

**Mount Diablo Meridian**

T. 47 N., R. 38 E.,  
Sec. 16, Lot 11.

The area described contains 9.12 acres in Humboldt County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: January 2, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1458 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-NC-M

**43 CFR Public Land Order**

[CO-930-4214-10; COC-0125422]

**Partial Revocation of Public Land Order No. 3843; Colorado**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes a public land order insofar as it affects 90.40 acres of public land withdrawn for the Bureau of Land Management Drowsy Water Recreation Site. This land is no longer needed for recreation purposes. This action will open this land to surface entry and mining and allow for disposal. The land has been and remains open to mineral leasing.

**EFFECTIVE DATE:** February 22, 1991.

**FOR FURTHER INFORMATION CONTACT:**

Doris E. Chelius, BLM State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3708.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3843 which withdrew public land for the Bureau of Land Management for archaeological and recreational values is hereby revoked insofar as it affects the following described land:

**Sixth Principal Meridian**

T. 2 N., R. 77 W.,

Sec. 26, lot 1 (previously described as NW¼NW¼);

Sec. 27, lots 1 and 2 (previously described as N¼NE¼).

The area described contains approximately 90.40 acres in Grand County.

2. At 9 a.m. on February 22, 1991, the land described in paragraph 1. will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and requirements of applicable law. All valid applications received at or prior to 9 a.m. on February 22, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on February 22, 1991, the land described in paragraph 1 will be opened to location and entry under the United States mining laws. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 9, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1458 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-JB-M

**DEPARTMENT OF DEFENSE**

**General Services Administration**

**National Aeronautics and Space Administration**

**48 CFR Part 25**

[FAC 90-3]

**Technical Correction to Federal Acquisition Circular 90-3**

**AGENCIES:** Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

**ACTION:** Correction.

**SUMMARY:** This document corrects Federal Acquisition Circular (FAC) 90-3,

published in the Federal Register on Friday, December 21, 1990 (55 FR 52782).

**FOR FURTHER INFORMATION CONTACT:**

Jeritta Parnell, Office of Federal Acquisition Policy, GS Bldg., 18th & F Sts., NW., Washington, DC 20405, (202) 501-4082. Please cite FAC 90-3 correction.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 90-29881, on page 52793, in the first column, at item 34, § 25.401 was erroneously amended to add Thailand to the "Designated country" list.

Therefore, in FAC 90-3, amendatory instruction 34 should be deleted.

Dated: January 10, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 91-1500 Filed 1-22-91; 8:45 am]

BILLING CODE 6820-34-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 204 and 646**

[Docket No. 900798-0303]

RIN 0648-AD59

**Snapper-Grouper Fishery of the South Atlantic**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule; interim final rule and request for comments; and notice of OMB control numbers.

**SUMMARY:** NOAA issues this final rule to implement Amendment 3 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP); except for § 646.21(b), which is issued as an interim final rule. The final rule (1) Adds wreckfish to the management unit; (2) requires permits to fish for wreckfish; (3) requires catch and effort reports from selected, permitted vessels; (4) requires that fish in the snapper-grouper fishery be made available, upon request, to an authorized officer; (5) requires permitted vessels to display their official numbers; (6) establishes a fishing year for wreckfish that commences on April 16; (7) makes vessel operators responsible for ensuring that no fish from the snapper-grouper fishery below the minimum size limits or without their heads and fins attached are possessed aboard their vessels; (8) establishes a trip limit for wreckfish of 10,000 pounds (4,536 kilograms); (9) prohibits the possession of dynamite aboard vessels

in the snapper-grouper fishery; (10) excludes wreckfish from the calculations for determining when a vessel with a trawl aboard is in a directed fishery for fish in the snapper-grouper fishery; (11) establishes a spawning-season closure for wreckfish from January 15 through April 15; (12) establishes a wreckfish quota and provisions for closure of the fishery for wreckfish; (13) provides for annual modifications of specified wreckfish management measures; (14) prohibits interference with law enforcement functions under the Magnuson Fishery Conservation and Management Act (Magnuson Act); and (15) reorders the regulations and makes other minor changes. The interim final rule requires that a wreckfish taken in or from the Exclusive Economic Zone (EEZ) have its head and fins intact through landing. Because this specific requirement was not included in the proposed rule (55 FR 39023, September 24, 1990), public comment on it is requested. The intended effects of this rule are to conserve and manage the wreckfish resource, to enhance enforcement of the snapper-grouper regulations, to reorder and restate the regulations for clarity, and to conform the existing regulations with current usage. This rule also informs the public of the approval by the Office of Management and Budget (OMB) of two new information collection requests (ICRs) contained in this rule and publishes the OMB control numbers for those ICRs.

**EFFECTIVE DATE:** January 31, 1991. Written comments on the requirement that a wreckfish in or taken from the EEZ must have its head and fins intact through landing, contained in § 646.21(b), must be received on or before February 6, 1991.

**ADDRESSES:** Comments on the requirement that a wreckfish in or taken from the EEZ must have its head and fins intact through landing, contained in § 646.21(b), should be sent to Robert A. Sadler, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Sadler, 813-893-3161.

**SUPPLEMENTARY INFORMATION:** Snapper-grouper species are managed under the FMP prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Act. Amendment 3 to the FMP contains conservation and management measures for wreckfish, a definition of overfishing, as it relates to wreckfish, and a control date of March 28, 1990, after which anyone entering the

wreckfish fishery will not be assured of future participation.

To prevent a resource collapse, the Council requested and the Secretary of Commerce (Secretary) implemented an emergency rule to (1) Add wreckfish to the management unit of the FMP; (2) establish a fishing year for wreckfish beginning April 16, 1990; (3) establish a wreckfish quota of 2 million pounds (907,194 kilograms) for the 1990/1991 fishing year; (4) close the wreckfish fishery when the quota is reached; (5) establish a wreckfish trip limit of 10,000 pounds (4,536 kilograms) per vessel; and (6) exclude wreckfish from the calculations for determining when a vessel with a trawl aboard is in a directed fishery for fish in the snapper-grouper fishery. The emergency rule was published on August 8, 1990 (55 FR 32257). Under the emergency rule, the wreckfish quota was reached and the fishery was closed on August 8, 1990 (55 FR 32635, August 10, 1990). The effectiveness of the emergency rule and closure was extended through January 30, 1991 (55 FR 40181, October 2, 1990).

In addition to the management measures contained in the emergency rule, Amendment 3 (1) Requires permits to fish for wreckfish; (2) requires catch and effort reports from selected, permitted vessels; (3) establishes a spawning-season closure for wreckfish from January 15 through August 15; (4) provides for annual specification or modification of the wreckfish maximum sustainable yield, total allowable catch, quota, trip limit, spawning-season closure, fishing year, and permit requirements; and (5) defines overfishing for wreckfish.

The rationale for the management measures in the emergency rule was included in the preamble to that rule and are not repeated here. Background information on the wreckfish fishery, the rationale for the additional management measures of Amendment 3, and the rationale for additional changes proposed by NOAA to facilitate enforcement and clarify the regulations were included in the preamble to the proposed rule (55 FR 39023, September 24, 1990) and are not repeated here. Additional information on the wreckfish fishery, the management measures, and the definition of over-fishing, as it relates to wreckfish, is contained in Amendment 3, the availability of which was announced in the Federal Register on August 14, 1990, (55 FR 33143). A document establishing a control date of March 28, 1990, after which anyone entering the wreckfish fishery will not be assured of future participation, was

published in the Federal Register on September 24, 1990 (55 FR 39039).

#### Comments and Responses

**Comment:** Comments were received from three commercial wreckfish fishermen, who generally supported Amendment 3. One commenter objected to the 10,000-pound vessel trip limit. The fisherman, whose wreckfish trips reportedly include large catches, often in excess of 30,000 pounds, stated that the limit would make his participation in the fishery unprofitable due to rising gasoline costs, vessel loan payments, insurance, and expenditures for maintenance and safety equipment. The fisherman also indicated that some of the boats in the fishery were not properly equipped to fish the grounds that are located approximately 120 miles offshore. He suggested that if the limit is necessary to prevent a potential collapse of the resource, a quota allocation system should also be included, whereby historic participants would be awarded a certain percentage of the annual allowable catch.

**Response:** Amendment 3 was structured to limit each vessel in the fishery to 10,000 pounds per trip. The limitation was determined necessary to allow effective monitoring of the fishery and prevent overrunning of the established quota. The extension of the fishing season spreads the collection of biological data, for use in future management decisions, over a greater period of time. Assuming that fishing effort does not increase drastically, trip limits also provide a more consistent supply of wreckfish to the market. Fishermen who testified at the public hearings supported trip limits.

A system to distribute the available quota to participants in the fishery, based on their share of the historic harvest, is outside the scope of Amendment 3. However, the Council is developing a limited entry management program for wreckfish, possibly including a system similar to that mentioned by the commenter. Such a program, if submitted by the Council, will be thoroughly reviewed for consistency with the Magnuson Act and made available for public comment.

**Comment:** The other two commenters suggested that the total allowable catch (TAC) for 1991 be set at 4 million pounds instead of 2 million pounds. They also suggested that the use of longlines and nets be prohibited in the wreckfish fishery.

**Response:** Amendment 3 contains provisions for an annual TAC of up to 8 million pounds; however, the harvest level for the 1991 fishing year was set at

2 million pounds because of the uncertainties surrounding the size of the wreckfish resource and the amount that can be removed on a sustainable basis. A conservative approach is further supported because of the small size of the productive fishing grounds and because the source of recruitment is unknown. So little is known about this relatively new fishery that caution must be exercised in exploiting the resource to ensure that the harvest capacity is not exceeded.

Prohibition of use of certain gear in the wreckfish fishery goes beyond the scope of Amendment 3, but is being addressed in Amendment 4 to the FMP. Comments on gear use in this fishery will be solicited during the course of preparation and review of Amendment 4.

#### Changes From the Proposed Rule

Subsequent to publication of the proposed rule, regulations implementing Amendment 2 to the FMP became effective, October 30, 1990 (55 FR 46213, November 2, 1990). Those regulations prohibit the harvest or possession of jewfish in or from the exclusive economic zone. In order to make the final rule implementing Amendment 3, § 646.7(k) and § 646.21(e) have been added and § 646.7(t) is deleted.

Minor changes are made to the paragraph on recordkeeping and reporting for permitted vessels (§ 646.5(a)) to clarify that the Science and Research Director must receive required reports not later than the seventh day after the end of the reporting period and to reorder and clarify the name of the dealer that appears on the report.

When filleted, wreckfish are not easily distinguished from some species of grouper. As an aid to enforcement, a requirement that wreckfish be maintained with head and fins intact through landing is added at § 646.21(b). Wreckfish are currently landed with heads and fins intact by all vessels in the fishery. Thus, this requirement does not present a substantive change to current practice. However, because this requirement was not included in the proposed rule, NOAA is requesting public comments on it. (See **EFFECTIVE DATE AND ADDRESSES**, above.) After the comment period, NOAA will continue, discontinue, or modify the requirements, as appropriate.

To clarify the wreckfish trip limit (§ 646.21(d)), the 10,000 pound limit is specified as whole or eviscerated wreckfish. Standard industry practice is to eviscerate wreckfish at sea. It is the intent of the Council to allow 10,000 pounds per trip in the standard,

eviscerated form and, for practicality of enforcement, to provide a single trip limit, without regard to whether the wreckfish are whole or eviscerated. For quota management, however, the annual quota of 2 million pounds of wreckfish each fishing year is measured in whole fish and is clarified at § 646.24(a). Provision has been made in the reporting requirements to distinguish between whole and eviscerated wreckfish. A multiplication factor of 1.18 is applied to the weight of eviscerated wreckfish to determine equivalent whole weight. This factor is based on the best scientific information available and is used in Amendment 3 for such conversions.

#### Classification

The Secretary determined that Amendment 3 is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator determined that this rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a regulatory impact review/regulatory flexibility analysis that analyzes the economic impacts of this rule and describes its effects on small business entities. A summary of those impacts and effects was included in the proposed rule and is not repeated here.

The Council prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. Based on the EA, the Assistant Administrator concluded that there will be no significant adverse impact on the human environment as a result of this rule.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the federally approved coastal management programs of Florida, South Carolina, and North Carolina. Georgia does not have a federally approved coastal management program. These determinations were submitted for review by the responsible state agencies under section 307 of the

Coastal Zone Management Act. Florida and South Carolina concur with the determinations. North Carolina did not respond within the statutory time period; therefore, their agreement is presumed.

This rule contains two new collections of information subject to the requirements of the Paperwork Reduction Act, namely, applications for annual vessel permits and catch and effort reports from selected, permitted vessels. These collections have been approved by the Office of Management and Budget (OMB). OMB control numbers 0648-0205 and 0648-0016 apply. The public reporting burdens for these collections of information are estimated to average 15 and 6 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule restates for clarity the application procedure for obtaining a vessel and gear identification number and color code, applicable to a vessel from which a fish trap is deployed, and redesignates that paragraph as § 646.6(b)(1). That collection of information was previously approved under OMB control number 0648-0205. The public reporting burden for that collection of information was estimated to average 15 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 these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Regulatory Affairs, OMB, Washington, DC 20503 (Attn: Paperwork Reduction Act Project 0648-0205).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12812.

The Assistant Administrator, pursuant to the Administrative Procedure Act (5 U.S.C. 553(d)(3)), finds for good cause, namely, to continue, uninterrupted, the required protection of the wreckfish resource in the EEZ off the South Atlantic States, that it is not necessary to delay for 30 days the effective date of this rule. In addition, no premature change in fishing practice will be caused by advancing the effective date of this final rule, because it merely continues

restrictions that are already in effect under the emergency rule.

**List of Subjects**

**50 CFR Part 204**

Reporting and recordkeeping requirements.

**50 CFR Part 646**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 15, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR parts 204 and 646 are amended as follows:

**PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS**

1. The authority citation for part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

2. In § 204.1(b), the table is amended by adding in the left column in numerical order “§ 646.4” and “§ 646.5(a)” and in the right column in corresponding positions the control numbers “0205” and “0016”, respectively.

**PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC**

3. The authority citation for part 646 continues to read as follows:

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

4. In § 646.2, in the definition of *Fish in the snapper-grouper fishery*, after the listing of Snappers—Lutjanidae, a new family and species are added; and a new definition of *Trip* is added in alphabetical order to read as follows:

**§ 646.2 Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

Temperate basses—Percichthyidae

Wreckfish—*Polyprion americanus*

\* \* \* \* \*

*Trip* means a fishing trip, regardless of number of days duration, that begins with departure from a dock, berth, beach, seawall, or ramp and that terminates with return to a dock, berth, beach, seawall, or ramp.

5. Sections 646.4 through 646.8 are redesignated as §§ 646.5 through 646.9, and a new § 646.4 is added to read as follows:

**§ 646.4 Permits.**

(a) *Applicability.* To fish for wreckfish in the EEZ, land wreckfish from the EEZ, or sell wreckfish in or from the EEZ, an owner or operator of a vessel must obtain an annual vessel permit.

(b) *Application for permit.* (1) An application for an annual vessel permit must be submitted and signed by the owner or operator of the vessel. The application must be submitted to the Regional Director at least 60 days prior to the date on which the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of the vessel's state registration certificate;

(ii) The vessel's name, official number, length, home port, and engine horsepower.

(iii) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(iv) Name, mailing address including zip code, and telephone number of the applicant, if other than the owner;

(v) Social security number and date of birth of the applicant and the owner;

(vi) Documentation that wreckfish caught by the vessel were sold during the 12 months preceding the application, or, in lieu thereof, documentation that equipment required specifically for use in the wreckfish fishery was on order or purchased for the vessel during the 12 months preceding the application; and

(vii) Any other information concerning vessel and gear characteristics requested by the Regional Director.

(3) Any change in the information specified in paragraph (b)(2) of this section must be submitted in writing to the Regional Director by the permit holder within 30 days of any such change. The permit is void if any change in the information is not reported.

(c) *Issuance.* (1) The Regional Director will issue a permit at any time during the fishing year to an applicant if:

(i) The application is complete; and

(ii) The applicant has complied with all applicable reporting requirements of § 646.5 during the 12 months immediately preceding the application.

notification, the application will be considered abandoned.

(d) *Duration.* A permit remains valid for the remainder of the fishing year for which it is issued unless revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904.

(e) *Transfer.* A permit issued under this section is not transferable or assignable. A person purchasing a vessel with an annual vessel permit must apply for a permit in accordance with the provisions of paragraph (b) of this section. The application must be accompanied by a copy of an executed (signed) bill of sale.

(f) *Display.* A permit issued under this section must be carried on board the permitted vessel at all times and such vessel must be identified as provided for in § 646.6. The operator of a fishing vessel must present the permit for inspection upon request of an authorized officer.

(g) *Sanctions and denials.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(h) *Alteration.* A permit that is altered, erased, or mutilated is invalid.

(i) *Replacement.* A replacement permit may be issued. An application for a replacement permit will not be considered a new application.

6. Newly redesignated § 646.5 is revised to read as follows:

**§ 646.5 Recordkeeping and reporting.**

(a) *Permitted vessels.* The owner or operator of a vessel for which a permit has been issued under § 646.4(a), and that is selected by the Science and Research Director, must maintain a fishing record for each fishing trip on a form available from the Science and Research Director. These forms must be submitted on a monthly basis (or more frequently, if requested by the Science and Research Director) so as to be received by the Science and Research Director not later than the 7th day after the end of the reporting period. If no fishing occurred during a month, a report so stating must be submitted on one of the forms. If fishing occurred, the following information must be reported for each trip:

- (1) Name and official number of vessel;
- (2) Date(s) of trip and fishing location(s) by statistical area(s) (see Figure 1);
- (3) Average depth of fishing effort in feet;
- (4) Type and quantity of gear fished;
- (5) Duration (hours) of vessel fishing effort;
- (6) Port of landing;

(7) Name of dealer to whom wreckfish  
were sold;

(8) Pounds of catch of wreckfish; and

(9) Condition of wreckfish landed  
(whole or gutted).

BILLING CODE 3610-22-M

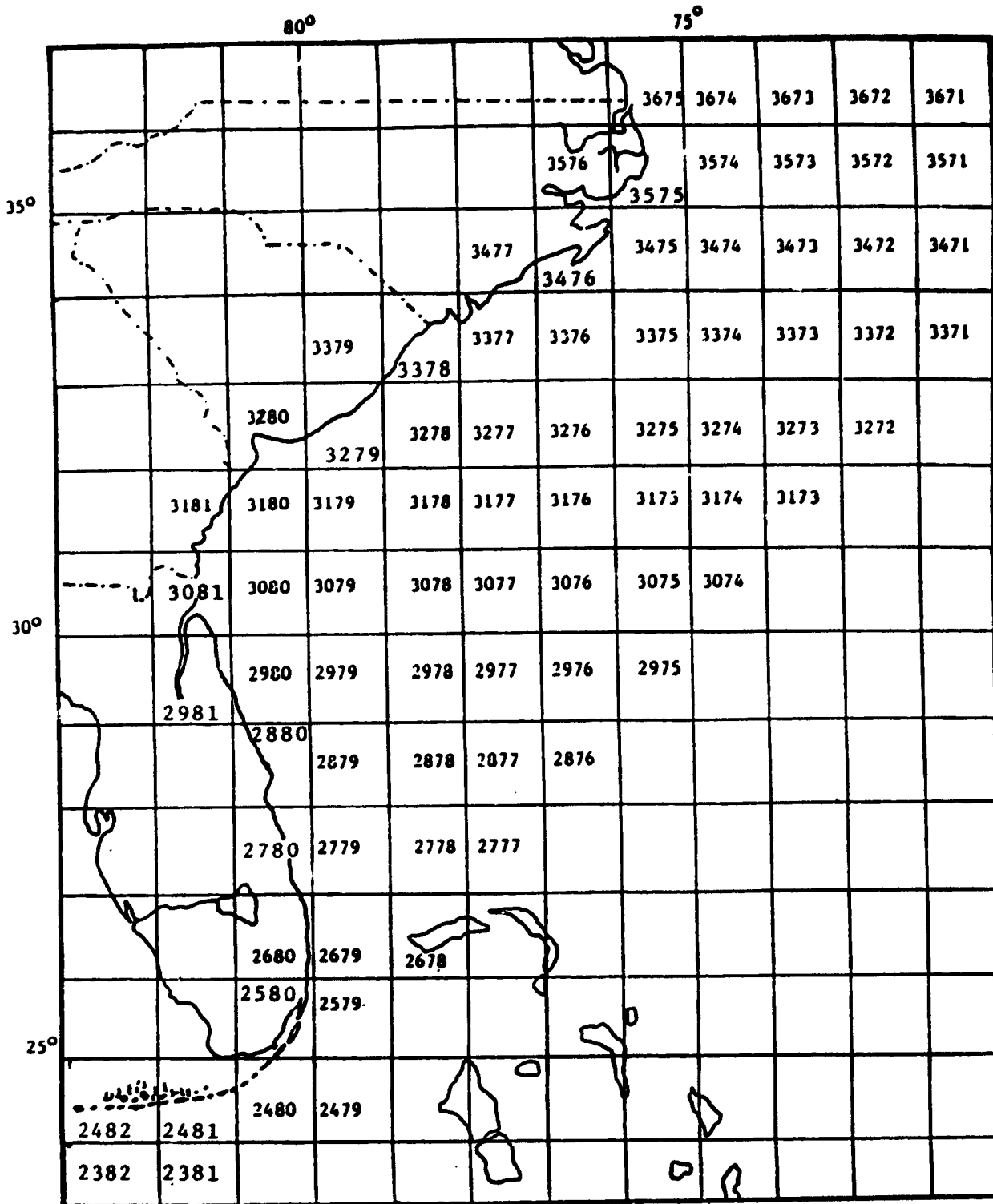


Figure 1. STATISTICAL AREAS FOR THE SOUTH ATLANTIC

(b) *Additional data and inspection.* Additional data will be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers.

(1) An owner or operator of a fishing vessel and a dealer or processor are required, upon request, to make fish in the snapper-grouper fishery, or parts thereof, available for inspection by the Science and Research Director or an authorized officer.

(2) The owner or operator of a vessel for which a permit has been issued under § 646.4(a), and that is not selected by the Science and Research Director to maintain a fishing record under paragraph (a) of this section, must, upon request, provide to an authorized statistical reporting agent the information specified in paragraphs (a)(1) through (6) of this section for a specific trip.

7. Newly redesignated § 646.6 is reviewed to read as follows:

**§ 646.6 Vessel and identification.**

(a) *Permitted vessels.* A vessel for which a permit has been issued under § 646.4 must display its official number—

(1) On the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from an enforcement vessel or aircraft;

(2) In block arabic numerals in contrasting color to the background;

(3) At least 18 inches (45.7 centimeters) in height for fishing vessels over 65 feet (19.8 meters) in length and at least 10 inches (25.4 centimeters) in height for all other vessels; and

(4) Permanently affixed to or painted on the vessel.

(b) *Vessels fishing with fish traps.* The owner or operator of a fishing vessel from which a fish trap, other than a black sea bass trap, is deployed in the EEZ is required to obtain a vessel and gear identification number and color code from the Regional Director and to prominently display the number and color code. In addition, the number and color code must be displayed on traps and buoys.

(1) *Application.* (i) An application for a vessel and gear identification number and color code under this part must be signed by the owner or operator of the vessel and submitted on an appropriate form obtained from the Regional Director. A fisherman who has an existing number and color code from another fishery may indicate on the application his preference to use that same identification system for the fish trap fishery. Whenever possible, the

Regional Director will reissue the requested number and color code adding only a single letter prefix to indicate that the vessel and gear are engaged in the fish trap fishery. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires receipt of the vessel and gear identification number and color code.

(ii) An applicant must provide the following information:

(A) Name, mailing address including ZIP code, and telephone number of the owner of the vessel;

(B) Name and official number of the vessel;

(C) Home port or principal port of landing, gross tonnage, and length of the vessel;

(D) Engine horsepower and year the vessel was built;

(E) Number, dimensions, and estimated cubic volume of the fish traps that will be fished;

(F) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(G) A statement that the applicant will allow authorized officers reasonable access to his property (vessel and dock) to inventory fish traps for compliance with these regulations.

(iii) Any change in the information specified in paragraph (b)(1)(ii) of this section must be submitted in writing to the Regional Director by the applicant within 15 days of any such change. Failure to notify the Regional Director of any change in the required information will result in a rebuttable presumption that the information is still accurate and current.

(2) *Issuance.* The Regional Director will issue a color code, vessel and gear identification number, and fish trap tags imprinted with the vessel and gear identification number to the applicant not later than 30 days from the date of receipt of a completed application.

(3) *Display—(i) Vessels.* A vessel must permanently and conspicuously display its identification number and color code in a manner so as to be readily identifiable from the air and water.

(A) To be visible from the air, the identification number and color code must be permanently affixed to the uppermost structural portion of the vessel or other similar area. The color code must be in the form of a circle at least 20 inches (50.8 centimeters) in diameter, and the areas surrounding the circle must be of a contrasting color. The identification number must be at least 10 inches (25.4 centimeters) in height and must be affixed adjacent to the 20-inch (50.8-centimeter) diameter circle.

(B) To be visible from the water, the identification number and color code must be permanently affixed to both starboard and port sides of the vessel near amidships. The color code must be in the form of a circle at least 8 inches (20.3 centimeters) in diameter and the area surrounding the circle must be of a contrasting color. The identification number must be at least 4 inches (10.2 centimeters) in height and must be affixed adjacent to the 8-inch (20.3-centimeter) diameter circle.

(ii) *Fish traps.* Each fish trap must have affixed to it permanently the numbered identification tag supplied by the Regional Director.

(iii) *Buoys.* The use of buoys to identify fish traps is not required. However, if a buoy is used, the identification number and color code must be displayed on it so as to be easily distinguished, located, and identified. The identification number must be in legible figures at least 2 inches (5.1 centimeters) in height and affixed to each buoy.

(4) *Presumption of ownership.* A fish trap fished in the EEZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to a fish trap that is lost or sold if the owner of such trap reports the loss or sale within 15 days to the Regional Director.

(5) *Unmarked traps.* An unmarked fish trap deployed in the EEZ, other than a black sea bass trap, is prohibited and may be disposed of in any appropriate manner by the Secretary (including an authorized officer). If an owner of the unmarked trap can be ascertained, such owner remains subject to appropriate civil penalties.

(c) *Duties of operator.* The operator of each fishing vessel specified in paragraphs (a) and (b) of this section must—

(1) Keep the official numbers, or identification numbers and color codes, clearly legible and in good repair, and

(2) Ensure that no part of the fishing vessel or structure, its rigging, fishing gear, or any other material aboard obstructs the view of the official numbers, or identification numbers and color codes, from an enforcement vessel or aircraft.

8. Newly redesignated § 646.7 is revised to read as follows:

**§ 646.7 Prohibitions.**

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

- (a) Falsify information specified in § 646.4(b)(2) on an application for a vessel permit.
- (b) Fail to display a permit, as specified in § 646.4(f).
- (c) Falsify or fail to provide information required to be submitted or reported, as required by § 646.5(a) and § 646.6(b)(1)(ii).
- (d) Fail to make fish in the snapper-grouper fishery or parts thereof available for inspection, as required by § 646.5(b).
- (e) Falsify or fail to display and maintain vessel and gear identification, as required by § 646.6 (a), (b)(3), and (c).
- (f) Possess a fish in the snapper-grouper fishery smaller than the minimum size limits, as specified in § 646.21(a).
- (g) Possess a fish in the snapper-grouper fishery without its head and fins intact, as specified in § 646.21(b).
- (h) Operate a vessel with fish in the snapper-grouper fishery aboard that are smaller than the minimum size limits or do not have head and fins intact, as specified in § 646.21(c).
- (i) Possess wreckfish in or from the EEZ in excess of the trip limit, as specified in § 646.21(d)(1).
- (j) Transfer wreckfish at sea, as specified in § 646.21(d)(2).
- (k) Harvest or possess a jewfish in or from the EEZ or fail to release a jewfish taken in the EEZ, as specified in § 646.21(e).
- (l) Fish with poisons or explosives or possess on board a fishing vessel any dynamite or similar explosive substance, as specified in § 646.22(a).
- (m) Use or possess in the EEZ a fish trap that does not conform to the requirements for degradable openings and mesh sizes specified in § 646.22(b)(1) and (2).
- (n) Use a fish trap in the prohibited area south and west of Fowey Rocks Light, Florida, as specified in § 646.22(b)(3).
- (o) Attach a buoy line to a trap south of Fowey Rocks Light, Florida, that is less than 125 feet (38 meters) in length, as specified in § 646.22(b)(4).
- (p) Pull or tend a fish trap, except during the hours specified in § 646.22(b)(5); or tend, open, pull, or otherwise molest or have in possession another person's fish trap, except as specified in § 646.22(b)(6).
- (q) Use trawl gear in a directed snapper-grouper fishery in the EEZ between Cape Hatteras, North Carolina and Cape Canaveral, Florida, as specified in § 646.22(c)(1).
- (r) Transfer at sea any fish in the snapper-grouper fishery from a vessel with trawl gear aboard to another

- vessel, or receive at sea any such fish, as specified in § 646.22(c) (2) and (3).
  - (a) During the spawning-season closure or after a quota closure, harvest or possess wreckfish in or from the EEZ, or purchase, barter, trade, offer for sale, or sell wreckfish taken from the EEZ, as specified in § 646.23 and § 646.24(b).
  - (t) Use prohibited or unauthorized fishing gear in a special management zone, as specified in § 646.26 (b) and (c).
  - (u) Interfere with, obstruct, delay or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.
9. Sections 646.20 and 646.21 are revised to read as follows:  
(Note: paragraph (b) of § 646.21 is revised as an interim final rule):
- § 646.20 Fishing year.**  
The fishing year for wreckfish begins on April 16 and ends on April 15.
- § 646.21 Harvest limitations.**
- (a) *Minimum sizes.* The following minimum size limits apply for the possession of fish in the snapper-grouper fishery in, or taken from, the EEZ:
    - (1) Red snapper, yellowtail snapper, red grouper, and Nassau grouper—12 inches (30.5 centimeters) total length.
    - (2) Black sea bass south of Cape Hatteras, North Carolina—8 inches (20.3 centimeters) total length.
  - (b) *Head and fins intact.* A fish in the snapper-grouper fishery subject to a minimum size limit specified in paragraph (a) of this section, or a wreckfish, possessed in or taken from the EEZ must have its head and fins intact through landing. Such fish or wreckfish may be eviscerated but must otherwise be maintained in a whole condition.
  - (c) *Operator responsibility.* The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish in the snapper-grouper fishery possessed aboard that vessel comply with the minimum sizes specified in paragraph (a) of this section and are maintained with head and fins intact as specified in paragraph (b) of this section.
  - (d) *Wreckfish trip limit.* (1) No vessel on any trip may possess wreckfish in or from the EEZ in excess of 10,000 pounds (4,536 kilograms), whole or eviscerated. (2) Wreckfish taken in the EEZ may not be transferred at sea; and wreckfish may not be transferred in the EEZ, regardless of where such wreckfish were taken.
  - (e) *Jewfish prohibition.* A jewfish may not be harvested or possessed in or from the EEZ. Jewfish taken in the EEZ

incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water.

10. In § 646.22, the section heading, paragraph (a)(1), and paragraph (c)(1) are revised; in paragraph (b)(2) introductory text, the reference to "Figure 1" is revised to read "Figure 2"; in paragraph (b)(4), the phrase "(38 meters)" is added immediately after "125 feet"; Figure 1 is redesignated as Figure 2; and new paragraphs (b) (5) and (6) are added to read as follows:

**§ 646.22 Gear restrictions.**

- (a) \* \* \*
- (1) Explosives (except explosives in powerheads) may not be used in the EEZ to fish for fish in the snapper-grouper fishery. A vessel in the snapper-grouper fishery may not possess on board any dynamite or similar explosive substance.

- (b) \* \* \*
- (5) A fish trap in the EEZ in the Atlantic Ocean south of 28°24.5' N. latitude (Cape Canaveral, Florida) may be pulled or tended only during the period from one hour before sunrise to one hour after sunset.
- (6) A fish trap may be tended or pulled only by a person (other than an authorized officer) 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.
- (c) \* \* \*
- (1) In the EEZ between Cape Hatteras, North Carolina (35°15' N. latitude) and Cape Canaveral, Florida (28°35.1' N. latitude—due east of the NASA Vehicle Assembly Building), the use of trawl gear in a directed snapper-grouper fishery is prohibited. A vessel with trawl gear and more than 200 pounds (90.7 kilograms) of fish in the snapper-grouper fishery, excluding wreckfish, aboard is considered to be in a directed snapper-grouper fishery. It is a rebuttable presumption that a vessel with more than 200 pounds (90.7 kilograms) of fish in the snapper-grouper fishery, excluding wreckfish, aboard harvested such fish in the EEZ.

11. Section 646.23 is redesignated as § 646.27, § 646.24 is redesignated as § 646.28, and new §§ 646.23, 646.24, and 646.25 are added to read as follows:

**§ 646.23 Wreckfish spawning-season closure.**

During the period January 15 through April 15, each year, fishing for wreckfish in the EEZ, landing wreckfish from the EEZ, or selling or attempting to sell



wreckfish in or from the EEZ is prohibited. This prohibition does not apply to trade in wreckfish that were harvested, landed, and bartered, traded, or sold prior to January 15 and were held in cold storage by a dealer or processor.

**§ 646.24 Wreckfish quota and closure.**

(a) Persons fishing for wreckfish are subject to a quota of 2 million pounds (907,194 kilograms), whole weight, each fishing year.

(b) When the quota is reached, or is projected to be reached, the Secretary will publish a notice to that effect in the *Federal Register*. After the effective date of such notice, for the remainder of the fishing year, wreckfish may not be harvested or possessed in or from the EEZ and the purchase, barter, trade, offer for sale, and sale of wreckfish taken from the EEZ is prohibited. This prohibition does not apply to trade in wreckfish that were harvested, landed, and bartered, traded, or sold prior to the effective date of the notice in the *Federal Register* and were held in cold storage by a dealer or processor.

**§ 646.25 Annual modification of wreckfish management measures.**

(a) The Council will appoint an assessment group (Group) that will assess the condition of the wreckfish resource in the management unit on an annual basis. The Group will present a

report of its assessment and recommendations to the Council.

(b) The Council will consider the report of the Group and hold at least one public hearing to discuss the Group's report at a time and place of the Council's choosing. The Council may convene the Advisory Panel and the Scientific and Statistical Committee to provide advice prior to taking final action. After receiving public input, the Council will make findings on the need for changes.

(c) If changes are needed in maximum sustainable yield (MSY), total allowable catch (TAC), quota, trip limit, fishing year, spawning-season closure, or criteria for permits, the Council will advise the Regional Director, Southeast Region, NMFS (Regional Director), in writing of its recommendations accompanied by the Group's report, relevant background material, draft regulations, and a summary of public comments. This report will be submitted each year by such date as agreed upon by the Council.

(d) The Regional Director will review the Council's recommendations, supporting rationale, public comments, and other relevant information. In the event the Regional Director rejects the recommendations, he will provide written reasons for the rejection to the Council and existing regulations will remain in effect until the issue is resolved.

(e) If the Regional Director initially concurs that the Council's recommendations are consistent with the goals and objectives of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), the national standards, and other applicable law, he will recommend that the Secretary publish notice in the *Federal Register* of the proposed changes with a minimum of 15 days for public comment. After review of the public comments and final determinations of consistency with the goals and objectives of the FMP, the national standards, and other applicable law, the approved changes will be published as a final rule.

(f) Appropriate adjustments that may be implemented by the Secretary via proposed and final rules under this procedure are:

(1) Initial specification of MSY and subsequent adjustment of the best estimate of MSY.

(2) Setting TAC for wreckfish, not exceeding 8 million pounds (3.629 million kilograms).

(3) Modifying the quota or trip limit.

(4) Modifying the fishing year and/or the spawning-season closure by not more than one month.

(5) Modifying the criteria for obtaining a permit.

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