

relevant information, review, type, and sign. This information is compiled in the normal agency planning processes and transferred to these forms. Recipients nationwide complete approximately 3,500 Grant Agreement forms and 1,750 Amendment to Grant Agreement forms during any fiscal year for a total burden of 5,250 hours. This information is used to document financial awards made to grant recipients and amendments to these awards.

(e) The public is invited to submit comments on the accuracy of the estimated average burden hours needed for completing Part I—Certification, Part II—Summary of Hunting and Sport Fishing License Issued, Grant Agreement, and Amendment to Grant Agreement forms and to suggest ways in which the burden may be reduced. Comments may be submitted to: U.S. Fish and Wildlife Service, Information Collection Clearance Officer, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203.

Dated: May 11, 2000.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 000511132-0132-01; I.D. 042400]

RIN 0648-AM04

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement provisions of a regulatory amendment prepared by the Gulf of Mexico Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). These proposed regulations would modify the recreational and commercial red

snapper fishing seasons; allocate two-thirds of the commercial red snapper quota for the spring fishing season, with the remainder available for the fall fishing season; increase the recreational minimum size limit for red snapper; and reinstate a 4-fish recreational red snapper bag limit for captain and crew of for-hire vessels (charter vessels and headboats). The intended effect of these proposed regulations is to maximize the economic benefits from the red snapper resource within the constraints of the stock rebuilding program for this overfished resource.

DATES: Comments must be received no later than 4:30 p.m., eastern standard time, on July 10, 2000.

ADDRESSES: Written comments on the proposed rule must be sent to Dr. Roy E. Crabtree, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments may also be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet.

Requests for copies of the regulatory amendment, which includes an environmental assessment, a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA) 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; E-mail: gulf.council@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Roy E. Crabtree, telephone: 727-570-5305, fax: 727-570-5583, e-mail: Roy.Crabtree@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under the regulatory amendment, the Council has proposed adjusted management measures for the Gulf red snapper commercial and recreational fisheries. Under provisions of the FMP, these measures, if approved and implemented, would continue in effect until changed through a subsequent rulemaking action. The Council has submitted the regulatory amendment to NMFS for review, approval, and implementation. The measures in this regulatory amendment were developed and submitted to NMFS under the terms of the FMP's framework procedure for annual adjustments in management

measures for the red snapper fishery. The proposed regulations would implement the measures contained in the Council's regulatory amendment.

Background

The measures contained in the proposed rule, except for the change in the start date of the fall commercial season and the minor change in the allocation of the commercial quota, were implemented by interim rule (64 FR 71056, December 20, 1999). This proposed rule would implement these measures on a permanent basis.

The measures contained in this proposed rule are needed to reduce overfishing, while allowing the total allowable catch (TAC) of red snapper to be harvested by fair, equitable, and effective means. These changes would reduce overfishing by: (1) increasing the likelihood of compatible closures of state waters during Federal closures, thereby improving enforcement of closures of the EEZ recreational red snapper fishery and reducing the harvest from state waters during Federal closures; (2) improving compliance with Federal regulations by opening the recreational fishery during the time of greatest demand and reducing confusion among anglers by promoting compatible state and Federal regulations; and (3) reducing the rate of harvest in the commercial fishery, thus reducing the probability of the commercial fishery exceeding its quota.

These red snapper measures are based, in part, on the recommendations to the Council from a stakeholder conference held in New Orleans, LA, on September 27, 1999. Stakeholders' recommendations for the recreational red snapper fishery included a 4-fish bag limit for the captain and crew of for-hire vessels, a minimum size limit not to exceed 16 inches (40.6 cm), and a March 1 to October 31 recreational season. The interim rule was necessary to implement these changes before the 2000 fishing seasons began.

Section 407(d) of the Magnuson-Stevens Act requires NMFS to close the Gulf of Mexico recreational red snapper fishery after the recreational quota (currently 4.47 million lb (2.03 million kg)) is caught. The recreational fishery was closed on November 27 in 1997, on September 29 in 1998, and on August 29 in 1999. Under the regulations in place prior to promulgation of the interim rule, i.e., a 4-fish bag limit and a 15-inch (38.1-cm), minimum size limit, NMFS projected that with a January 1 opening date for the recreational fishery, the 2000 quota (4.7 million lb (2.03 million kg)) would be reached on July 29, 2000;

consequently, the fishery would be closed at 12:01 am on July 30, 2000.

The recreational fishery has exceeded its quota each year since 1997, when NMFS first closed it as required by section 407(d) of the Magnuson-Stevens Act. The proposed rule is intended to address this problem and to reduce overfishing. Compatible state closures are essential for Federal closures to be effective. If the Gulf states do not implement compatible recreational seasons, the harvest of red snapper in state waters will continue after the Federal closure. Furthermore, the lack of compatible regulations impedes enforcement of Federal regulations, results in reduced compliance, and increases overfishing. During 1999, the recreational red snapper fishery in most Gulf states' waters remained open for at least 3 months after the Federal closure. Under the regulations in effect prior to promulgation of the interim rule, the recreational fishery in the EEZ would have opened on January 1, 2000, and closed on July 30, 2000. NMFS expects that the Gulf states would have opened their fisheries on January 1 if Federal waters had opened, but the states would probably not have closed state waters until at least October 31, as occurred during 1999. By opening the recreational fishery during the time of greatest demand, the interim rule has achieved compatible seasons with four of the five Gulf states. The recreational fishery in Texas is expected to remain open all year. Thus, fishing that would have occurred after closure of the Federal season under the regulations in effect prior to the interim rule has been reduced.

Recreational Season

The stakeholders at the September 27, 1999, conference recommended a red snapper recreational season from March 1 to October 31. The Council attempted, to the extent possible, to implement the stakeholders' recommendations; however, based on the best available scientific information, the harvest from a March 1 to October 31 season would exceed the current recreational quota. Therefore, the Council recommended a shorter season as close to the stakeholders' recommendation as possible. The stakeholders' recommendations and the preponderance of public testimony presented to the Council indicate that a season from April 21 to October 31 offers the greatest benefits to Gulf anglers and, based upon the best available scientific information, is compatible with the recreational quota. A group of south Texas anglers, who participated in the stakeholders

conference, submitted a minority report requesting a year-round fishery with a 4-fish bag limit and a 13-inch (33.0-cm) minimum size limit. However, the harvest from a year-round fishery, if implemented, would greatly exceed the quota and jeopardize the recovery of the stock.

The Council recommended an April 15-to-October 31 season but authorized the Regional Administrator to adjust the season as needed to allow reinstatement of the 4-fish bag limit for the captain and crew of for-hire vessels. To compensate for the increase in catch rates resulting from reinstatement of this measure, NMFS delayed the season opening by 6 days until April 21.

The stakeholders discussed the request from some south Texas anglers for a winter fishery, but neither the stakeholders nor the south Texas minority report recommended a winter fishery. At its November 1999 meeting, the Council considered adding a January-February opening with a reduced bag limit to allow a winter fishery. The Council concluded that it was impossible to do so without substantially shortening the prime April-to-October season and, thus, increasing the likelihood that illegal fishing during the closed season would occur, resulting in a harvest that exceeds the recreational quota. Furthermore, it is unlikely that all of the Gulf states would enact the compatible closures required to accommodate a winter fishery; consequently, the EEZ would be closed without compatible state closures resulting in overfishing and impeded enforcement.

The proposed rule would provide Texas anglers, as well as anglers in other states, the opportunity to fish during the months of greatest historical demand. During 1996, the last year that the red snapper fishery was open all year, Texas monthly landings during May-October exceeded those of any other months. Analyses based on recent years (1995-1998) show that during January-March, monthly landings in Texas average 96,000 lb (43,545 kg), substantially less than during August-October when monthly landings average 137,000 lb (62,142 kg). Further, the proposed rule would provide economic benefits to the Texas for-hire fishing industry by allowing the industry to operate during the months of greatest demand. Texas headboat trips during January-March average 5,000 trips per month, as opposed to 8,000 trips per month during August-October. Texas charter boat trips show a similar trend, with an average of 1,200 trips per month during January-March and 2,000 trips per month during August-October.

Recreational Size Limit

The increase in the recreational minimum size limit from 15 inches (38.1 cm) to 16 inches (40.6 cm) is an essential component of the modified recreational fishing season. The increase would reduce the harvest rate and, in combination with the bag limit and closed seasons, would help ensure that the recreational quota is not exceeded, thereby reducing overfishing. NMFS' projections indicate that the reduction in catch rates from the increased size limit would allow the season to be extended by approximately three weeks without a significant increase in harvest. The best available scientific information indicates that increasing the minimum size limit constrains harvest rates by increasing the proportion of anglers who are unable to catch their bag limit. The NMFS Southeast Fisheries Science Center (Center) has determined that the measures contained in this proposed rule, including any additional release mortality associated with the increase in the minimum size limit, would not jeopardize the long-term recovery of the stock. The extension of the fishing season would provide social and economic benefits to the recreational fishery and the Gulf tourism industry. The stakeholders recommended 16 inches (40.6 cm) as the largest minimum size acceptable to the recreational fishery.

The Council did not propose a corresponding increase in the existing commercial size limit of 15 inches (38.1 cm). The Council justified the discrepancy between the two size limits based on the different release mortality rates in the two fisheries and on the need to extend the recreational season by increasing the minimum size limit. Commercial fishers fish in deeper water than recreational fishers and use electric reels, which bring fish to the surface more quickly than does rod-and-reel gear used by recreational fishers; consequently, the mortality rate of fish released in the commercial fishery (33 percent) is greater than that in the recreational fishery (20 percent). The best available scientific information suggests that further increases in the minimum size limit above 15 inches (38.1 cm) provided few conservation benefits at release mortality rates of 33 percent or greater.

Recreational Bag Limit

Reinstating the 4-fish bag limit for captain and crew of for-hire vessels would relieve a restriction on that sector of the fishery. The final rule for the Council's 1999 red snapper regulatory amendment (64 FR 47711, September 1,

1999) implemented the current 0-fish bag limit for captain and crew. The for-hire industry has vigorously opposed this measure. NMFS approved the 0-fish bag limit for captain-and-crew for the 1999 season because it extended the recreational season without a corresponding increase in harvest. Subsequent public comment and the recommendations of the stakeholders indicate that fishery participants are willing to sacrifice fishing days to reinstate the bag limit for captain and crew. Thus, the Council's regulatory amendment proposes to reinstate the 4-fish bag limit for the for-hire sector and delay the starting date of the recreational season to April 15 or to a date determined by the NMFS Regional Administrator (RA) that would accommodate the reinstatement of the 4-fish bag limit and prevent a corresponding increase in harvest. The RA has determined that this season starting date should be April 21 for 2000, as was implemented by the interim rule.

NMFS expected that none of the Gulf states would have enacted a compatible 0-fish bag limit measure (for 2000 and beyond), and, thus, enforcement of this measure would have been difficult. By restoring the captain-and-crew bag limit, the projected fishery closure date would be based on an assumed catch rate reduction that would, in fact, be realized because of compatible state regulations. In addition, the measure should reduce overfishing by encouraging cooperation and voluntary compliance by the for-hire sector, which accounts for the greatest portion of the recreational harvest.

Spring Commercial Season

Reducing the openings of the spring commercial fishery from 15 days per month to 10 days per month would slow the overall harvest rate, allow additional time between 10-day fishing periods to evaluate landings and, thus, reduce the probability of exceeding the commercial quota and overfishing. This measure also would reduce confusion among fishers by providing consistent spring and fall fishing periods and, thus, increase compliance. Projections by the Council's Socioeconomic Panel and the experience of the 10-day openings (9 fishing days) during the 1999 fall season suggest that the reduced harvest rate also would help maintain price stability. This action should allow commercial red snapper fishermen to generate more revenue with the same amount of catch, which should help reduce the incentive to pursue a derby fishery that would likely result in a quota overrun.

Fall Commercial Season

Changing the opening of the fall season from September 1 to October 1 is proposed to increase economic benefits to the fishery. Seafood dealers have stated that there is low demand for seafood in September but that demand and prices improve in October. Delaying the start of the fall commercial season until October is intended to allow fishermen to get better prices for their catches and make fresh red snapper available at a time when the consumer demand is greater. This measure is not expected to have any biological consequences.

Allocation of the Commercial Quota

The proposed rule would implement a minor change in the allocation of the commercial quota (4.65 million lb (2.11 million kg)) between the spring and fall seasons. Currently the spring allocation is a fixed amount, 3.06 million lb (1.39 million kg), with the remainder available for the fall fishing season. The proposed rule would specify that the spring sub-quota be set as a proportion (two-thirds) of the annual commercial quota rather than as a fixed quantity. This would allow any future changes in the commercial quota to be distributed proportionally between the spring and fall seasons, rather than the entire adjustment being applied only to the fall season. Based on the current annual commercial quota, the two-thirds proportion for the spring sub-quota would be 3.10 million lb (1.41 million kg), thus leaving 1.55 million lb (0.705 million kg) for the fall sub-quota.

The Center has determined that this proposed rule is based on the best available scientific information. The Center emphasized that to be considered consistent with the FMP's current management objective of achieving a 20-percent spawning potential ratio (SPR) by 2019, the Council's selection of a 9.12 million-lb (4.14 million-kg) TAC carries the implicit belief that red snapper bycatch reduction of at least 50 percent will be achieved in year 2000 and beyond, that harvests will not exceed quotas, and that future recruitment, on average, will increase as spawning stock biomass increases. In its certification of the interim rule, which implemented most of the measures contained in this proposed rule, the Center concluded that these measures would not jeopardize the long-term recovery of the red snapper stock and that the measures address overfishing and are consistent with the FMP and the Magnuson-Stevens Act. The Center also emphasized the uncertainty associated with projections of catch rates in the

recreational fishery and certified that the recreational quota is within the margin of error of the harvest projected under the measures contained in this proposed rule.

Classification

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

The Council prepared an IRFA, based on the RIR. A summary of the IRFA follows:

This proposed rule is being considered because the red snapper stock is overfished, and the Magnuson-Stevens Act requires the Council to take action to resolve the overfished status of the stock. The Council determined that 450 to 650 commercial vessels with a history of red snapper landings from the EEZ waters of the Gulf of Mexico would be directly affected by the rule. The Council also determined that about 1,200 charterboats and headboats would be affected by the rule, and all of these units are classified as small business entities. Most of the commercial vessels use handline gear, have an average length of 38 ft (11.6 m), have an estimated resale value of \$52,817 and generate average annual gross revenues of about \$52,000. The charterboat businesses tend to use traditional charter fishing boats that average 37 ft (11.3 m.) in length and generate about \$56,000 in sales, while the headboats have an average length of 62 feet (18.9 m.) and have annual receipts of about \$140,000. No additional reporting, record keeping or other compliance costs were identified, and no duplicative, overlapping, or conflicting Federal rules were identified.

Four alternatives, including the minimum size limit of 15 inches (38.1 cm) total length in effect prior to change by the interim rule, are identified for the proposal to increase the recreational red snapper minimum size limit from 15 inches (38.1 cm) to 16 inches (40.6 cm). The 15-inch (38.1 cm) size limit and a lower size limit of 14 inches (35.6 cm) were rejected as minimum size limits because both alternatives would increase the rate of harvest and lead to a shorter season, thereby reducing the recreational value. The 15-inch size limit leads to a shorter season because the stocks are recovering, and catch per unit effort is rising. A minimum size limit from 16 inches (40.6 cm) to 18 inches (45.7 cm) was rejected because larger fish suffer from a higher release mortality because they tend to be harvested from greater depths. If this is so, then the larger minimum size limits would reduce the potential for stock recovery and reduce long-term benefits.

A final alternative of no size limit with a requirement to retain the first four fish (current bag limit) was considered. With good compliance, this alternative could assist stock recovery and lengthen the season, thus generating larger short-term as well as long-term economic benefits. However, the Council concluded that it was not enforceable and would lead to high-grading and a reduction in benefits.

The Council proposed a bag limit allowance of 4 fish for the captain and crew of for-hire vessels and considered one other alternative—the zero bag limits for captain and crew in effect prior to change by interim rule. The RIR found that the captain and crew bag limit of 4 fish may lead to a reduction in net economic benefits to the recreational fishery because the season would be shortened. However, the Council chose the alternative because it believed that not enough additional income would be generated to justify the loss of harvest privileges for captain and crew.

The Council considered five alternatives to the proposal to set the recreational red snapper season from April 15 through October 31 including the January 1 opening in effect prior to change by the interim rule. Under the regulations in effect prior to implementation of the interim rule, the recreational season starts on January 1 and closes when the quota is met. The January 1 opening has resulted in short seasons that eliminate some of the more profitable for-hire fishing trips that occur later in the year. Hence, the Council investigated suitable alternatives and chose the April 15-through-October 31 season alternative. The current regulations still require a closure whenever the recreational quota is determined (projected) to be met, and the RIR indicates that trips occurring later in the season are more valuable than trips occurring earlier in the year. For this reason, the Council also proposed giving the Regional Administrator, Southeast Region, NMFS, the authority to delay the opening date to accommodate overruns that were projected to be associated with the proposed captain and crew bag limit (4-fish bag limit). The Council's intent was to maintain the October 31 closing date while keeping the recreational sector within its quota. Another alternative rejected by the Council was to open the recreational season for January and February, close it for late winter, reopen at an unspecified date in the spring or summer, and then close it for the year whenever the quota was met. The idea was an attempt to maximize for-hire

profits because the peak vacation seasons vary in different areas of the Gulf of Mexico. Since there was not enough information available to evaluate the economic consequences of this alternative and there was also no spring/summer opening date specified, the economic outcome of the alternative could not be evaluated. A final recreational season alternative rejected by the Council would split the Gulf of Mexico into subregions, with the possibility of different seasons, suballocations, size limits, and bag limits for each subregion. Since there were no specific regulatory proposals identified, it was not possible to forecast economic outcomes.

For the commercial sector, the regulations in effect prior to change by the interim rule allow the available quota to be split into spring and fall seasons to take advantage of periods when demand is highest and producer surplus can be generally increased. However, the Council has the ability to set specific regulations for each of the seasons. For the spring season, the Council proposed starting the season on February 1 and having mini-seasons of 10 days each month until the spring quota is reached. The Council rejected the alternative in effect prior to change by interim rule of 15 day mini-seasons in the spring because an economic analysis conducted by NMFS, and included in the RIR, indicated an increase of net benefits from the shorter, 10-day, mini-seasons. The Council elected to maintain the fall mini-seasons that were already established at 10 days per month. The Council proposes to begin the fall season on October 1 instead of the status quo of September 1 because some seafood dealers indicated that demand is higher in October.

A copy of the IRFA is available from the Council (see ADDRESSES).

List of Subjects in 50 CFR Part 622

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

Dated: June 2, 2000.

Bruce C. Morehead,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be 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 § 622.34, paragraph (n) is removed; the suspension of paragraph (l) is lifted; and paragraphs (l) and (m) are revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(l) *Closures of the commercial fishery for red snapper.* The commercial fishery for red snapper in or from the Gulf EEZ is closed from January 1 to noon on February 1 and thereafter from noon on the 10th of each month to noon on the first of each succeeding month until the quota specified in § 622.42(a)(1)(i)(A) is reached or until noon on October 1, whichever occurs first. From October 1 to December 1, the commercial fishery for red snapper in or from the Gulf EEZ is closed from noon on the 10th of each month to noon on the first of each succeeding month until the quota specified in § 622.42(a)(1)(i)(B) is reached or until the end of the fishing year, whichever occurs first. All times are local times. During these closed periods, the possession of red snapper in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested, is limited to the bag and possession limits, as specified in § 622.39(b)(1)(iii) and (b)(2), respectively, and such red snapper are subject to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1). However, when the recreational quota for red snapper has been reached and the bag and possession limit has been reduced to zero, the limit for such possession during a closed period is zero.

(m) *Closures of the recreational fishery for red snapper.* The recreational fishery for red snapper in or from the Gulf EEZ is closed from January 1 through April 20 and from November 1 through December 31. During a closure, the bag and possession limit for red snapper in or from the Gulf EEZ is zero.

3. In § 622.37, paragraph (d)(1)(vi) is removed; the suspension of paragraph (d)(1)(iv) is lifted; and paragraph (d)(1)(iv) is revised to read as follows:

§ 622.37 Size limits.

* * * * *

(d) * * *

(1) * * *

(iv) Red snapper—16 inches (40.6 cm), TL, for a fish taken by a person subject to the bag limit specified in § 622.39(b)(1)(iii) and 15 inches (38.1

cm), TL, for a fish taken by a person not subject to the bag limit.

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4. In § 622.39, paragraphs (b)(1)(viii) and (b)(1)(ix) are removed; the suspensions of paragraphs (b)(1)(iii) and (b)(1)(v) are lifted; and paragraph (b)(1)(iii) is revised to read as follows:

§ 622.39 Bag and possession limits.

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- (b) * * *
- (1) * * *

(iii) Red snapper—4.

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5. In § 622.42, paragraphs (a)(1)(i)(A) and (a)(1)(i)(B) are revised to read as follows:

§ 622.42 Quotas.

* * * * *

- (a) * * *
- (1) * * *
- (i) * * *

(A) Two-thirds of the quota specified in § 622.42(a)(1)(i), 3.10 million lb (1.41

million kg), available at noon on February 1 each year, subject to the closure provisions of §§ 622.34(l) and 622.43(a)(1)(i).

(B) The remainder available at noon on October 1 each year, subject to the closure provisions of §§ 622.34(l) and 622.43(a)(1)(i).

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