

species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, that are being made to protect such species.

After reviewing the best available scientific and commercial information for these three gadids, NMFS concludes that none of the petitioned populations in Puget Sound by themselves constitute "species" under the ESA. The agency determines that these populations represent the southernmost stocks of larger DPSs that qualify as species under the ESA: (1) a Georgia Basin Pacific hake DPS; (2) a Pacific cod DPS that includes stocks at least as far north as Dixon Entrance; and (3) a Lower Boreal Eastern Pacific walleye pollock DPS. After assessing the risk of extinction faced by each DPS, NMFS further determines that none of the DPSs warrant listing as threatened or endangered at this time. NMFS acknowledges that the DPS and risk assessments relied heavily upon the professional judgement of agency scientists since robust data sets were generally not available for any of the species. In particular, the agency believes that remaining uncertainties regarding the status and relationship of hake stocks in the Georgia Basin DPS warrant placing this DPS on the agency's list of candidate species. In the event that new information becomes available to resolve these uncertainties and as agency resources permit, NMFS will conduct a thorough re-evaluation of this DPS.

#### References

A list of references is available upon request (see **ADDRESSES**).

**Authority:** 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

Dated: November 17, 2000.

#### William T. Hogarth

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 110900C]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper; Overfished Fishery

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

**ACTION:** Determination of overfished fishery.

**SUMMARY:** NMFS has determined that the Gulf of Mexico red grouper fishery is overfished and has notified the Gulf of Mexico Fishery Management Council (Council) of related responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective November 24, 2000.

**FOR FURTHER INFORMATION CONTACT:** Phil Steele, telephone 727-570-5305, fax 727-570-5583, e-mail Phil.Steele@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico reef fish fishery is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and approved and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The FMP is implemented by regulations at 50 CFR part 622.

#### Determination of Overfished Fishery

NMFS' determination of the status of a stock relative to overfishing and an overfished condition is based on both the removal of fish from the stock through fishing (the exploitation rate) and the current stock size. When the exploitation rate jeopardizes the capacity of a stock to produce its maximum sustainable yield (MSY) on a continuing basis, overfishing is occurring. The exploitation rate (i.e., rate of removal of fish from a population by fishing) is usually expressed in terms of an instantaneous fishing mortality rate (F).

Another important factor for classifying the status of a resource is the current stock level. If a stock's biomass falls below its minimum stock size threshold, the capacity of the stock to produce MSY on a continuing basis is jeopardized and the stock is said to be in an overfished condition.

Commercial red grouper landings in the Gulf of Mexico are down approximately 55 percent from the high that the U.S. fishery reached in 1982. Recreational landings in 1997 were the lowest since 1981. At one of its meetings in 1999, the Council's Reef Fish Stock Assessment Panel (RFSAP) reviewed the 1999 scientific assessment of the red grouper stock conducted by the NMFS Southeast Fisheries Science Center (SEFSC). The RFSAP concurred with the assessment's findings that the stock is overfished and is undergoing overfishing. Subsequent SEFSC analyses of the stock confirm that it is overfished and undergoing overfishing as discussed below.

The stock assessment conducted by the RFSAP used two different scientific models (a surplus-production model and the Age Structured Assessment Program (ASAP)) to evaluate the current condition of the red grouper stock. Both models indicated that the red grouper stock is overfished and that overfishing is occurring. The surplus production model results showed that in 1997 the red grouper biomass was approximately 20 percent of the biomass expected at MSY, and that F in 1997 was approximately two times that needed to produce MSY. Absolute estimates of MSY were approximately 11 to 12 million lb (5.0 to 5.5 million kg). The ASAP model showed that the best estimate for MSY was 8.4 million lb (3.8 million kg), which is achieved at an F of 0.27 per year. The spawning stock biomass at MSY was estimated to be 563 million lb (255 million kg). The estimated F and spawning stock biomass in 1997 was 0.88 per year and 144 million lb (65 million kg), respectively. Thus, the 1997 estimated stock biomass was 26 percent of its estimated biomass at MSY.

Both models showed an increase in F in recent years. With decreased catch, this implies a reduced abundance of red grouper. Estimated F has doubled since the late 1970's and has increased from an average of 0.3 in 1986 to 0.5 in 1997. Estimates of spawning stock biomass and recruitment have declined since at least 1985. In all model simulations, the red grouper stock is overfished, and overfishing is still occurring.

At the RFSAP's August 2000 meeting, four additional sensitivity analyses of red grouper stock status were requested. The results of these analyses, conducted by the SEFSC, again confirmed the overfished status of the Gulf of Mexico red grouper stock.

Section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act requires that within 1 year of being notified of the

identification of a stock as being overfished, the affected Regional Fishery Management Council must develop measures to end overfishing and rebuild the stock. On October 13, 2000, the Acting Regional Administrator, NMFS Southeast Region, notified the Council of the overfished status of the Gulf of Mexico red grouper and requested that the Council take appropriate action. The letter to the Council reads as follows:

October 13, 2000

Ms. Kay Williams, Chairperson  
Gulf of Mexico Fishery Management  
Council

3018 U.S. Highway 301, Suite 1000  
Tampa, Florida 33619

Dear Kay,

This is to inform the Council that, based upon the best available scientific information, the National Marine Fisheries Service (NMFS) has determined that the Gulf of Mexico red grouper stock is overfished and undergoing overfishing. This determination is based on the 1999 red grouper stock assessment and subsequent analyses by the Southeast Fisheries Science Center completed at the request of the Reef Fish Stock Assessment Panel (enclosed). These most recent analyses indicate that the stock is overfished and undergoing overfishing. I do not anticipate that any additional re-analysis of these data will alter this determination. Furthermore, the recent peer review of the 1999 red grouper assessment by the Center for Independent Experts concluded that the assessment contained sufficient information upon which to base management decisions. The conclusions of this peer review have already been provided to the Council and the Reef Fish Stock Assessment Panel (RFSAP).

The reference points for overfishing and overfished currently in the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico are based only on fishing mortality rates expressed as spawning potential ratios (overfishing: 30% static SPR; overfished: 20% transitional SPR). These reference points are not fully compliant with the national standard guidelines because they do not include a component based on stock size and, thus, are not an adequate basis for determination of stock status. The national guidelines require specification of a minimum stock size threshold (MSST) and a maximum fishing mortality threshold (MFMT). Each of the assessment scenarios provided to the Council includes estimates of these status determination criteria as well as an estimate of MSY.

The Magnuson-Stevens Fishery Conservation and Management Act requires that the Council propose management measures to initiate rebuilding of the stock within one year of the determination that the stock is overfished. The 1999 stock assessment as well as the enclosed analyses provide the Council and the RFSAP with a range of assessment scenarios, including those recommended by industry consultants. The RFSAP will meet again in December to provide the Council with further guidance regarding the extent of reduction in fishing

mortality required to end overfishing and rebuild the stock. The extent of the required reduction is dependent on the assessment scenario selected and the duration of the rebuilding period. As the Council addresses overfishing and rebuilding of the red grouper stock, the Council must develop a plan to rebuild the stock to the biomass at MSY and must select specific estimates of MSY, OY, MFMT, and MSST as part of this plan. The information necessary to complete this task is included in the 1999 assessment and the enclosed material requested by the RFSAP.

I look forward to working with the Council to develop a plan for rebuilding the red grouper stock.

Sincerely Yours,

Joseph E. Powers, Ph.D.  
Acting Regional Administrator

Dated: November 16, 2000.

**William T. Hogarth,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 991228355-0140-02; I.D.  
110700C]

#### Fisheries of the Northeastern United States; Maine Mahogany Quahog Fishery; Commercial Quota Harvested

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

**ACTION:** Commercial quota harvest; closure.

**SUMMARY:** NMFS announces that the Maine mahogany quahog commercial quota has been harvested. Vessels issued a commercial Federal fisheries permit for the Maine mahogany quahog fishery may not land Maine mahogany quahogs in the State of Maine for the remainder of calendar year 2000, unless fishing for an individual allocation of ocean quahogs under specific regulations. Regulations governing the Maine mahogany quahog fishery require publication of this notification to advise the public that the quota has been harvested and to notify vessel and dealer permit holders that no commercial quota is available for landing Maine mahogany quahogs.

**DATES:** Effective from 0001 hours, November 25, 2000, through 2400 hours, December 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Allison Ferreira, Fishery Management Specialist, (978)281-9103.

#### SUPPLEMENTARY INFORMATION:

Regulations governing the Maine mahogany fishery are found at 50 CFR part 648. The annual quota of Maine Mahogany quahogs is 100,000 Maine bushels (35,150 hL) for 2000.

Section 648.76(b)(1)(iv) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Maine mahogany quahog quota based on dealer reports and other available information and determine when the quota will be harvested. The Regional Administrator is further required to publish notification in the Federal Register advising the public and notifying Federal vessel and dealer permit holders that, effective on a specific date, the commercial quota for Maine mahogany quahogs has been harvested and no commercial quota is available for landing Maine mahogany quahogs for the remainder of the year. The Regional Administrator has determined, based upon dealer reports and other available information, that the commercial Maine mahogany quahog quota for 2000 has been harvested.

Therefore, effective 0001 hours, November 25, 2000, further landings of Maine mahogany quahogs in Maine by vessels issued a Maine mahogany quahog permit and not fishing for an individual allocation of ocean quahogs under § 648.70 are prohibited for the remainder of the 2000 calendar year. Effective 0001 hours, November 25, 2000, federally permitted dealers are also advised that they may not purchase Maine mahogany quahogs landed in Maine for the remainder of the calendar year from federally permitted vessels, unless they are fishing for an individual allocation of ocean quahogs.

The Maine mahogany quahog zone as defined in § 648.73(d), is closed to fishing for ocean quahogs except in those areas that are tested by the State of Maine and deemed to be within the requirements of the National Shellfish Sanitation Program and adopted by the Interstate Shellfish Sanitation Conference as acceptable limits for the toxin responsible for paralytic shellfish poisoning. Harvesting of ocean quahogs is allowed only in the areas and during the time periods specified by the Maine Department of Marine Resources as being safe for human consumption.

The regulations at § 648.76(a)(2) specify that vessels fishing under an ocean quahog individual allocation, regardless of whether they possess a Maine mahogany quahog permit, may land their catch in Maine or, consistent with applicable state law, in any other state that utilizes food safety-based procedures consistent with those used by the State of Maine for such purpose,