning the data base and interpretation of the 1999 stock assessment. The RA was aware of this discussion and attempted to determine whether there were issues that should be brought to the attention of the Council at its March 2000 meeting. As previously explained, the resulting conference call was fully described for the public at the Council's March 2000 meeting, and the RA described a course of action to improve the red porgy data base so that the Council could take appropriate action in the future, should it be required. It should be noted that NMFS does not make decisions to approve or

disapprove management measures proposed by the Council until after considering the public comment received on such measures during Secretarial review, as provided by the Magnuson-Stevens Act. In this case, the public comment period for the amendment ended on June 19, 2000; the public comment period for the proposed rule ended on July 6, 2000. Under Magnuson-Stevens Act provisions, NMFS was required to take final action on Amendment 12 no later than July 19, 2000. Amendment 12 does not contain a management measure to implement "no take" zones, so such a measure can not be approved and implemented under Amendment 12. Although both the Council and NMFS believe that "no take" zones can be an appropriate management tool, Amendment 12 does not address them. Consequently, this comment is not addressed further.

At this time, it appears that permanent measures to rebuild the red porgy resource can be implemented prior to the expiration of the current EIR.

The best scientific information available, including the NMFS 1999 stock assessment, indicates that the red porgy resource could not be rebuilt within 10 years, even with a harvest moratorium. Because of this, the Council selected and NMFS supports the 18-year rebuilding schedule based on advice from the Southeast Fisheries Science Center. As noted earlier, both the Council and NMFS will be evaluating new information at least every 2 years, and acting accordingly to ensure that the resource recovers in accordance with the established stock rebuilding plan. Amendment 12 is consistent with national standards 1 (prevent overfishing and achieve optimum yield on a continuing basis) and 9 (minimize bycatch to the extent practicable) because there is no practical way to eliminate bycatch in the multi-species snapper-grouper fishery that harvest red porgy. Nonetheless, the Council and NMFS encourage fishermen to change location should they encounter red porgy, so that bycatch and bycatch mortality can be minimized. Since the majority of incidentally taken red porgy will be dead when captured, measurements from these individuals can be used to obtain size and age data.

Comment 8: Two commenters expressed concern that the wording of the commercial trip limit section of the proposed rule, § 622.44(c)(4)(ii), appeared, indirectly, to include charterboats and headboats in the commercial category, thus, entitling

them to the commercial trip limit from May through December.

Response: The applicability of commercial trip limits is addressed in the introductory text of § 622.44(c), which states that the vessel trip limits apply, provided persons aboard the vessel are not subject to the bag limits. Vessels operating as charterboats or headboats are subject to the bag limits; therefore, the commercial trip limits would not apply.

Classification

The Administrator, Southeast Region, NMFS determined that Amendment 12 is necessary for the conservation and management of the snapper-grouper fishery off the South Atlantic states and that it is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be significant for purposes of Executive Order 12866.

The Council prepared a final supplemental environmental impact statement for the FMP; a notice of availability was published on May 12, 2000 (65 FR 30587).

The amendment implemented by this final rule was prepared by the Council and submitted to NMFS for review, approval, and implementation under authority of the Magnuson-Stevens Act.

An initial regulatory flexibility analysis (IRFA) was prepared for the proposed rule. The actions having an economic impact on small entities include restricting commercial landings of red porgy to a maximum of 50 lb (22.7 kg) per trip from May through December, prohibiting the sale or purchase of red porgy from January through April, reducing the bag limit from 5 to 1 red porgy per person per day or per trip (whichever is more restrictive) and allowing the owner of a vessel having a 225-lb (102-kg) trip-limited permit for snapper-grouper to transfer the permit to a larger vessel under the same ownership. An FRFA based on the IRFA and on the public comments received on the proposed rule and the IRFA was prepared. A summary of the FRFA follows.

There are about 1,200 fishing craft (boats and vessels combined) that are operated by entities that hold permits for commercial snapper-grouper fishing, and all such entities are considered to represent small business entities. About 330 of the fishing craft have a history of red porgy landings, and of these, about 270 are determined to be directly impacted by the proposed actions. The average length of these fishing craft is 37.2 ft (11.4 m); they generate annual average gross revenues of about \$42,000,

and have net operating revenues of about \$29,000 per year. The 1-fish bag limit will affect about 33 headboat operations that are also defined as small business entities. The headboats have an average length of 63 ft (19 m), involve a total capital investment of \$220,000, and generate annual average gross revenue of about \$123,000. No additional reporting, record keeping, or other compliance requirements by small entities are contained in the final rule.

NMFS received about 500 comments, of which 490 were identical, on the proposed action. The comments that alluded to economic impacts on small entities generally suggested that the red porgy resource was in better biological condition than indicated by the Council and NMFS and that the restrictions on commercial harvest were too severe. NMFS disagreed with the comments about the condition of the red porgy stock. However, NMFS pointed out that while the emergency rule did not allow any level of take, the final rule does allow for some level of commercial incidental catch and allows for some red porgy to be harvested by customers of for-hire vessels. NMFS indicated that the level of take allowed by the final rule will help mitigate the negative economic impacts from the rule. There were no changes to the proposed rule that resulted from public comments.

The Council defined the red porgy actions, including the commercial trip limit, the seasonal prohibition on sale or purchase, and the bag limit, as a single action and considered three alternatives to the action. One alternative was the status quo. Status quo is considered to be the set of management regulations in place before NMFS took an interim emergency action to close the fishery for all users while a permanent change in the regulations was being considered. Although the status quo would have no short-term negative economic impacts on small entities, it was rejected because the Magnuson-Stevens Act specifically requires the Council to take actions to rebuild this severely overfished fishery. Another rejected alternative would prohibit all commercial and recreational fishing for red porgy. The Council rejected this alternative because of the increased short-term negative impacts of a total and indefinite prohibition on all fishing for red porgy. The other rejected alternative was to adopt the commercial trip limit of 50 lb (22.7 kg), but not to have a seasonal prohibition on sale or purchase or a reduction in the bag limit. The Council rejected this alternative because the biological analyses indicated that a more restrictive approach was necessary to meet the specific goal of rebuilding the red porgy

stock within an 18-year period. The status quo was considered as an alternative to the action to allow the owner of a vessel with a trip-limited permit for snapper-grouper to transfer the permit to a larger vessel under the same ownership but was rejected because it was not the Council's original intent to have that transfer restriction.

The primary fishery management plan objective addressed by the rule is the objective to "Prevent overfishing in all species by maintaining the spawning potential ratio (SPR) at or above target levels." The rule is needed because the red porgy stock is severely overfished and the Magnuson-Stevens Act requires the Council and NMFS to take action to resolve the overfished status of the stock.

Copies of the FRFA are available (see ADDRESSES).

The amendments to §§ 622.39(d)(1)(vi) and 622.39(d)(2) establish, respectively, a daily bag limit of one red porgy per person per day and a possession limit of one red porgy per person per day or one per trip, whichever is more restrictive. The amendment to § 622.44(c)(4)(i) establishes a 50-lb (22.7-kg) commercial trip limit for red porgy, from May 1 through December 31 each year. All three of these amendments relieve restrictions on fishers relative to the regulations prohibiting all harvest of red porgy that have been in place since September 8, 1999.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) which has been approved by OMB under control number 0648-0365. The requirement specifies that dealers possessing red porgy, gag, or black grouper during seasonal closures must maintain documentation that such fish were harvested from areas other than the South Atlantic. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the

burden, to NMFS and OMB (see ADDRESSES).

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be directed to NMFS Southeast Regional Office (see ADDRESSES).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: August 17, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.18, paragraph (e)(2) is revised to read as follows:

§ 622.18 South Atlantic snapper-grouper limited access.

* * * * *

(e) * * *

(2) *Trip-limited permits.* An owner of a vessel with a triplimited permit may request that the RA transfer the permit to another vessel owned by the same entity.

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3. In § 622.36, paragraph (b)(5) is revised to read as follows:

§ 622.36 Seasonal harvest limitations.

* * * * *

(b) * * *

(5) *Red porgy.* During January, February, March, and April, each year, the harvest or possession of red porgy in or from the South Atlantic EEZ, and in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued without regard to where such red porgy were harvested, is limited to one per person per day or one per person per trip, whichever is more restrictive. Such red porgy are subject to the prohibition on sale or purchase, as specified in § 622.45(d)(5).

4. In § 622.39, paragraphs (d)(1)(vi) and (d)(2) are revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(d) * * *

(1) * * *

(vi) Red porgy—1.

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(2) *Possession limits.* (i) Provided each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the duration of the trip—

(A) 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.

(B) 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.

(ii) 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.

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5. In § 622.44, paragraph (c)(4) is added to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(4) *Red porgy.* (i) From May 1 through December 31, 50 lb (22.7 kg).

(ii) From January 1 through April 30, the seasonal harvest limit specified in § 622.36(b)(5) applies.

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6. In § 622.45, paragraph (d)(5) is revised and paragraph (d)(7) is added to read as follows:

§ 622.45 Restrictions on sale/purchase.

* * * * *

(d) * * *

(5) During January, February, March, and April, no person may sell or purchase a red porgy harvested from the South Atlantic EEZ or, if harvested by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic. The prohibition on sale/purchase during January through April does not apply to red porgy that were harvested, landed ashore, and sold prior to January 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of red porgy harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(ii) The official number, name, and home port of the vessel harvesting the red porgy;

(iii) The port and date of offloading from the vessel harvesting the red porgy; and

(iv) A statement signed by the dealer attesting that the red porgy was harvested from an area other than the South Atlantic.

* * * * *

(7) During March and April, no person may sell or purchase a gag or black grouper harvested from the South Atlantic EEZ or, if harvested by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic. The prohibition on sale/purchase during March and April does not apply to gag or black grouper that were harvested, landed ashore, and sold prior to March 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of gag or black grouper harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(ii) The official number, name, and home port of the vessel harvesting the gag or black grouper;

(iii) The port and date of offloading from the vessel harvesting the gag or black grouper; and

(iv) A statement signed by the dealer attesting that the gag or black grouper was harvested from an area other than the South Atlantic.

* * * * *

7. In § 622.48, paragraph (f) is revised to read as follows:

§ 622.48 Adjustment of management measures.

(f) *South Atlantic snapper-grouper and wreckfish*. Biomass levels, age-structured analyses, target dates for rebuilding overfished species, MSY, ABC, TAC, quotas, trip limits, bag limits, minimum sizes, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, definitions of essential fish habitat, essential fish habitat, essential fish habitat HAPCs or Coral HAPCs, and restrictions on gear and fishing activities applicable in essential fish habitat and essential fish habitat HAPCs.

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