

mm (12 inches), and the peak crush resistance to be determined over the entire 457 mm (18 inches) of crush. Currently, the minimum requirement for the peak crush resistance is 3.5 times the curb weight of the vehicle or 53,397 Newtons (N) (12,000 lb.), whichever is less (2 times or 31,148 N (7,000 lb.) if the seats are removed).

#### AAM Petition

On August 27, 2002, AAM submitted a petition for rulemaking concerning the travel distance of the loading device in the quasi-static door crush test. The test procedure described in S4(d) of FMVSS No. 214 requires the loading device in the quasi-static door crush test to be displaced over a full 457 mm (18 inches) of travel. AAM asserts that for vehicles with stiffer side door structures designed for dynamic side impact protection, the requirement for the peak crush resistance is often attained well before 457 mm (18 inches) of travel. Therefore, if the requirement for the peak crush resistance is attained before the full 457 mm (18 inches) of travel, AAM contends that any further door crush test is unnecessary. In addition, AAM points out that NHTSA's Office of Vehicle Safety Compliance's (OVSC) test procedure already allows for the flexibility in its testing. The test procedure states that "if after 12 inches of loading device travel, the peak crush resistance has been obtained, the test may be stopped if prior approval has been obtained from the OVSC Contracting Officer Technical Representative (COTR)."

AAM petitioned the agency to amend S4(d) by rewording the second sentence as: If the peak crush resistance of either S3.1.3 or S3.2.3 is not attained within 12 inches of loading device travel, continue the loading device application until the peak crush resistance is attained or until 18 inches of travel is reached, whichever comes first." Also, to be consistent with the proposed change to S4(d), AAM petitioned that S4(f)(4) also be amended as: "The peak crush resistance is the largest force recorded over the entire distance traveled to comply with S4(d)." AAM believes that these amendments would improve the objectivity and practicability of the standard and are consistent with motor vehicle safety.

#### Analysis

NHTSA agrees that vehicles with stiff side door structures often attain the peak resistance requirement before 457 mm (18 inches) of travel. However, the suggested amendments would not lead to a substantive change to the standard's performance requirements and do not

warrant the agency resources that would be needed to undertake rulemaking on this matter. As stated in the standard, the door is to be crushed a full 457 mm (18 inches) to allow for the required peak crush resistance to be attained. To comply with the safety standard, manufacturers are required to ensure this performance requirement is met using the test procedure written in the regulatory text. However, the agency does not regulate the procedure used by manufacturers to ensure compliance of the vehicle. Manufacturers may choose to stop the test procedure at any point if they believe it is sufficient to ensure compliance to the requirements of the standard using the regulatory text test procedure.

As AAM noted, OVSC may stop the test if, after 305 mm (12 inches) of crush, the peak resistance requirement is met and prior approval from the COTR is obtained. OVSC may stop the test if they believe enough data has been gathered to determine compliance or non-compliance under the regulatory test procedure. For example, OVSC may elect to do this to preserve the remaining structure of the vehicle for other compliance test purposes. However, under the same test procedure, OVSC may instead elect to conduct the test over the full 457 mm (18 inches) for agency research or other purposes.

AAM argued that the peak force is often attained within 305 mm (12 inches) of loading device travel, and that continuation of side structure loading after the peak force is reached results in unrepresentative deformation and loading of the door components. AAM did not provide any data to substantiate this claim, nor does NHTSA have any. In any event, the agency does not see why the deformation of the vehicle subsequent to cessation of the test is relevant to the petitioner's requested amendment.

In accordance with 49 CFR part 552, this completes the agency's review of the petition for rulemaking. NHTSA believes that the suggested amendments would not change the performance requirements, nor change the way that both the manufacturers and the agency may test the vehicle. Thus, after considering the allocation of agency resources and agency priorities, NHTSA has decided that the rulemaking requested by the petitioner is not warranted. Accordingly, rulemaking on the petition is denied.

**Authority:** 49 U.S.C. 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: December 17, 2003.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 121103D]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 22; Public Hearings

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

**ACTION:** Notice of public hearings; request for comments.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will hold public hearings to solicit comments on Draft Amendment 22 to the Reef Fish Fishery Management Plan of the Gulf of Mexico (Draft Amendment 22) that contains alternatives for red snapper to: Redefine the biological reference points of maximum sustainable yield (MSY) and optimum yield (OY); set status determination criteria including maximum fishing mortality threshold (MFMT) and minimum stock size threshold (MSST); establish a rebuilding schedule that is consistent with the Sustainable Fisheries Act of 1996 (SFA); and establish a standardized methodology to collect bycatch information.

**DATES:** The meetings will be held in January 2004. See **SUPPLEMENTARY INFORMATION** for specific dates and times. Comments on the amendment should be received by January 9, 2004.

**ADDRESSES:** Written comments should be sent to, and copies of the scoping document are available from, the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stu Kennedy, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

**SUPPLEMENTARY INFORMATION:** The Council will hold public hearings to solicit comments on Draft Amendment 22. Draft Amendment 22 contains alternatives for red snapper to: (1) redefine the biological reference points of MSY and OY; (2) set status

determination criteria including MFMT and MSST; (3) establish a rebuilding schedule that is consistent with the SFA; and (4) establish a standardized methodology to collect bycatch information.

The red snapper stock is in an overfished condition and subject to overfishing. Currently this stock is under a rebuilding program to restore the stock to 20 percent spawning potential ratio (SPR) by 2019. However, this plan is inconsistent with NMFS' National Standard Guidelines (NSG) for setting definitions of overfishing and the overfished condition of stocks that are consistent with SFA and for setting the maximum rebuilding time. Definitions of stock size, the overfished threshold, and yield must be biomass based, but overfishing definitions can be based on SPR. Therefore, before the rebuilding plan can be revised, overfished and overfishing targets and thresholds that are consistent with SFA and the NSG must be specified so that rebuilding goals are known.

For overfished stocks, a recovery plan must be developed to restore the stocks to the biomass level capable of producing MSY on a continuing basis (BMSY). This is more conservative than the current overfishing definition of 20 percent SPR, which is estimated to be the minimal level needed to prevent future declines in the stock. Rebuilding periods are to be as short as possible, but not to exceed 10 years unless the conditions dictate otherwise. For red

snapper, even in the absence of fishing mortality, it would take more than 10 years to rebuild the stock. Therefore, NOAA Fisheries' NSG allows for a maximum recovery period in the absence of fishing mortality (12 years) plus the mean generation time (19.6 years), or 31.6 years for red snapper. A recovery plan adopted by the Council under the new guidelines in 2001 would have to reach its recovery target during the year 2032 or earlier. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that FMPs establish a standardized methodology to assess the amount and type of bycatch occurring in the fishery. An additional requirement of the Magnuson-Stevens Act is to identify and implement conservation measures that, to the extent practicable, minimize bycatch. These actions have not been addressed by the Council for the Gulf reef fish fishery and must be considered.

The public hearings will be held at the following locations and dates from 7 p.m. - 10 p.m.:

1. Monday, January 5, 2004, Laguna Madre Learning Center, Port Isabel High School, Highway 100, Port Isabel, TX 78578; telephone: 956-943-0052;

2. Monday, January 5, 2004, Mississippi Department of Marine Resources, 1141 Bayview Drive, Biloxi, MS 39530; telephone: 228-374-5000;

3. Tuesday, January 6, 2004, Port Aransas Civic Center, 710 West Avenue A, Port Aransas, TX 78373; telephone: 361-749-4111;

4. Tuesday, January 6, 2004, Hilton Beachfront Garden Inn, 23092 Perdido Beach Boulevard, Orange Beach, AL 36561; telephone: 334-974-1600;

5. Wednesday, January 7, 2004, San Luis Resort, 5222 Seawall Boulevard, Galveston Island, TX 77551; telephone: 409-744-1500;

6. Wednesday, January 7, 2004, Destin Community Center, 101 Stahlman Avenue, Destin, FL 32541; telephone: 850-654-5184;

7. Thursday, January 8, 2004, New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062; telephone: 504-469-5000; and

8. Thursday, January 8, 2004, Holiday Inn, 15208 Gulf Boulevard, Madeira Beach, FL 33708; telephone: 727-392-2257.

Public comments on the draft amendment that are received in the Council office by 5 p.m., January 9, 2004, will be presented to the Council.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Trish Kennedy at the Council (see **ADDRESSES**) by December 29, 2003.

Dated: December 16, 2003.

**Bruce C. Morehead,**

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

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