

any South Atlantic snapper-grouper taken incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water.

The experimental closed area is slightly less than 92 square nautical miles in the EEZ offshore from Ft. Pierce to Sebastian Inlet, FL. The geographical coordinates are specified at 50 CFR 622.35(c)(2). The experimental closed area constitutes a portion of the southern part of the Oculina Bank HAPC. In the entire HAPC no person may: (1) Use a bottom longline, bottom trawl, dredge, pot, or trap; (2) if aboard a fishing vessel, anchor, use an anchor and chain, or use a grapple and chain; or (3) fish for rock shrimp or possess rock shrimp in or from the area on board a fishing vessel.

Both the proposed and final rules for Amendment 6 stated that the measures applicable to the experimental closed area "... will "sunset" after 10 years if not reauthorized by the Council." (59 FR 9721, March 1, 1994 and 59 FR 27242, May 26, 1994, respectively).

As stated above, measures applicable to the experimental closed area were intended to enhance stock stability and increase recruitment of South Atlantic snapper-grouper by providing an area where deepwater snapper-grouper species could grow and reproduce without being subjected to fishing mortality. They were based on the Council's concern that traditional fishery management measures, such as minimum size limits and quotas, might not be sufficient to protect fully the snapper-grouper resources. The Council believed the measures would provide protection for overfished species in the management unit while minimizing adverse impacts upon user groups.

Based on limited information, there appear to be some encouraging signs of positive biological impacts from the initial 9-year prohibition of fishing for snapper grouper species within the experimental closed area since it was established in 1994. A study conducted in 2001 found that, in the few areas where habitat remained intact, there were more and larger groupers than observed in a 1995 study, and male gag and scamp were also common. The observation of male gag and scamp is particularly of interest because size, age, and proportion of males of these species have declined both in the Gulf of Mexico and South Atlantic regions. Other encouraging signs include the observation of juvenile speckled hind, which is a candidate species for listing under the Endangered Species Act. However, species in the

management unit remain overfished and continued protection is required.

Proposed Actions

Amendment 13A proposes to continue the current measures applicable to the experimental closed area indefinitely. Those measures at 50 CFR 622(c)(2) read as follows:

"(2) *Experimental closed area.* Within the Oculina Bank HAPC, the experimental closed area is bounded on the north by 27°53' N. lat., on the south by 27°30' N. lat., on the east by 79°56' W. long., and on the west by 80°00' W. long. No person may fish for South Atlantic snapper-grouper in the experimental closed area, and no person may retain South Atlantic snapper-grouper in or from the area. In the experimental closed area, any South Atlantic snapper-grouper taken incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water."

The Council would review the configuration and size of the experimental closed area within 3 years of the publication date of the final rule that would implement Amendment 13A and would re-evaluate all measures applicable to the area after 10 years. The Council believes these actions provide the most biological, social, and economic benefits while allowing for adaptive management. Extending the prohibition on fishing for snapper-grouper species in the experimental closed area for an indefinite period will continue to protect snapper-grouper populations and protect *Oculina* coral and associated habitat. Such extension will also provide a hedge against the high degree of scientific uncertainty associated with the status of snapper-grouper species and reduce the possibility that these populations may fall below sustainable levels. Economically it is expected that the long-term benefits, such as "insurance" against the uncertainty of stock assessments and the non-use benefits of extending the prohibitions on snapper-grouper fishing in the closed area, outweigh the short-term benefits of opening the area to harvest. These measures are also expected to provide the most long-term positive social impacts because they allow for adaptive management which can be seen as an assurance to the public that the area will be monitored and reviewed. Should the Council find after the 3-year review on size and configuration that the boundaries of the area are not appropriate, they can be changed at that time. In addition, the 10-year re-evaluation period will assure the public that the area will not be closed and forgotten.

Availability of Amendment 13A

Additional background and rationale for the measures discussed above are contained in Amendment 13A. The availability of Amendment 13A was announced in the **Federal Register** on November 4, 2003, (68 FR 62422). Written comments on Amendment 13A must be received by January 5, 2004. All comments received on Amendment 13A or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Classification

At this time, NMFS has not determined that Amendment 13A is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendment 13A.

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

The Council prepared, and NMFS supplemented, an IRFA, based on the RIR, that describes the economic impacts that this proposed rule, if adopted, would have on small business entities. A summary of the IRFA follows:

Amendment 6 to the Snapper-Grouper Fishery Management Plan, implemented in May 1994, established a harvest prohibition for snapper-grouper species in the *Oculina* Experimental Closed Area. This prohibition is scheduled to sunset in June 2004. The proposed rule would extend the prohibition for an indefinite period of time for the purpose of providing continued protection of snapper-grouper species, thereby reducing the possibility that these populations may fall below sustainable levels. Further, by restricting the ability to harvest fish from the area, the proposed rule is also expected to provide protection to the *Oculina* coral in the area. The Magnuson-Stevens Act, as amended, provides the statutory basis for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified. The proposed rule does not impose any reporting or record keeping requirements.

There are two general classes of small entities that would be directly affected by the proposed rule, commercial fishing vessels and for-hire fishing vessels. The Small Business Administration defines a small business that engages in commercial fishing as a firm that is independently owned and