

NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA in June 1995. NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This final rule does not make any significant change in the management of reclassified fisheries, and therefore, this final rule is not expected to change the analysis or conclusion of the 2005 EA. If NMFS takes a management action, for example, through the development of a TRP, NMFS will first prepare an environmental document, as required under NEPA, specific to that action.

This final rule will not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this final rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under ESA section 7 for that action.

This final rule will have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This final rule will not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

Dated: November 19, 2007.

**Samuel D. Rauch III,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 061121304-7053-02; I.D. 112006B]

RIN 0648-AT87

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

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

**ACTION:** Temporary rule; republication of interim measures.

**SUMMARY:** This temporary rule republishes interim measures to reduce overfishing of Gulf red snapper that were previously implemented via a temporary rule published by NMFS on April 2, 2007, and extended through March 28, 2008, by a temporary rule published by NMFS on September 24, 2007. The interim measures reduce the commercial and recreational quotas for red snapper, reduce the commercial minimum size limit for red snapper, reduce the recreational bag limit for Gulf red snapper, prohibit the retention of red snapper under the bag limit for captain and crew of a vessel operating as a charter vessel or headboat, and establish a target level of reduction of shrimp trawl bycatch mortality of red snapper. The intended effect of this temporary rule is to reinstate the text of the interim measures in the Code of Federal Regulations that was inadvertently removed.

**DATES:** This rule is effective November 27, 2007 through March 28, 2008.

**ADDRESSES:** Copies of the final environmental impact statement (FEIS) and Record of Decision (ROD) prepared for the April 2, 2007, temporary final rule (72 FR 15617) are available from Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**SUPPLEMENTARY INFORMATION:** The red snapper fishery of the Gulf of Mexico is

managed under the Fishery Management Plan (FMP) for the Reef Fish Fishery of the Gulf of Mexico, and the shrimp fishery is managed under the FMP for the Shrimp Fishery of the Gulf of Mexico. The FMPs were prepared by the Gulf of Mexico Fishery Management Council (Council) and are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

NMFS issued a temporary rule (72 FR 15617, April 2, 2007) under section 305(c) of the Magnuson-Stevens Act, to implement interim measures to reduce fishing mortality on red snapper by reducing harvest and bycatch levels. Specifically, that rule: (1) reduced red snapper total allowable catch (TAC) from 9.12 million lb (4.14 million kg) to 6.5 million lb (2.9 million kg), whole weight, resulting in a commercial quota of 3.315 million lb (1.504 million kg) and a recreational quota of 3.185 million lb (1.445 million kg); (2) reduced the commercial minimum size limit for red snapper from 15 inches (38 cm) to 13 inches (33 cm) total length (TL); (3) reduced the daily recreational bag limit from four fish to two fish per person and prohibits the captain and crew of for-hire vessels (charter vessels and headboats) from retaining the recreational bag limit; and (4) established a goal to reduce red snapper bycatch mortality in the shrimp fishery to 50 percent of the bycatch mortality that occurred during 2001-2003. These measures remain necessary to address overfishing of the red snapper resource.

Under section 305(c)(3)(B) of the Magnuson-Stevens Act, NMFS may extend the effectiveness of interim measures for one additional period of not more than 186 days, provided the public has had an opportunity to comment on the interim measures and the Council is actively preparing proposed regulations to address the overfishing on a permanent basis. NMFS solicited public comments on the interim measures in a temporary proposed rule (71 FR 75220, December 14, 2006) and received numerous comments. These comments were summarized and NMFS's responses were provided in the temporary final rule (72 FR 15617, April 2, 2007). The Council prepared joint Amendment 27/14 to the Reef Fish and Shrimp FMPs in the Gulf of Mexico (Amendment 27/14) to address overfishing of red snapper. NMFS partially approved Amendment 27/14 on October 19, 2007. The approved portions of the amendment include additional measures to end overfishing and to rebuild the red snapper stock.

To continue to address overfishing of red snapper pending implementation of more permanent measures recommended by the Council in Amendment 27/14, NMFS published a temporary rule (72 FR 54223, September 24, 2007) to extend the effective date of the interim measures contained in the April 2, 2007, temporary final rule (72 FR 15617). Although the extension of the interim measures was properly promulgated and those interim measures are still applicable, a technical error resulted in the extended interim measures not being incorporated into the Code of Federal Regulations as intended. To correct this inadvertent error, NMFS, via this temporary rule, is republishing the regulatory text of the interim measures contained in the April 2, 2007, temporary final rule (72 FR 15617), with an effective date from November 27, 2007 through March 28, 2008, which is consistent with the Magnuson-Stevens Act and with the intent of the September 24, 2007, temporary rule (72 FR 54223).

Additional details concerning the basis for these interim measures and discussion of the ongoing efforts of the Council and NMFS to evaluate and implement measures to rebuild the red snapper stock consistent with the requirements of the Magnuson-Stevens Act are contained in the preamble of the December 14, 2006, temporary proposed rule (71 FR 75220) and are not repeated here. Public comment and NMFS' responses are contained in the preamble of the April 2, 2007, temporary final rule (72 FR 15617) and are not repeated here.

**Classification**

The Administrator, Southeast Region, NMFS, (RA), has determined that this temporary rule is necessary to resolve an inadvertent error in the Code of Federal Regulations, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This temporary rule has been determined to be not significant for purposes of Executive Order 12866.

This temporary rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and comment.

An FEIS was prepared for the interim measures contained in the April 2, 2007, temporary rule. The conditions that existed at the time the April 2, 2007, temporary rule was implemented have not changed, and the republication of those same interim measures has no additional impact beyond those already considered in the FEIS. Copies of the

FEIS are available from NMFS (see ADDRESSES).

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this temporary rule. This rule would republish the same interim measures for which opportunity for public comment was solicited in a proposed interim rule published on December 14, 2006 (71 FR 75220). These same interim measures were implemented by the April 2, 2007, interim final rule (72 FR 15617) and extended by the September 24, 2007, interim rule (72 FR 54223). The conditions prompting the initial temporary rule still remain. Because the republishing of these interim measures is only necessary to resolve an inadvertent technical error that resulted in these extended interim measures not being incorporated into the Code of Federal Regulations as intended, there is no additional regulatory burden associated with this temporary rule. Therefore, the AA finds that it would be unnecessary to provide additional opportunity for public comment.

The AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the delay of the effective date of this temporary rule. This republication of interim measures does not impose any additional regulatory burden on the public; it resolves a technical error that resulted in the already effective interim measures not being incorporated into the Code of Federal Regulations as intended. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness for this temporary rule.

**List of Subjects in 50 CFR Part 622**

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

Dated: November 20, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 622 is 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 § 622.37, paragraph (d)(1)(iv) is suspended and paragraph (d)(1)(vi) is added to read as follows:

**§ 622.37 Size limits.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(vi) 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 13 inches (38.1 cm), TL, for a fish taken by a person not subject to the bag limit.

\* \* \* \* \*

■ 3. In § 622.39, paragraphs (b)(1)(iii) and (b)(1)(v) are suspended and paragraphs (b)(1)(viii) and (b)(1)(ix) are added to read as follows:

**§ 622.39 Bag and possession limits.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(viii) Red snapper -2. However, no red snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

(ix) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i), (ii), (iv), (vi), (vii), and (viii) of this section and excluding dwarf sand perch and sand perch--20, but not to exceed 10 vermilion snapper.

\* \* \* \* \*

■ 4. In § 622.42, paragraphs (a)(1)(i) and (a)(2) are suspended and paragraphs (a)(1)(v) and (a)(3) are added to read as follows:

**§ 622.42 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(v) Red snapper -3.315 million lb (1.504 million kg), round weight.

\* \* \* \* \*

(3) *Recreational quota for red snapper.* The following quota applies to persons who harvest red snapper other than under commercial vessel permits for Gulf reef fish and the commercial quota specified in paragraph (a)(1)(v) of this section-- 3.185 million lb (1.445 million kg), round weight.

\* \* \* \* \*

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