

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

RIN 0648-BE47

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 40

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 40 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Amendment 40 includes actions to establish a Federal charter vessel/headboat (for-hire) component and private angling component within the recreational sector, allocate the red snapper recreational quota and annual catch target (ACT) between the components based on historical and recent landings, and establish separate red snapper season closure provisions for the Federal for-hire and private angling components. These measures would sunset after 3 years unless the Council takes additional action. The intent of Amendment 40 is to define distinct private angling and Federal for-hire components of the recreational sector who fish for red snapper, and allocate the recreational quota between these two components, to increase the stability for the for-hire component, provide a basis for increased flexibility in future management of the recreational sector, and minimize the chance for recreational quota overruns, which could negatively impact the rebuilding of the red snapper stock.

DATES: Written comments must be received on or before March 17, 2015.

ADDRESSES: You may submit comments on the amendment identified by “NOAA-NMFS-2014-0107” by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!/docketDetail;D=NOAA-NMFS-2014-0107, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 40, which includes an environmental impact statement, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: Peter.Hood@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The FMP being revised by Amendment 40 was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and

protecting marine ecosystems. Amendment 40 includes actions to define distinct private angling and Federal for-hire components of the reef fish recreational sector fishing for red snapper and allocate red snapper resources between these recreational components. Establishing these separate components is intended to increase the stability for the for-hire component, provide a basis for increased flexibility in future management of the recreational sector, and reduce the likelihood for recreational quota overruns. As a result, the actions are intended to prevent overfishing while achieving the OY, particularly with respect to recreational fishing opportunities, while rebuilding the red snapper stock.

Recreational Red Snapper Fishing

The Gulf red snapper stock is overfished and currently under a rebuilding plan until 2032. The recreational sector, which has experienced quota overages and more recently, shorter seasons, is managed under a quota, bag and size limits, and closed seasons.

The recreational sector in the Gulf includes a private angling component (which includes state-permitted guide boats) and a for-hire component. Those for-hire vessels with a Federal charter vessel/headboat permit for Gulf reef fish are allowed to fish for red snapper in Federal waters, and those for-hire vessels without Federal permits are restricted to fishing for red snapper in state waters. Current recreational management measures are typically applied to the recreational sector as a whole, without making a distinction between the private and for-hire components. This approach results in less flexible management for the two distinct components of the recreational sector, where goals and needs differ between components.

Federal charter vessel/headboat permits for Gulf reef fish are limited-entry permits, thus there are no additional permits being issued. In addition, federally permitted reef fish charter vessels and headboats are prohibited from harvesting red snapper in state waters when the Federal season is closed. In contrast, there is no limit on the number of anglers fishing from private recreational vessels and the number of state-permitted for-hire vessels operating in state waters. Over time, the number of private recreational anglers (state licensed) has increased, while the number of vessels with Federal charter vessels/headboat permits for Gulf reef fish has decreased. As a result, private vessel landings over

time have represented a greater proportion of the recreational harvest as a whole.

Management Measures Contained in Amendment 40

Establishing Private Angling and Federal For-Hire Components

The Council has recommended partitioning the recreational sector that fishes for red snapper into two components. One component would be a Federal for-hire component including federally permitted for-hire operators and their angler clients. The other component would be the private angling component, including anglers fishing from private vessels and state-permitted for-hire vessels.

Sunset Provision

The Council selected a 3-year sunset provision for the establishment of the Federal for-hire and private angling components and associated management measures included in Amendment 40. If management measures from Amendment 40 are implemented in time for the June 1, 2015, Federal recreational fishing season, the components and associated management measures would be effective through December 31, 2017. The Council would need to take further action for these components and management measures to extend beyond 3 years.

Allocation

In determining the allocation for each recreational component, the Council considered eight alternatives that were based on average percentages of red snapper harvested by the federal for-hire and the private angling components during various time intervals between 1986 and 2013. The Council selected the alternative that combined the longest

time period of available landings (1986–2013) with landings from a more recent range of years (2006–2013). Average percentages from each of the two time periods were then equally weighted to determine the allocation. The Council selected this allocation because it reflects both historical changes in the recreational sector as well as more current conditions, and is an approach previously used by the Council in setting allocations for other species. The resultant allocation percentages for the Federal for-hire and private angling components are 42.3 and 57.7 percent, respectively. Given a 2015 recreational quota of 5.390 million lb (2.445 million kg), this would result in Federal for-hire and private angling quotas of 2,279,970 lb (1,034,177 kg), round weight and 3,110,030 lb (1,410,686 kg), round weight, respectively.

Recreational Season Closure Provisions

With the establishment of the two components, the Council selected separate red snapper season closure provisions for the Federal for-hire and private angling components based on component ACTs. By applying a 20-percent buffer to quotas, the Federal charter vessel/headboat component ACT would be 1.824 million lb (0.827 million kg), round weight, and the private angling ACT would be 2.488 million lb (1.129 million kg), round weight. Both components' red snapper seasons would begin on June 1 and a component would close when its ACT is projected to be caught. Season lengths will be determined when 2014 recreational landings data are available and the results of an updated red snapper stock assessment are available. Amendment 40 contains season length projections that estimate the Federal for-hire and private angling fishing seasons if sector separation had been implemented in

2014. In 2014, state seasons were open for various times off all states when Federal waters were closed. Inconsistent state seasons reduce the length of the private angling component's Federal season but provide fishing opportunities for the private angling component that are not available to the Federal for-hire component.

Proposed Rule for Amendment 40

A proposed rule that would implement Amendment 40 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 40 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If the preliminary determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council submitted Amendment 40 for Secretarial review, approval, and implementation. Comments received by March 17, 2015, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 40. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: January 12, 2015.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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