

(2) Administrative law judges in the competitive service under § 6.8(d) of this chapter must be listed on a competitive-service retention register. Administrative law judges in Schedule E must be listed on an excepted-service retention register.

(3) Because an agency may not rate the job performance of an administrative law judge under § 930.206, an agency may not assign, prepare, or use an administrative law judge performance rating for reduction in force purposes. The agency must determine the administrative law judge's performance credit in accordance with the rules in part 351 of this chapter governing employees who do not have ratings of record.

(c) Assignment rights.

(1) An agency may, in its discretion, provide assignment rights to administrative law judges in Schedule E in accordance with § 351.705 of this chapter, under written agency procedures that are uniformly and consistently applied in the reduction in force.

(2) If an agency adopts assignment rights for Schedule E administrative law judges under § 351.705 of this chapter, any assignment right must be limited to positions under the same appointing authority and must otherwise comply with part 351 of this chapter and this subpart.

(3) If an agency does not adopt assignment rights for Schedule E administrative law judges under § 351.705 of this chapter, the agency may release a Schedule E administrative law judge from the competitive level in accordance with the order of release under part 351 of this chapter without offering assignment to another position.

(4) An administrative law judge whose competitive-service status is preserved under § 6.8(d) of this chapter is subject to the competitive-service assignment right provisions in § 351.701 of this chapter while that competitive-service status remains preserved. Nothing in this section requires an agency to assign a competitive-service administrative law judge to a Schedule E position or to preserve competitive-service status in a position where such status is not preserved under § 6.8(d) of this chapter.

(d) Placement assistance.

(1) An administrative law judge in the competitive service who is reached in an agency's reduction in force and receives a notification of separation is eligible for placement assistance under the agency's reemployment priority list established and maintained in accordance with subpart B of part 330 of this chapter.

(2) A Schedule E administrative law judge who is separated, furloughed, or demoted by reduction in force does not, solely by virtue of service in a Schedule E administrative law judge position or appointment under 5 U.S.C. 3105, have a statutory entitlement to priority consideration, priority referral, or reemployment as an administrative law judge.

(3) Nothing in this section limits any restoration, reemployment, placement, or priority-consideration right that an individual may have under 5 U.S.C. 8151, part 353 of this chapter, 5 U.S.C. 3315, 5 U.S.C. 3320, the Uniformed Services Employment and Reemployment Rights Act, a final order, or another applicable statute, regulation, or binding legal authority.

(4) OPM or an agency may establish discretionary placement-assistance procedures for administrative law judges separated, furloughed, or demoted by reduction in force. Any discretionary placement-assistance procedure must be in writing and must state its coverage, duration, order of consideration, geographic scope, qualification requirements, and any conditions for termination of eligibility. A discretionary placement-assistance procedure does not create a statutory entitlement to priority consideration, priority referral, or reemployment.

■ 67. Amend § 930.211 by revising paragraph (c) introductory text and paragraph (c)(3) to read as follows:

§ 930.211 Actions against administrative law judges.

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(c) Exceptions from procedures. This section does not apply—

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(3) To reduction in force actions taken under 5 U.S.C. 3502, part 351 of this chapter, and § 930.210; or

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BN92

Coral, Coral Reefs, and Live/ Hardbottom Habitats of the South Atlantic and the Shrimp Fishery of the South Atlantic Region; Amendments 11/12

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of availability of fishery management plan amendments; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 11 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic (Coral FMP) and Amendment 12 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (Shrimp FMP; jointly Amendments 11/12) for review, approval, and implementation by NMFS. If approved, Amendments 11/12 would establish a shrimp fishery access area (SFAA) along the eastern boundary of the northern extension of the Oculina Bank Habitat Area of Particular Concern (OHAPC) where trawling for rock shrimp is currently prohibited. The purpose of Amendments 11/12 is to reinstate access to historic rock shrimp fishing grounds, achieve optimum yield (OY) in the rock shrimp fishery, while minimizing impacts to deep-water corals in the OHAPC.

DATES: Written comments on Amendments 11/12 must be received on or before November 17, 2026.

ADDRESSES: A plain language summary of Amendments 11/12 is available at <https://www.regulations.gov/docket/NOAA-NMFS-2026-1750>. You may submit comments on this document, identified by NOAA–NMFS–2026–1750, by either of the following methods:

- **Electronic Submission:** Submit comments electronically via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2026–1750 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Send written comments to Rick DeVactor, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address) confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments; enter “N/

A" in the required fields if you wish to remain anonymous.

An electronic copy of Amendments 11/12 is available from <https://www.regulations.gov> or from the Southeast Regional Office website at: <https://www.fisheries.noaa.gov/action/coral-amendment-11-shrimp-amendment-12-establish-shrimp-fishery-access-area>. Amendments 11/12 include an environmental assessment, a Regulatory Flexibility Act analysis, regulatory impact review, and fishery impact statement.

FOR FURTHER INFORMATION CONTACT:

Karla Gore, NMFS Southeast Regional Office, 727-824-5305, or Karla.Gore@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the coral and shrimp fisheries in Federal waters of the U.S. South Atlantic. The shrimp fishery in the South Atlantic region is managed under the Shrimp FMP. Coral, coral reefs, and live/hardbottom habitats of the South Atlantic region are managed under the Coral FMP. These FMPs were prepared by NMFS and the Council, and are implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act requires each regional fishery management council to submit any FMP or FMP amendment to the Secretary for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or FMP amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

Background

In 1984, NMFS published the final rule to implement the designation of a 92-square-nautical-mile (NM²) portion of the Oculina Bank as the OHAPC (49 FR 29607, July 23, 1984) to protect a unique coral reef ecosystem of *Oculina varicosa* (ivory tree coral) found off the east coast of Florida (49 FR 29607, July 23, 1984). A habitat area of particular concern (HAPC) is a subset of Essential Fish Habitat (EFH) that is prioritized for conservation and management because it is ecologically important, particularly susceptible to human-induced environmental degradation, or rare. The OHAPC meets these HAPC criteria due to its high biodiversity by supporting over 70 species of fish and hundreds of species of invertebrates as well as the presence of slow-growing coral pinnacles. As part of the OHAPC

designation there is a prohibition on the use of bottom trawls, bottom longlines, dredges, traps, and pots within the OHAPC to mitigate the risk of damage by fishing gear to *Oculina* coral. Additionally, anchoring by all fishing vessels is prohibited within the area to prevent physical impact to the coral structures.

In 2000, the size of the OHAPC was expanded through Amendment 4 to the Coral FMP (65 FR 37292, June 14, 2000). In 2014, the OHAPC boundary was extended northward through Amendment 8 to the Coral FMP (Coral Amendment 8; 80 FR 42423, July 17, 2015). The proposed SFAA in Amendments 11/12 is located within the OHAPC area that was implemented through Coral Amendment 8.

Amendment 5 to the Shrimp FMP first required the use of vessel monitoring system (VMS) by vessels allowed to fish for rock shrimp in the commercial rock shrimp limited-access permit program (68 FR 2188, January 16, 2003). In addition, Amendment 8 to the Coral FMP allowed fishermen to transit the OHAPC, with an increased VMS ping rate of 1 ping per five minutes during the transit time (80 FR 42423, July 17, 2015). Current regulations require the use of a NMFS-approved VMS for an owner or operator with a commercial vessel permit for South Atlantic rock shrimp in South Atlantic Federal waters.

During the development of Amendment 8, some participants within the rock shrimp industry noted to the Council that a narrow portion of the expanded OHAPC along the eastern boundary was a historically important rock shrimp fishing ground. Although the use of this area by the rock shrimp fleet is variable and depends on environmental conditions, industry representatives maintained that access to this narrow strip is critical for the economic viability of the fleet during periods when rock shrimp follow the Gulf Stream to the offshore side of the reef. Rock shrimp fishermen requested adjustment of the proposed OHAPC boundary expansion in Amendment 8 and provided coordinates for their important fishing grounds in the area proposed for the expansion of the OHAPC. Because this request from industry happened late in the development of Coral Amendment 8, the Council determined that it did not have sufficient time to evaluate the request, given concerns that included verification of the provided coordinates, as well as data on effort and yield of historic rock shrimp fishing in the proposed area. Therefore, it was decided not to change the proposed expansion of

the OHAPC boundary contained in Coral Amendment 8, but instead to consider the fishermen's request of a possible OHAPC boundary adjustment through a new amendment to the Coral FMP.

In June 2020, the Council recommended the development of Amendment 10 to the Coral FMP (Coral Amendment 10) to consider options to create a SFAA in the OHAPC that would allow rock shrimp access to a historical fishing area. That action aligned with the Presidential Executive Order (E.O.) on Seafood Competitiveness and Economic Growth to "reduce burdens on domestic fishing and to increase production within sustainable fisheries" for commercial fishermen who have lost access to areas that had been traditionally fished (E.O. 13921; 85 FR 28471, May 12, 2020). As discussed in Coral Amendment 10, the rock shrimp portion of the shrimp fishery has been consistently operating well below OY and maximum sustainable yield levels. The purpose of Coral Amendment 10 was to increase the economic and social benefits to rock shrimp fishermen by allowing access to historic rock shrimp fishing grounds.

The Council recommended approval of Coral Amendment 10 at its September 2021 meeting and submitted it to NMFS for Secretarial review in December 2021. On July 28, 2022, NMFS, on behalf of the Secretary of Commerce, disapproved Coral Amendment 10. Specifically, NMFS determined that Coral Amendment 10 and supporting analyses did not adequately demonstrate how the proposed action was consistent with section 303(a)(7) of the Magnuson-Stevens Act, which requires FMPs to minimize to the extent practicable, the adverse effects of fishing on EFH, and the goals and objectives of the Coral FMP, specifically in regard to protection of EFH. Additionally, NMFS determined that Coral Amendment 10 did not demonstrate consistency with section 301(a)(9) of the Magnuson-Stevens Act, which requires fishery conservation and management measures to minimize bycatch to the extent practicable and, to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. The Magnuson-Stevens Act allows a Council to submit a revised amendment that addresses any identified deficiencies.

The Council developed Amendments 11/12 to address the deficiencies identified in Coral Amendment 10. Amendments 11/12 incorporate updated scientific data and analysis as well as amending the Shrimp FMP to address the need to achieve OY in the rock shrimp fishery.

While Coral Amendment 10 originally proposed changes only to the Coral FMP, Amendments 11/12 amend the Shrimp FMP as well to properly manage the rock shrimp fishery's access to the proposed SFAA and to ensure that fishery specific objectives, such as optimizing yield and protecting the interests of traditional users in the rock shrimp fishery. Furthermore, amending both the Coral and the Shrimp FMPs ensures that the action to create an SFAA remains consistent with the objectives of the Coral FMP to optimize the benefits generated from coral resources while conserving the coral and minimizing adverse human impacts on sensitive habitat.

The Council's Deep-water Shrimp Advisory Panel (AP) supported the creation of an SFAA noting that shrimpers are experienced professionals who use high-resolution navigation and VMS to avoid sensitive habitat. The Deep-water Shrimp AP also noted that the area of the proposed SFAA has a history of trawling for rock shrimp and that the industry relies on a healthy reef ecosystem to support the shrimp population. However, the Coral AP and the Habitat and Ecosystem AP both expressed concern with the proposed SFAA and noted the risk of indirect damage of rock shrimp trawling within the OHAPC from sedimentation plumes, stating that fine particles stirred up by trawling can travel considerable distances and potentially smother coral polyps or larvae.

During the development of Amendments 11/12, these conflicting AP viewpoints on Amendment 10 were considered by the Council because the coordinates for the SFAA proposed by Amendment 10 and Amendments 11/12 are identical. The Council ultimately recommended the implementation of the SFAA, which is supported by new survey data and ongoing VMS monitoring, finding that it provides the best balance between historical rock shrimp fishing access and habitat protection. The boundary of the proposed SFAA also includes a buffer between it and known *Oculina* coral pinnacles to aid in decreasing potential sedimentation impacts from bottom trawling. Amendments 11/12 address the deficiencies of Coral Amendment 10 through inclusion of recent scientific surveys in the OHAPC and analysis on EFH, bycatch and habitat impacts as well as how the proposed action meet the objectives of the FMPs. Two new surveys are incorporated into the record in Amendments 11/12. In 2022, a NMFS Southeast Fisheries Science Center visual survey using a towed camera system covered approximately 35

kilometers over an area that included the proposed SFAA and found no evidence of live, dead, or rubble *Oculina* coral within the proposed SFAA. Additionally, in April 2025, the NOAA Ship Nancy Foster completed a high-resolution acoustic mapping expedition that included the area of the proposed SFAA. This mapping data confirms that the proposed SFAA consists of low-relief sandy and muddy bottoms, lacking the high-relief mounds required to support *Oculina* colonies.

As part of Amendments 11/12, a bycatch practicability analysis (BPA) was developed to identify bycatch and habitat impacts that were not described in Coral Amendment 10. The BPA reviews rock shrimp fishery observer data from 2018 through 2022 and documents that bycatch in the rock shrimp fishery is primarily composed of non-managed invertebrates. The occurrence of South Atlantic snapper-grouper species managed by the Council and NMFS is negligible in any bycatch from the rock shrimp fishery. The BPA also addresses the risk of sedimentation on deep-water coral pinnacles. Based on the location of the proposed SFAA which is approximately 360 to 1,580 meters away from known coral pinnacles and the oceanographic currents in the area, this buffer is expected to minimize the risk of sedimentation plumes impacts to habitat to the extent practicable. The BPA also concludes the use of specialized gear (Turtle Excluder Devices and Bycatch Reduction Devices), which combined with the sandy and muddy-bottom location of the SFAA, effectively minimizes bycatch mortality.

Action Contained in Amendments 11/12

Amendments 11/12 would establish an approximately 14.10 NM² SFAA along the eastern boundary of the northern extension of the OHAPC, in an area where fishing for rock shrimp is currently prohibited. Within the proposed SFAA, a shrimp vessel with a valid Federal limited access commercial vessel permit for rock shrimp would be allowed to bottom trawl for rock shrimp. All other existing restrictions in the OHAPC, including the prohibitions on anchoring and the use of bottom longline, dredge, pot, or trap gear, would continue to apply in the proposed SFAA (50 CFR 622.224(b)(1)(i)). Current regulations which require the use of a NMFS-approved VMS on a vessel for an owner or operator with a limited access endorsement for South Atlantic rock shrimp or a commercial vessel permit for rock shrimp in the South Atlantic

Federal waters would remain unchanged in the OHAPC and the proposed SFAA. Vessels are required to maintain a VMS transmission rate of 1 position per 5 minutes when transiting through both area or fishing in the SFAA (50 CFR 622.205 and 50 CFR 622.224(b)(1)(i)(C)). The current transmission rate is considered effective in monitoring fishing activity within and near the OHAPC. Amendments 11/12 would also not change the current transit provisions for rock shrimp vessels within the OHAPC. Under these provisions, transit means a direct and non-stop continuous course through the area, maintaining a minimum speed of 5 knots as determined by an operating VMS and a VMS minimum ping rate of one ping per 5 minutes; fishing gear appropriately stowed means that doors and nets are out of the water (50 CFR 622.224(b)(1)(i)(C)).

Proposed Rule for Amendments 11/12

A proposed rule to implement Amendments 11/12 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council submitted Amendments 11/12 for review, approval, and implementation by the Secretary. Comments on Amendments 11/12 must be received no later than November 17, 2026. Comments received during the respective comment periods, whether specifically directed to Amendments 11/12 or the proposed rule, will be considered by NMFS in the decision to approve, partially approve, or disapprove, Amendments 11/12. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on Amendments 11/12 or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: September 15, 2026.

Shannon Bettridge,

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

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