

the Automated Catch Reporting System and the Large Pelagic Survey. All BFT landed under the Angling category quota outside North Carolina must be reported within 24 hours of landing to the NMFS Automated Catch Reporting System by phoning 888-USA-TUNA (888-872-8862). In North Carolina, all BFT must be taken to a reporting station to receive a landing tag before removing the fish from the vessel. For information about the North Carolina Harvest Tagging Program, including reporting station locations, call 800-338-7804.

Subsequent adjustments to the daily catch limit, as necessary, shall be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 1-888-USA-TUNA (888-872-8862) or at 978-281-9305 for updates on quota monitoring and catch limit adjustments.

Classification

This action is taken under 50 CFR 285.24(d)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: December 23, 1998.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

[FR Doc. 98-34543 Filed 12-29-98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 980804203-8306-02; I.D. 061298A]

RIN 0648-AL00

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Special Management Zones

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

ACTION: Final rule.

SUMMARY: In accordance with the framework procedure of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), NMFS establishes 10 special management zones (SMZs) at the sites of artificial reefs (ARs) in the exclusive economic zone (EEZ) off South Carolina in which fishing will be restricted to handline, rod and reel, and

spearfishing gear (excluding powerheads) and prohibits the use of powerheads in the Ft. Pierce Offshore Reef (Offshore Reef) SMZ. The intended effect is to promote orderly use of the fishery resources on and around the ARs, to reduce potential user-group conflicts, and to maintain the socioeconomic benefits of the ARs to the maximum extent practicable.

DATES: This rule is effective January 29, 1999.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 727-570-5305.

SUPPLEMENTARY INFORMATION: The fisheries for snapper-grouper species in the EEZ off the southern Atlantic states are regulated under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

In accordance with the framework procedures of the FMP, the Council recommended, and NMFS published, a proposed rule (63 FR 43656, August 14, 1998) to establish 10 SMZs in the EEZ off South Carolina in which fishing would be restricted to handline, rod and reel, and spearfishing gear (excluding powerheads) and to prohibit the use of powerheads in the Offshore Reef SMZ. The preamble to the proposed rule described the FMP's framework procedure through which the Council recommended the establishment of the SMZs and the prohibition of powerheading in the Offshore Reef SMZ and explained the need and rationale for them. Those descriptions are not repeated here.

Comments and Responses

Eight comments were received during the public comment period. A summary of the comments and NMFS' responses follow.

Comment 1: Two commenters supported the establishment of the 10 SMZs in the EEZ off South Carolina and the prohibition on the use of powerheads in the Ft. Pierce Offshore Reef SMZ.

Response: NMFS agrees.

Comment 2: A commenter noted that the reference to the Port Royal 45 Foot Reef should be changed to the Beaufort 45 Foot Reef and provided revised latitudes on the northern and southern boundaries for the Edisto 60 Foot Reef.

Response: NMFS concurs with the comments, and the final rule has been revised accordingly.

Comment 3: A commenter stated that SMZs are just another way to take from commercial fishermen and give to recreational anglers.

Response: The 10 SMZs in the EEZ off South Carolina are at the sites of ARs constructed by the South Carolina Department of Natural Resources and are on an expansive shelf area that has large areas devoid of any hard or live bottom. Prior to establishment of these ARs, these areas did not support any significant fisheries. Since commercial fishermen use powerheads, the prohibition on use of powerheads in certain SMZs would have more of an impact upon the commercial sector. Nonetheless, commercial fishermen can still fish in the SMZs provided they use allowable gear. In this context, as long as they use the same gear, all fishermen (commercial and recreational) have an equal opportunity to catch fish in the SMZs.

Comment 4: Three commenters opposed the ban on the use of powerheads in the Offshore Reef SMZ. They stated that powerheads were efficient, safe and would result in fewer fish being wounded and escaping only to die later. Also, they stated that commercial fishing had occurred on the Offshore Reef for many years and that the ban on powerheading would result in severe economic hardship. They contended that the ARs concentrated fish from surrounding areas; hence, there were fewer fish available in surrounding areas for commercial fishermen.

Response: NMFS agrees that powerheads are efficient and safe and may result in fewer wounded fish escaping and dying later. NMFS has no evidence to indicate that commercial fishing has occurred for many years on the Offshore Reef. Scientifically, it is unknown whether ARs concentrate fish from surrounding areas because the relative fishing pressure on the ARs versus surrounding areas is unknown. Thus, NMFS does not deny that the ban on powerheading in the Offshore Reef SMZ may somewhat adversely affect commercial divers by making their operations less efficient. Nonetheless, commercial fishermen may still fish in the Offshore Reef SMZ provided they use allowable gear, which includes traditional spearfishing gear. The regulations will result in a reduction in user-group conflict and promote orderly use of the resource. The intent of the SMZ program is to increase the number of ARs to create new fishing opportunities that would not otherwise exist. To the extent that one user group takes a disproportionate share of the resource, the incentive to build new ARs is diminished. Also, to the extent that ARs increase biological production, the resource base for exploitation will be increased. Given the potential costs

and benefits of banning the use of powerheads in the Offshore Reef SMZ it appears that the benefits outweigh the costs although data do not exist to quantify the result of this action.

Comment 5: A commenter noted that the proposed regulations would adversely affect commercial fishermen and expropriate a valuable marine resource for the exclusive use of recreational anglers. He estimated that commercial divers would lose \$159,000 in revenue; his seafood company would lose over \$200,000 in gross sales; and restaurants could lose over \$1,000,000 dollars in sales if the ban on use of powerheads in the Offshore Reef was implemented.

Response: The ban on powerheading will not eliminate commercial fishing in the Offshore Reef SMZ, although it may reduce the efficiency of such fishing. Commercial landings can continue because commercial fishing is allowed with allowable gear (spearfishing and hook-and-line). The estimated economic losses attributed to the ban of powerheading in the Offshore Reef SMZ appear to represent landings from a much greater area than that encompassed by the Offshore Reef SMZ (several square miles). Fish may migrate from the Offshore Reef SMZ to surrounding areas where the use of powerheads is legal. The reduction in fishing mortality attributed to the ban on powerheads will leave more fish for allowable gear users (including both commercial and recreational fishermen). It is anticipated that the overall reduction in fishing mortality in the Offshore Reef SMZ and the surrounding area due the powerhead prohibition for the Offshore Reef SMZ will be barely measurable.

Comment 6: Two commenters stated that adequate public notice had not been provided for the proposed management measures.

Response: The Council's Snapper Grouper Assessment Group and Law Enforcement Committee met in February 1998, reviewed the proposed management measures, and forwarded comments to the Council for discussion at the March 1998 meeting. The Council held a public hearing on March 5, 1998, to obtain public comment prior to taking action. This hearing was announced in the **Federal Register** on February 17, 1998 (63 FR 7762). An article about the action was published in the April 1998 issue of the South Atlantic Update. In addition, the proposed rule for this action was published in the **Federal Register** on August 14, 1998 (63 FR 43656), and provided 30 days for public comment. Thus, NMFS disagrees with the claim that the public did not have

adequate opportunity to comment on the proposed measures.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 622

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

Dated: December 22, 1998.

Andrew A. Rosenberg,

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 § 622.35, paragraphs (e)(1)(xxx) through (e)(1)(xxxix) are added and paragraph (e)(2)(i) and the first sentence of paragraph (e)(2)(iv) are revised to read as follows:

§ 622.35 South Atlantic EEZ seasonal and/or area closures.

* * * * *

(e) * * *

(1) * * *

(xxx) *Murrel's Inlet 60 Foot Reef* is bounded on the north by 33°17.50' N. lat.; on the south by 33°16.50' N. lat.; on the east by 78°44.67' W. long.; and on the west by 78°45.98' W. long.

(xxxi) *Georgetown 95 Foot Reef* is bounded on the north by 33°11.75' N. lat.; on the south by 33°10.75' N. lat.; on the east by 78°24.10' W. long.; and on the west by 78°25.63' W. long.

(xxxii) *New Georgetown 60 Foot Reef* is bounded on the north by 33°09.25' N. lat.; on the south by 33°07.75' N. lat.; on the east by 78°49.95' W. long.; and on the west by 78°51.45' W. long.

(xxxiii) *North Inlet 45 Foot Reef* is bounded on the north by 33°21.03' N. lat.; on the south by 33°20.03' N. lat.; on the east by 79°00.31' W. long.; and on the west by 79°01.51' W. long.

(xxxiv) *CJ Davidson Reef* is bounded on the north by 33°06.48' N. lat.; on the south by 33°05.48' N. lat.; on the east by 79°00.27' W. long.; and on the west by 79°01.39' W. long.

(xxxv) *Greenville Reef* is bounded on the north by 32°57.25' N. lat.; on the south by 32°56.25' N. lat.; on the east by 78°54.25' W. long.; and on the west by 78°55.25' W. long.

(xxxvi) *Charleston 60 Foot Reef* is bounded on the north by 32°33.60' N. lat.; on the south by 32°32.60' N. lat.; on the east by 79°39.70' W. long.; and on the west by 79°40.90' W. long.

(xxxvii) *Edisto 60 Foot Reef* is bounded on the north by 32°21.75' N. lat.; on the south by 32°20.75' N. lat.; on the east by 80°04.10' W. longitude; and on the west by 80°05.70' W. long.

(xxxviii) *Edisto 40 Foot Reef* is bounded on the north by 32°25.78' N. lat.; on the south by 32°24.78' N. lat.; on the east by 80°11.24' W. long.; and on the west by 80°12.32' W. long.

(xxxix) *Beaufort 45 Foot Reef* is bounded on the north by 32°07.65' N. lat.; on the south by 32°06.65' N. lat.; on the east by 80°28.80' W. long.; and on the west by 80°29.80' W. long.

(2) * * *

(i) In the SMZs specified in paragraphs (e)(1)(i) through (e)(1)(xviii) and (e)(1)(xxii) through (e)(1)(xxxix) of this section, the use of a gillnet or a trawl is prohibited, and fishing may be conducted only with handline, rod and reel, and spearfishing gear.

(iv) In the SMZs specified in paragraphs (e)(1)(i) through (e)(1)(x), (e)(1)(xx), and (e)(1)(xxii) through (e)(1)(xxxix) of this section, a powerhead may not be used to take South Atlantic snapper-grouper. * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981222317-8317-01; I.D. 100898A]

RIN 0648-AL77

Fisheries of the Northeastern United States; Final 1999 Fishing Quotas for Atlantic Surf Clams, Ocean Quahogs, and Maine Mahogany Quahogs

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