

Dated: March 23, 1997.

Don Barry,

Deputy Assistant Secretary, Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 041897B]

RIN 0648-AH52

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 9

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before June 30, 1997.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 9, which includes a regulatory impact review, an initial regulatory flexibility analysis, a social impact analysis, and a supplemental final environmental impact statement, and of a minority report submitted by three Council members, should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite

1000, Tampa, FL 33619-2266; Phone: 813-228-2815; Fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each Regional Fishery Management Council to submit any fishery management plan or amendment to the Secretary of Commerce for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Amendment 9 would: (1) Require, with limited exceptions, the use of certified bycatch reduction devices (BRDs) in shrimp trawls in the exclusive economic zone of the Gulf of Mexico shoreward of the 100-fathom (183-m) depth contour west of 85°30' W. long.; (2) set the red snapper bycatch mortality reduction criterion for NMFS' certification of BRDs at 44 percent; and (3) establish an FMP framework rulemaking procedure for modifying the bycatch reduction criterion, establishing and modifying the BRD testing protocol, and certifying BRDs and their specifications.

The Council's stated purpose for Amendment 9 is to reduce the unwanted bycatch of juvenile red snapper in the Gulf of Mexico shrimp trawl fishery and, to the extent practicable, not adversely affect this fishery. Amendment 9 indicates that its major goal is to achieve a 50 percent reduction in juvenile red snapper bycatch mortality in shrimp trawls compared to a defined baseline period. The red snapper stock in the Gulf of Mexico is considered overfished and is under a long-term rebuilding program established by the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. A significant reduction in the shrimp fishery bycatch mortality of red snapper is considered necessary to ensure recovery of the red snapper

resource consistent with its established stock rebuilding schedule.

Three Council members submitted a minority report opposing Amendment 9. The minority report reads, in part, as follows:

We believe that the Council's action to approve Amendment 9 did not consider the best available data, and the Council made serious procedural and legal errors in proceeding with the approval of Amendment 9. We also contend that Amendment 9 is not needed for the recovery of the red snapper stocks, the shrimp industry is being unfairly required to bear a regulatory burden, and the economic impacts of requiring bycatch reduction devices in shrimp trawls will be severe to both the industry and the United States.

The contentions of the three Council members are detailed in the minority report, which is available from the Council (see **ADDRESSES**).

A proposed rule to implement Amendment 9 has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with Amendment 9, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish it in the **Federal Register** for public review and comment.

Comments received by June 30, 1997, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 9. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 9 or on the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: April 23, 1997.

Gary C. Matlock,

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

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