

South Atlantic Snapper Grouper Regulatory Overview
SEDAR4-DW-20

Excerpted from the SAFMC Amendment 13A to the Snapper-Grouper FMP
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Provided by: John Carmichael

The **Fishery Management Plan/Environmental Impact Statement (FMP/EIS)** for the Snapper Grouper Fishery of the South Atlantic Region (SAFMC 1983) was prepared by the South Atlantic Fishery Management Council. The FMP was prepared to prevent growth overfishing in thirteen species in the snapper grouper complex and to establish a procedure for preventing overfishing in other species. The FMP established a 12" total length minimum size for red snapper, yellowtail snapper, red grouper and Nassau grouper; an 8" total minimum size for black sea bass; and a 4" trawl mesh size to achieve a 12" minimum size for vermilion snapper. Additional harvest and limitations on the use of certain gear, including poisons, explosives, fish traps, and trawls were also included in the original plan. The final rule implementing this FMP was published in the *Federal Register* on August 31, 1983 [48 FR 39463].

The Snapper Grouper FMP also contained a management measure that provided for designating modified habitats or artificial reefs as special management zones (SMZs). Through a **Regulatory Amendment to the Snapper Grouper FMP**, the Council prohibited fishing in these areas except with hand-held hook-and-line gear (including manual, electric, or hydraulic rod and reel) and spearfishing gear (including powerheads and spear guns). The harvest of Goliath grouper also was prohibited within these SMZs. The final rule implementing this regulatory amendment was published in the *Federal Register* on March 27, 1987 [52 FR 9864].

The Council prepared **Amendment 1/Environmental Assessment (EA)** (SAFMC 1988) to address habitat damage and growth overfishing in the trawl fishery. The amendment prohibited use of trawl gear to harvest fish in the directed snapper grouper fishery south of Cape Hatteras, North Carolina (35° 15 minutes N Latitude) and north of Cape Canaveral, Florida (Vehicle Assembly Building, 28° 35.1 minutes N Latitude). A vessel with trawl gear and more than 200 pounds of fish in the snapper grouper fishery (as listed in 50 C.F.R. Part 622, Appendix A Table 4) on board was defined as a directed fishery. The amendment also established a rebuttable presumption that a vessel with fish in the snapper grouper fishery (as listed in Section 646.2 of the regulations) on board harvested its catch of such fish in the Exclusive Economic Zone (EEZ). The final rule implementing this amendment was published in the *Federal Register* on January 17, 1989 [54 FR 1720].

Soon thereafter, the Council designated two artificial reefs off Ft. Pierce, Florida, as SMZs, in which specific fishing gear and harvest limitations applied. The final rule implementing this regulation was published in the *Federal Register* on February 28, 1989 [54 FR 8342].

On September 24, 1990, the Council published in the *Federal Register* a **Notice of Control Date** for entry into the wreckfish fishery. This notice was intended to inform the public that anyone entering the Federal wreckfish fishery off the South Atlantic states between 30° and 33°N latitude after March 28, 1990 would not be assured of future access to the fishery if a limited entry program was developed and implemented [56 FR 36052].

Two months later, the Council established an SMZ around an artificial reef at Key Biscayne, Florida. The Council prohibited fish trapping, bottom longlining, spear fishing, and harvesting of Goliath grouper within the SMZ. The final rule implementing this regulation was published in the *Federal Register* on October 3, 1990 [55 FR 40394].

Amendment 2/EA (SAFMC 1990a) prohibited the harvest or possession of Goliath grouper in or from the EEZ in the South Atlantic due to its overfished status and defined overfishing for Goliath grouper and other snapper grouper species according to the National Marine Fisheries Service (NMFS) 602 guidelines requirement that definitions of overfishing be included for each fishery management plan. The regulations prohibiting harvest or possession of Goliath grouper were initially implemented through an **emergency rule**. The amendment was approved on October 10, 1990 and the final rule implementing Amendment 2 was published in the *Federal Register* on November 2, 1990 [55 FR 46213].

Amendment 3/EA (SAFMC 1990b) established a management program for the wreckfish fishery. The Council was concerned that the rapid increase in effort and catch threatened the wreckfish resource with overfishing and that the concentration of additional vessels in the relatively small area where the resource is located could also create problems with vessel safety because of overcrowding. Major actions in this amendment included, but were not limited to:

- (1) Adding wreckfish to the management unit;
- (2) Defining optimum yield and overfishing for wreckfish;
- (3) Requiring an annual permit to fish for, land or sell wreckfish;
- (4) Collecting data necessary for effective management;
- (5) Establishing a control date of March 28, 1990 after which there would be no guarantee of inclusion in a limited entry program should one be developed (this was later limited to the area bounded by 33° and 30° N. latitude based on public hearing testimony);
- (6) Establishing a fishing year beginning April 16;
- (7) Establishing a process whereby annual total allowable catch (annual quotas) would be specified, with the initial quota set at 2 million pounds;
- (8) establishing a 10,000 pound trip limit; and
- (9) establishing a spawning season closure from January 15 through April 15.

Actions (6), (8) and (9) were based on public testimony. An **emergency rule** effective August 3, 1990 [55 FR 32257] added wreckfish to the management unit, established a fishing year for wreckfish commencing April 16, 1990, established a commercial quota of 2 million pounds and established a catch limit of 10,000 pounds per trip. The Secretary of Commerce closed the fishery for wreckfish in the EEZ effective August 8, 1990 when the 2 million pound TAC was reached [55 FR 32635]. The Council requested an **extension of the emergency rule** which was approved [55 FR 40181]. Amendment 3 was approved on November 9, 1990 and the final rule implementing Amendment 3 was published in the *Federal Register* on January 23, 1991 [56 FR 2443].

On July 30, 1991, the Council published in the *Federal Register* a **Notice of Control Date** for entry into the snapper grouper fishery. This notice was intended to inform the public that anyone entering the Federal snapper grouper fishery, other than the wreckfish fishery, after July 30, 1991 would not be assured of future access to the fishery if a limited entry program was developed and implemented [56 FR 36052].

Amendment 4/EA (SAFMC 1991a) was prepared to reduce fishing mortality on overfished species, to establish compatible regulations, where possible, between state and federal agencies, to identify the universe of fishermen, and to gather the data necessary for management. Amendment 4 established prohibitions on:

- (1) The use of fish traps in the South Atlantic EEZ with the exception of black sea bass pots when used north of Cape Canaveral, Florida. Permit, gear, and vessel identification requirements were specified for black sea bass pots;
- (2) The use of entanglement nets, which includes gill and trammel nets;

- (3) The use of longline gear inside 50 fathoms (300 feet) in the snapper grouper fishery in the South Atlantic EEZ;
- (4) The use of bottom longlines to harvest wreckfish; and
- (5) The use of powerheads and bangsticks in all designated special management zones (SMZs) off the South Carolina coast.

In addition, fishermen who fish for other species with gear prohibited in the snapper grouper fishery may not have a bycatch of snapper and grouper species in excess of the allowed bag limit. No bycatch would be allowed for those species that have no bag limit or that are prohibited.

The amendment also established the following minimum sizes with a requirement that all snappers and groupers possessed in the South Atlantic EEZ have head and fins intact through landing:

- (1) 8" total length for lane snapper and black sea bass;
- (2) 10" total length for vermilion snapper (recreational fishery only);
- (3) 12" total length for red porgy, vermilion snapper (commercial fishery only), gray, yellowtail, mutton, schoolmaster, queen, blackfin, cubera, dog, mahogany and silk snappers;
- (4) 20" total length for red snapper, gag, and red, black, scamp, yellowfin, and yellowmouth groupers;
- (5) 28" fork length for greater amberjack (recreational fishery only); and
- (6) 36" fork length or 28" core length for greater amberjack (commercial fishery only).

Amendment 4 established the following bag limits:

- (1) 10 vermilion snapper per person per day;
- (2) 3 greater amberjack per person per day;
- (3) An aggregate snapper bag limit of 10 fish per person per day, excluding vermilion snapper and allowing no more than two red snappers; and
- (4) An aggregate grouper bag limit of five per person per day, excluding Nassau grouper and Goliath grouper for which no retention is allowed.

Charter and head boats are allowed to have up to a two-day possession limit as long as there are two licensed operators on board and passengers have receipts for trips in excess of 12 hours. Excursion boats would be allowed to have up to a three-day possession limit on multi-day trips. Fish harvested under the bag limit may be sold in conformance with state laws if they meet the commercial minimum sizes.

Amendment 4 also established two spawning season closures:

- (1) The commercial harvest and/or landing of greater amberjack in excess of the three-fish bag limit is prohibited in April south of Cape Canaveral, Florida; and
- (2) The commercial harvest and/or landing of mutton snapper in excess of the snapper aggregate bag limit is prohibited during May and June.

Amendment 4 included the following commercial regulations:

- (1) To exceed bag limits in the snapper grouper fishery, an owner or operator of a vessel that fishes in South Atlantic federal waters is required to obtain an annual vessel permit;
- (2) For individuals to qualify for a permit they must have at least 50% of their earned income, or \$20,000 in gross sales, derived from commercial, charter, or headboat fishing;
- (3) For a corporation to be eligible for a permit, the corporation or shareholder or officer of the corporation or the vessel operator would be required to have at least \$20,000 in gross sales derived from commercial fishing;
- (4) For partnerships, the general partner or operator of the vessel is required to meet the same qualifications as a corporation; and

(5) A permit, gear, and vessel and trap identifications are required to fish with black sea bass pots.

Amendment 4 also addresses enforcement concerns that surfaced with the wreckfish trip limit. Bottom longline gear was being used to a limited extent in the wreckfish fishery and fishermen indicated that gear loss, habitat damage and lost gear continuing to fish were problems. The Council subsequently requested and was granted **emergency regulations** [56 FR 18742] that prohibited the use of bottom longline gear in the wreckfish fishery effective April 19, 1991 and were granted an **extension** on July 19, 1991 [56 FR 33210].

Amendment 4 was approved on August 26, 1991 by the Secretary of Commerce and all regulations were effective on January 1, 1992 except the bottom longline prohibition for wreckfish was implemented on October 25, 1991. The final rule was published in the *Federal Register* on October 31, 1991 [56 FR 56016].

The Council prepared **Amendment 5/EA** (SAFMC 1991b) to establish an Individual Transferable Quota (ITQ) management program for the wreckfish fishery. The amendment included the following:

- (1) A limited entry program for the wreckfish sector of the snapper grouper fishery consisting of transferable percentage shares of the annual total allowable catch (TAC) of wreckfish and individual transferable quotas (ITQs) based on a person's share of each TAC;
- (2) Required dealer permits to receive wreckfish;
- (3) Removed the 10,000-pound (4,536-kilogram) trip limit for wreckfish;
- (4) Required that wreckfish be off loaded from fishing vessels only between 8:00 a.m. and 5:00 p.m.;
- (5) Reduced the occasions when 24-hour advance notice must be made to NMFS Law Enforcement for off-loading of wreckfish; and
- (6) Specified the procedure for initial distribution of percentage shares of the wreckfish TAC.

The Council submitted the amendment to the Secretary of Commerce on September 12, 1991. The final rule implementing this amendment was published in the *Federal Register* on March 5, 1992 [57 FR 7886]. Amendment 5 was implemented with an effective date of April 6, 1992, except that the sections dealing with permits and fees, falsifying information, and percentage shares was effective March 5, 1992 [57 FR 7886].

Implementation of Amendment 4 resulted in a prohibition on black sea bass pot fishermen making multi-gear trips and retaining other species that resulted in large, unintended economic losses. The Council subsequently requested **emergency regulations** on July 8, 1992 to modify the definition of black sea bass pot, allow multi-gear trips, and allow retention of incidentally caught fish. These regulations became effective on August 31, 1992 [57 FR 39365] and were extended on November 30, 1992 [57 FR 56522]. On December 11, 1992 the Council submitted a **regulatory amendment** implementing the above changes on a permanent basis. An interim final rule and request for comments was published in the *Federal Register* on March 2, 1993 with an effective date of March 1, 1993 [58 FR 11979]. The final rule was published in the *Federal Register* on July 6, 1993 [58 FR 36155] with an effective date of July 6, 1993.

The Council submitted a **regulatory amendment** requesting implementation of eight special management zones off South Carolina on August 12, 1992. The amendment restricted fishing in these SMZs to hand-held, hook-and-line gear (including manual, electric, or hydraulic rod and reel) and spearfishing (excluding powerheads). The proposed rule was published in the *Federal Register* on March 15, 1993 [58 FR 13732]. The final rule was published in the *Federal Register* on July 2, 1993 [58 FR 35895] with the effective date of July 31, 1993.

The Council prepared **Amendment 6/EA** (SAFMC 1993) to rebuild the snowy grouper, golden tilefish, speckled hind, Warsaw grouper, misty grouper, and yellowedge grouper resources. Amendment 6 contained a number of management measures, including, but not limited to:

- (1) Catch quotas (to be phased in over a three-year period beginning January 1994);
- (2) Commercial trip limits;
- (3) Recreational bag limits; and
- (4) Creation of the *Oculina* Experimental Closed Area, within which fishing for and retention of snapper grouper species was prohibited.

Data were specified to be collected to evaluate shifts in fishing effort (effort shifts) among fisheries and for future evaluation of an "Individual Transferable Quota" (ITQ) type of management approach. Amendment 6 was submitted to the Secretary of Commerce in December 1993 and was approved on May 5, 1994 with the exception of the 100% logbook coverage and the anchoring prohibition within the *Oculina* Bank. The final rule was published in the *Federal Register* on May 26, 1994 [59 FR 27242]. Commercial trip limits for snowy grouper and golden tilefish became effective June 6, 1994, and the remainder of the regulations became effective June 27, 1994.

The **Secretary** initially required 25% logbook coverage; this was later increased to 100% coverage upon renewal of permits (established through Amendment 6) on the permit holders birth date.

The Council prepared **Amendment 7/EA** (SAFMC 1994a) to provide additional protection to snapper grouper species. The amendment specified a number of actions including, but not limited to, the following:

- (1) Established a 12" fork length size limit for hogfish;
 - (2) Increased the mutton snapper size limit from 12" to 16" total length;
 - (3) Required dealer, charter and headboat federal permits;
 - (4) Allowed sale under specified conditions;
 - (5) Specified allowable gear and made allowance for experimental gear [Note: allowable gear includes vertical hook & line gear, spearfishing without rebreathers except that explosive charges including powerheads are not allowed in the EEZ off SC, bottom longlines deeper than 50 fathoms only north of St. Lucie Inlet, Florida, and for species other than wreckfish, and black sea bass pots except where expressly prohibited.];
 - (6) Made allowance for multi-gear trips in North Carolina;
 - (7) Added localized overfishing to the list of problems and objectives;
 - (8) Adjusted the bag limit and crew specification for charter and headboats;
 - (9) Modified the management unit for scup to apply south of Cape Hatteras, North Carolina;
- and
- (10) Modified the framework procedure to increase the timeliness of action by the Council.

Amendment 7 was submitted to the Secretary of Commerce on June 16, 1994. The final rule was published in the *Federal Register* on December 23, 1994 [59 FR 66270] and the regulations became effective January 23, 1995 except for application and possession of dealer, charter and headboat federal permits which became effective December 23, 1994 and March 1, 1995 respectively.

At the request of the State of Florida, the Council prepared and submitted **Regulatory Amendment 6** (SAFMC 1994b) to increase protections for select snapper grouper species and to enhance enforcement by having the same regulations in State and Federal waters. Regulatory Amendment 6 included the following:

- (1) Established a daily recreational bag limit of 5 hogfish per person;
- (2) Limited the harvest and possession of cubera snapper measuring 30" total length or larger to 2/day; and
- (3) Established a minimum size limit for gray triggerfish of 12" total length.

These measures applied only in the EEZ off the Atlantic coast of Florida. The regulatory amendment was sent to the Secretary of Commerce on October 21, 1994. The proposed rule was published in the *Federal Register* on February 15, 1995 [60 FR 8622]. The final rule was published in the *Federal Register* on April 20, 1995 [60 FR 19683] with effective date of May 22, 1995.

In a letter dated February 6, 1997, the Council requested establishment of a **control date for the black sea bass pot fishery** effective upon publication in the *Federal Register*. The **Advanced Notice of Proposed Rulemaking** was published in the *Federal Register* on April 23, 1997 [62 FR 19732], which established April 23, 1997 as the control date for the black sea bass pot fishery. The intent of this notice was to inform the public that anyone entering the black sea bass pot fishery after the control date would not be assured of future participation in the fishery if a limited entry program were to be developed and implemented.

The Council prepared **Amendment 8/SEIS** (SAFMC 1997) to limit effort in the snapper grouper fishery. The amendment accomplished the following:

(1) Established a program to limit initial eligibility for participation in the snapper grouper fishery to owners of boats/vessels that: (a) can demonstrate any landings of species in the snapper grouper management unit in 1993, 1994, 1995 or 1996 (as of August 20, 1996) and (b) held a valid snapper grouper permit between February 11, 1996 and February 11, 1997;

(2) Vessels that landed at least 1,000 pounds of species in the snapper grouper management unit in any of these years received a transferable permit;

(3) All other vessels received a non-transferable permit and were limited to a 225-pound trip limit;

(4) Modified the problems, objectives, Optimum Yield, and overfishing definition in the snapper grouper management plan;

(5) Expanded the Council's habitat responsibility;

(6) Modified allowable gear which allowed the retention of snapper grouper species in excess of the bag limits on a permitted vessel that has a single bait net or cast nets on board; and

(7) Included a measure that, subject to specific conditions, permitted vessels to possess on board fillets of fishes that were harvested in the Bahamas.

Amendment 8 was submitted to the Secretary of Commerce on July 10, 1997. The notice of availability of Amendment 8 was published in the *Federal Register* on October 30, 1997 [62 FR 58703] thereby beginning the formal review process. On January 28, 1998 the Secretary of Commerce approved all measures in the amendment, with the exception of the overfishing and overfished definitions (including the 10% threshold level). The proposed rule was published in the *Federal Register* on January 12, 1998 [63 FR 1813]. The final rule was published in the *Federal Register* on July 16, 1998 [63 FR 38298]. Amendment 8 became fully effective in December 1998.

The Council prepared **Amendment 9/SEIS** (SAFMC 1998a) to provide additional protection to snapper grouper species based on the 1994 stock assessment prepared by the Southeast Fisheries Science Center.

Amendment 9 included measures that:

(1) Increased the **red porgy** minimum size limit from 12" TL to 14" TL for both recreational and commercial fishermen, established a recreational bag limit of 5 red porgy per person per day, prohibited harvest and possession in excess of the bag limit during March and April, and prohibited purchase and sale during March and April;

(2) Increased **the black sea bass** minimum size limit from 8" TL to 10" TL for both recreational and commercial fishermen, and established a recreational bag limit of 20 black sea bass per person per day;

(3) **Required escape vents and escape panels** with degradable fasteners in black sea bass pots;

(4) Established measures for **greater amberjack** that: reduced the recreational bag limit from 3 to 1 greater amberjack per person per day, prohibited harvest and possession in excess of the bag limit during April throughout the EEZ, established a quota at 63% of 1995 landings (quota=1,169,931 pounds), began the fishing year on May 1, prohibited sale of fish harvested under the bag limit when the season was closed, and prohibited coring;

(5) Increased the recreational **vermilion snapper** minimum size limit from 10" to 11" TL and retained the current 10-fish bag limit;

(6) Increased the **gag grouper** minimum size limit from 20" TL to 24" TL for both recreational and commercial fishermen, prohibited harvest and possession in excess of the bag limit during March and April, and prohibited purchase and sale during March and April;

(7) Increased the **black grouper** minimum size limit from 20" to 24" TL for both recreational and commercial fishermen, prohibited harvest and possession in excess of the bag limit during March and April, and prohibited purchase and sale during March and April;

(8) Specified that within the **5-fish aggregate grouper bag limit** (which at the time included tilefish and excluded Goliath grouper and Nassau grouper), no more than 2 fish may be gag grouper or black grouper (individually or in combination);

(9) Established an **aggregate recreational bag limit** of 20 fish per person per day inclusive of all snapper grouper species currently not under a bag limit, excluding tomtate and blue runners (there would be no bag limit on tomtate and blue runners); and

(10) Specified that **vessels with longline gear** aboard may only possess snowy grouper, Warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish.

Recognizing the need for measures contained in Amendment 9, particularly for red porgy, the Council requested implementation of Amendment 9 (except the black sea bass pot construction measure) as an **Interim Request under the Magnuson-Stevens Act** on January 16, 1998. Amendment 9 was finalized and sent to the Secretary of Commerce for formal review and implementation on February 3, 1998. On May 14, 1998 the National Marine Fisheries Service informed the Council that they **suspended action on the interim rule** and that they intended, instead, to address these measures under Amendment 9.

The notice of availability of Amendment 9 was published in the *Federal Register* on September 8, 1998 [63 FR 47461] thereby beginning the formal review process. On September 24, 1998 the Council requested that all measures in Amendment 9 be implemented through **emergency action**. Once again, the Council was attempting to begin rebuilding of overfished species, particularly red porgy, as soon as possible. The proposed rule was published in the *Federal Register* on November 12, 1998 [63 FR 63276]. The Secretary of Commerce partially approved Amendment 9 on December 9, 1998; all measures were approved except the 1,000-pound trip limit for greater amberjack. On January 22, 1999 the National Marine Fisheries Service informed the Council that the final rule for Amendment 9 was to be filed with the Office of the *Federal Register* on January 21, 1999, with an effective date of February 24, 1999. The final rule was published in the *Federal Register* on January 25, 1999 [64 FR 3624]. Amendment 9 became effective February 24, 1999.

Thus regulations addressing red porgy, based on the 1994 stock assessment using data through 1992, took effect on February 24, 1999, a full year after the Council submitted the document to the Secretary of Commerce. Neither the Council's interim rule or emergency rule requests were approved.

During their March 1999 meeting, the Council received a new red porgy stock assessment prepared by the Southeast Fisheries Science Center which consisted of a complete virtual population analysis (VPA) and included data through 1996 for VPA analyses and through 1997 for other analyses (Vaughan 1999). The spawning potential ratio (SPR) was determined to be 24%.

The level of information available for red porgy also allowed for examination of the biomass and recruitment levels. The assessment report concluded that biomass had decreased from an annual estimate of 9,913 metric tons during the time period 1972-78, to 3,557 metric tons during 1982-86, and to 685 metric tons during 1992-96. This represented a 93% reduction from 1972-78 to 1992-96. Over the same time periods, recruitment (the number of age 1 fish entering the population) declined from 6.53 million fish per year (1972-78), to 2.38 million fish per year (1982-86), and to 0.66 million fish per year (1992-96). This represented a 90% reduction from 1972-78 to 1992-96.

Even though red porgy regulations contained in Amendment 9 were implemented on February 24, 1999, based on new Sustainable Fisheries Act requirements, the Council was required to request a prohibition on harvest and possession of red porgy be implemented through **emergency action**. The request was sent to the Secretary on April 6, 1999, was approved, published in the *Federal Register* on September 3, 1999 [64 FR 48324], and was effective September 8, 1999 through March 1, 2000. At the December 1999 meeting, the Council requested the **emergency rule be extended**. The extension, through August 28, 2000, was approved on February 25, 2000 [65 FR 10039].

On July 13, 1999 the Council requested the Snapper Grouper Amendment 8 application process be reopened through **emergency action**. The request was approved effective September 3, 1999 [64 FR 48326].

Amendment 10/EIS (SAFMC 1998b), which addressed the Habitat requirement of the Magnuson-Stevens Act, as amended in 1996, contained the following snapper grouper items [Note: Detailed information is presented in the Council's Habitat Plan (SAFMC 1998b)]:

1. Identify Essential Fish Habitat for Species in the Snapper Grouper Management Unit

Essential fish habitat for snapper grouper species includes coral reefs, live/hard bottom, submerged aquatic vegetation, artificial reefs and medium to high profile outcroppings on and around the shelf break zone from shore to at least 600 feet (but to at least 2000 feet for wreckfish) where the annual water temperature range is sufficiently warm to maintain adult populations of members of this largely tropical complex. EFH includes the spawning area in the water column above the adult habitat and the additional pelagic environment, including *Sargassum*, required for larval survival and growth up to and including settlement. In addition the Gulf Stream is an essential fish habitat because it provides a mechanism to disperse snapper grouper larvae.

For specific life stages of estuarine dependent and nearshore snapper grouper species, essential fish habitat includes areas inshore of the 100-foot contour, such as attached macroalgae; submerged rooted vascular plants (seagrasses); estuarine emergent vegetated wetlands (saltmarshes, brackish marsh); tidal creeks; estuarine scrub/shrub (mangrove fringe); oyster reefs and shell banks; unconsolidated bottom (soft sediments); artificial reefs; and coral reefs and live/hard bottom.

Refer to Section 3.0 in the Habitat Plan (SAFMC 1998c) for a more detailed description of habitat utilized by the managed species. Also, it should be noted that the Gulf Stream occurs within the EEZ.

2. Establish Essential Fish Habitat-Habitat Areas of Particular Concern (EFH-HAPCs) for Species in the Snapper Grouper Management Unit

Areas which meet the criteria for essential fish habitat-habitat areas of particular concern (EFH-HAPCs) for species in the snapper grouper management unit include medium to high profile offshore hard bottoms where spawning normally occurs; localities of known or likely periodic spawning aggregations; nearshore hard bottom areas; The Point, The Ten Fathom Ledge, and Big Rock (North Carolina); The Charleston Bump (South Carolina); mangrove habitat; seagrass habitat; oyster/shell habitat; all coastal inlets; all state-designated nursery habitats of particular importance to snapper grouper (e.g., Primary and Secondary Nursery Areas designated in North Carolina); pelagic and benthic *Sargassum*; Hoyt Hills for wreckfish; the *Oculina* Bank Habitat Area of Particular Concern; all

hermatypic coral habitats and reefs; manganese outcroppings on the Blake Plateau; and Council-designated Artificial Reef Special Management Zones (SMZs).

The Council's Comprehensive Habitat Amendment, which includes Amendment 10, was sent to the Secretary of Commerce for formal review on October 9, 1998. The notice of availability for Amendment 10 was published in the *Federal Register* on March 5, 1999. Amendment 10 was approved on June 3, 1999. The proposed rule was published on July 9, 1999 and a NMFS Supplement to the Proposed Rule was published on November 2, 1999. The final rule implementing this amendment was published in the *Federal Register* on June 14, 2000 [65 FR 37292] and regulations were effective July 14, 2000.

Amendment 11 (SAFMC 1998d), which addressed the non-habitat requirements of the Magnuson-Stevens Act, as amended in 1996, contained the following snapper grouper items:

(1) Maximum sustainable yield for species in the snapper grouper management unit is unknown. The Council reviewed alternatives and concluded the best available data supports using 40% Static SPR as a proxy for MSY for Goliath grouper and Nassau grouper, and 30% Static SPR as a MSY proxy for the remaining species.

(2) Optimum Yield (OY) for the snapper grouper fishery is the amount of harvest that can be taken by U.S. fishermen while maintaining the Spawning Potential Ratio (SPR) at or above 40% Static SPR for all species in the snapper grouper management unit except the following:

A. Hermaphroditic groupers (that is, those that switch sex, generally from females to males as they grow older) will be managed for an OY of 45% Static SPR.

B. Goliath grouper and Nassau Grouper will be managed for an OY of 50% Static SPR.

(3) Overfishing Level to meet Magnuson-Stevens Mandate:

A. Overfishing for all species in the snapper grouper management unit, except for Goliath grouper and Nassau grouper, is defined as a fishing mortality rate (F) in excess of the fishing mortality rate at 30% Static SPR (F30%Static SPR) which is the snapper grouper MSY proxy.

B. Overfishing for Goliath grouper and Nassau grouper is defined as a fishing mortality rate (F) in excess of the fishing mortality rate at 40% Static SPR (F40% Static SPR) which is the MSY proxy for Goliath grouper and Nassau grouper.

C. Overfishing for black sea bass is defined in terms of the Checklist (Appendix D) and information provided by Dr. Doug Vaughan, NMFS Beaufort Lab (Table 50). The two components of the status determination criteria are:

(i) A maximum fishing mortality threshold (MFMT) — A fishing mortality rate (F) in excess of F30% Static SPR which is 0.72 (Table 50).

(ii) A minimum stock size threshold (MSST) — The minimum stock size threshold is 3.72 million pounds (Table 50).

D. The "threshold level" for all species in the snapper grouper management unit, except for Goliath grouper and Nassau grouper, is defined as 10% Static SPR. For Goliath grouper and Nassau grouper, the "threshold level" is defined as 30% Static SPR. **Note: The "threshold level" was not approved.**

(4) Rebuilding Timeframe. Rebuilding projections are not available at this time. The Council recommends that projections be incorporated into the next stock assessment to the extent practicable to determine whether the overfished snapper grouper species can be rebuilt in less than 10 years. Until such time as this information is provided to the Council, the current timeframe for recovery remains in effect: The timeframe for recovery of snappers (excluding red snapper), greater amberjack, black sea bass, and red porgy is not to exceed 10 years. For red snapper and the groupers, the timeframe is not to exceed 15 years. Year 1 was the 1991 fishing year.

(5) Overfishing Evaluation to meet the Current Definition. The Council made the determinations shown for each species based on having Snapper Grouper Amendment 8 and Snapper Grouper Amendment 9 in place. The Council is in a difficult situation, particularly for species in the

snapper grouper management unit, because these two major amendments have not been implemented and previous amendments have not been incorporated into assessment results for some species. [Note: Amendment 8 was implemented in December 1998 and Amendment 9 was implemented on February 24, 1999.] The Council's previous actions will have major impacts on rebuilding overfished species. The Council's conclusions reflect the belief that regulations already approved should be implemented and evaluated before determinations can be made whether additional regulations are required. The Council will continue to monitor the snapper grouper fishery and will use the framework procedure to implement any additional species specific measures as may be necessary following updated stock assessments received through the SAFE process described earlier.

The Council's evaluations were as follows:

A. **Black sea bass** remain overfished. Black sea bass are above the "threshold level" with a static SPR of 26%. Black sea bass are overfished given that the MSST is 3.72 million pounds and the 1995 biomass was estimated to be 1.33 million pounds. Black sea bass are also experiencing overfishing given that the MFMT is 0.72 and the average fishing mortality rate (F) for 1991-1995 was 0.95. The measures proposed in Snapper Grouper Amendment 9 will reduce commercial catch by 26%, recreational catch by 36%, and total catch by 30%. The Council concluded these reductions are sufficient to rebuild black sea bass above the overfished level.

B. **Vermilion snapper** remain overfished with a static SPR of 21% to 27%. The measures proposed in Snapper Grouper Amendment 9 will reduce headboat catch by 29%, MRFSS catch by 70%, and total catch by 13%. The Council concluded these reductions are sufficient to rebuild vermilion snapper above the overfished level.

C. **Red porgy** remain overfished with a static SPR of 14% to 19%. The measures proposed in Snapper Grouper Amendment 9 will reduce commercial catch by 65%, recreational catch by 50%, and total catch by 59%. The Council concluded these reductions are sufficient to rebuild red porgy above the overfished level.

D. **Red snapper** remain overfished with a static SPR of 24% to 32%. The measures proposed through Snapper Grouper Amendment 7 will result in a projected SPR of 35%. The Council concluded these reductions and the measures contained in Snapper Grouper Amendments 8 and 9 are sufficient to rebuild red snapper above the overfished level.

D. **Gag** remain overfished with a static SPR of 27%. The measures proposed in Snapper Grouper Amendment 9 will reduce commercial catch by 37%, recreational catch by 13%, and total catch by 27%. The Council concluded these reductions are sufficient to rebuild gag above the overfished level.

F. **Scamp** are no longer overfished with a static SPR of 35%. The measures proposed in Snapper Grouper Amendment 9 will provide some additional protection. The Council concluded no additional measures are necessary to maintain scamp above the overfished level.

G. **Speckled hind** remain overfished with a static SPR of 8% to 13%. The measures proposed through Snapper Grouper Amendment 7 include a limit of 1 fish per vessel per trip, no sale, and establishment of the experimental closed area. Measures in Amendment 8 and 9 may provide some additional protection. The Council concluded these reductions are sufficient to rebuild speckled hind above the overfished level.

H. **Warsaw grouper** remain overfished with a static SPR of 6% to 14%. The measures proposed through Snapper Grouper Amendment 7 include a limit of 1 fish per vessel per trip, no sale, and establishment of the experimental closed area. Measures in Amendment 8 and 9 may provide some additional protection. The Council concluded these reductions are sufficient to rebuild Warsaw grouper above the overfished level.

I. **Snowy grouper** remain overfished with a static SPR of 5% to 15%. The measures proposed through Snapper Grouper Amendment 7 include a quota, trip limit, bag limit, and establishment of the experimental closed area. Measures in Amendment 8 and 9 may provide some additional protection.

The Council concluded these reductions are sufficient to rebuild snowy grouper above the overfished level.

J. **Golden tilefish** remain overfished but the Assessment Group concluded there was inadequate information to update the existing SPR of 21%. The measures proposed through Snapper Grouper Amendment 7 include a quota, trip limit, bag limit, and establishment of the experimental closed area. Measures in Amendment 8 and 9 may provide some additional protection. The Council concluded these reductions are sufficient to rebuild golden tilefish above the overfished level.

K. **Nassau grouper** remain overfished but there is insufficient information to calculate a SPR. The measures proposed through Snapper Grouper Amendment 7 allow no retention and establishment of the experimental closed area. The Council concluded no further action is required for Nassau grouper at this time. This position is supported by the letter from NMFS (Appendix F in Snapper Grouper Amendment 11).

L. **Goliath grouper** remain overfished but there is insufficient information to calculate a SPR. The measures proposed through Snapper Grouper Amendment 7 allow no retention and establishment of the experimental closed area. The Council concluded no further action is required for Goliath grouper at this time. This position is supported by the letter from NMFS (Appendix F in Snapper Grouper Amendment 11).

M. **White grunt** are no longer overfished with a static SPR of 29% to 39%. The measures proposed in Snapper Grouper Amendments 8 and 9 will provide some additional protection. The Council concluded no additional measures are necessary to maintain white grunt above the overfished level.

The Council's SFA Comprehensive Amendment, which included Amendment 11, was submitted for formal review by the Secretary of Commerce on October 7, 1998. The notice of availability for Amendment 11 was published in the *Federal Register* on February 18, 1999. The SFA Comprehensive Amendment, including Amendment 11, was partially approved on May 19, 1999. The Secretary of Commerce partially approved the stock status determination criteria, and approved 10-year rebuilding schedules proposed by the Council for snappers other than red snapper, greater amberjack, black sea bass, and red porgy. The proposed rule was published on May 24, 1999. The final rule implementing Amendment 11 was published in the *Federal Register* on November 2, 1999 [64 FR 59126]. The Council is currently addressing measures that were disapproved in Amendment 11 in Amendment 13B to the Snapper Grouper FMP.

The Council prepared **Amendment 12/SEIS** (SAFMC 2000) to develop permanent measures to rebuild red porgy based on the 1999 biomass-based assessment. Measures included the following:

- (1) Established a MSY of 4.38 million pounds;
- (2) Established an OY equal to the amount of harvest that can be taken by U.S. fishermen while maintaining the SPR at or above 45% Static SPR;
- (3) Specified overfishing (maximum fishing mortality threshold/MFMT) and overfished (minimum stock size threshold/MSST) parameters as MFMT = 0.43, MSST = 7.34 million pounds, and a rebuilding timeframe of 18 years with 1999 being year 1;
- (4) Reduced the bag limit from 5 to 1;
- (5) Specified that during January through April no sale is allowed and everyone is limited to 1 fish;
- (6) Continued the 14-inch minimum size limit;
- (7) Established a 50-pound bycatch trip limit for commercial vessels from May through December;
- (8) Modified the list of management options and actions that could be implemented as framework measures; and

(9) Modified the limited access system to allow same owner permit transfers regardless of vessel size for 225-pound trip limit permit holders participating in the snapper grouper limited access program.

Amendment 12 was submitted for formal review by the Secretary of Commerce on March 15, 2000. The notice of availability for Amendment 12 was published in the *Federal Register* on April 19, 2000. The proposed rule was published in the *Federal Register* on June 6, 2000, and the amendment was approved on July 19, 2000. The final rule implementing this amendment was published in the *Federal Register* on August 23, 2000 [65 FR 51248] with the regulations effective on August 29, 2000 except the transfer of 225-pound permits which became effective on September 22, 2000.

Amendment 13A/EA would extend the regulation prohibiting fishing for and retention of snapper grouper species within the *Oculina* Experimental Closed Area.

As noted in Section 1.3.2, the Council is developing **Amendment 13B/EIS** to address measures that were disapproved in Amendment 11. Specifically, measures in Amendment 13B will:

- (1) Redefine as needed, based on FMP objectives, the fishery management units (FMUs) and sub-units that reflect those stocks of fish that are best managed individually and those stocks of fish that are interrelated and best managed as a unit or in close coordination;
- (2) Define biomass-based estimated of biological reference points and status determination criteria for all stocks/complexes that comprise the FMU, consistent with the MSFCMA requirements to assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, fisheries and to specify objective and measurable criteria for identifying when a fishery is overfished;
- (3) Establish rebuilding schedules based on biomass-based estimates of status determination criteria for all overfished stocks/complexes in the FMU, consistent with the requirements of the MSFCMA;
- (4) Establish control rules, and implement management measures, as needed, to end overfishing and rebuild overfished stocks, and prevent overfishing in fisheries that are identified as approaching an overfished condition, consistent with the requirements of the MSFCMA;
- (5) Review the implementation of the logbook/Atlantic Coastal Cooperative Statistics Program (ACCSP), bycatch reporting program in the context of its consistency with the MSFCMA requirements to establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery; and
- (6) Assess the practicability for additional bycatch reduction measures, consistent with the MSFCMA requirement to minimize, to the extent practicable, bycatch and bycatch mortality.

Amendment 14/EIS, also under development, will establish Marine Protected Areas (MPAs) off the coasts of North Carolina, South Carolina, Georgia, and the East Coast of Florida. These MPAs are being developed with extensive public input through scoping meetings, informal meetings, workshops, and two rounds of public hearings. The Council is considering these MPAs to assist in rebuilding the stock status of and preserving the age/size structure of deepwater snappers and groupers. In addition, Amendment 14 will establish rebuilding schedules using biomass-based estimates of status determination criteria for all overfished deepwater species in the FMU; establish control rules, and implement additional management measures, as needed, to end overfishing and rebuild overfished deepwater species in the FMU, and prevent overfishing in deepwater fisheries that are identified as approaching an overfished condition, consistent with the requirements of the MSFCMA.

South Atlantic Snapper Grouper Regulatory Timeline.

