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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 170720688-7688-01]**

**RIN 0648-BH07**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Reef Fish Fishery of the Gulf of Mexico; Vermilion Snapper  
Management Measures; Amendment 47**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to implement management measures described in Amendment 47 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council) (Amendment 47). For vermilion snapper, this proposed rule would revise the stock annual catch limit (ACL). Additionally, Amendment 47 would establish a proxy for the estimate of the stock maximum sustainable yield (MSY). The purpose of this proposed rule is to revise the stock ACL for vermilion snapper in the Gulf of Mexico (Gulf) consistent with the most recent

stock assessment.

**DATES:** Written comments must be received on or before [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on the amendment identified by "NOAA-NMFS-2017-0106" by either 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-2017-0106](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0106), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Lauren Waters, 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](http://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).

Electronic copies of Amendment 47, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at

[http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/2017/am47/docs/PDFs/gulf\\_reef\\_am47\\_vermilion\\_final.pdf](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/am47/docs/PDFs/gulf_reef_am47_vermilion_final.pdf).

**FOR FURTHER INFORMATION CONTACT:** Lauren Waters, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: [Lauren.Waters@noaa.gov](mailto:Lauren.Waters@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage the Gulf reef fish fishery, which includes vermilion snapper, under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

### **Background**

The Magnuson-Stevens Act requires the Council to specify the MSY for managed stocks. The National Standard 1 Guidelines state that the Council should adopt a reasonable proxy for MSY if data are insufficient to estimate MSY directly.

## *Status of the Vermilion Snapper Stock*

Amendment 23 to the FMP established MSY for vermilion snapper as the yield associated with  $F_{MSY}$  when the stock is at equilibrium, where  $F$  is defined as fishing mortality (70 FR 109; June 8, 2005). The final rule for the Generic Annual Catch Limit (ACL) and Accountability Measures (AM) Amendment established the vermilion snapper stock ACL and set it equal to the ABC at 3.42 million lb (1.55 million kg), round weight (76 FR 82044, December 29, 2011).

In 2016, a standard assessment for vermilion snapper was conducted (SEDAR 45) and the stock status was evaluated using several MSY proxies. Under all proxies evaluated in SEDAR 45, overfishing was not occurring and the stock was not overfished. The Council's Scientific and Statistical Committee (SSC) determined that the most appropriate proxy for MSY is the yield when fishing at a mortality rate corresponding to 30 percent spawning potential ratio ( $F_{30\% SPR}$ ).

SEDAR 45 also included projections for the overfishing limit and the ABC. The SSC provided the Council two recommendations for ABC: one that is derived from fishing at 75 percent of the MSY proxy ( $F_{30\% SPR}$ ) and results in a declining ABC from 2017 through 2021, and one that is derived using the

average of 2017-2021 ABCs and results in a constant ABC. The two ABC recommendations are equivalent in terms of maintaining the stock status and the Council selected the constant catch scenario that yielded an ABC of of 3.11 million lb (1.41 million kg).

#### **Management Measure Contained in this Proposed Rule**

This proposed rule would revise the stock ACL for Gulf vermilion snapper consistent with the results of SEDAR 45 and the SSC's new ABC recommendation. The current ACL of 3.42 million lb (1.55 million kg), round weight, exceeds the ABCs recommended by the Council's SSC. Therefore, the Council determined that the ACL for vermilion snapper should be decreased to equal the constant catch ABC and this proposed rule would set the stock ACL at 3.11 million lb (1.41 million kg), round weight.

The current accountability measures for vermilion snapper require NMFS to close the commercial and recreational fishing seasons if the combined commercial and recreational landings reach or are projected to reach the stock ACL. Since 2013, combined landings have been less than 3.00 million lb (1.36 million kg), round weight, every year. Therefore, NMFS does not expect the combined landings of vermilion snapper to reach the

proposed stock ACL and result in a closure before the end of the fishing year.

**Measures in Amendment 47 not Codified through this Proposed Rule**

In addition to the measure proposed to be implemented through this proposed rule, Amendment 47 would establish a proxy for vermilion snapper MSY.

For vermilion snapper, the Council's SSC recommended that a proxy be used for MSY. The Council's SSC recommended  $F_{30\%}$  SPR as the MSY proxy for SEDAR 45, and the Council agreed. Under this proxy, the stock is not overfished or undergoing overfishing.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 47, the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this

proposed rule and its purpose and need are contained in the **SUMMARY** section of the preamble.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

This proposed rule would directly affect commercial and recreational fishing for vermilion snapper in the Gulf exclusive economic zone (EEZ). Anglers (recreational fishers) are not considered small entities as that term is defined in 5 U.S.C. 601(6). Consequently, estimates of the number of anglers directly affected by the rule and the impacts on them are not provided here.

Any commercial fishing business that operates a commercial fishing vessel that harvests vermilion snapper in the Gulf EEZ must have a valid Federal commercial Gulf reef fish permit that is specifically assigned to that vessel. The Gulf reef fish permit is a limited access permit. As of February 21, 2017, 848 vessels had a Federal Gulf reef fish permit and 795 of the permits were valid. NMFS estimates that 631 businesses own the

848 vessels with a Federal permit, and the size of their individual Gulf reef fish fleets vary from 1 to 17 vessels.

The number of federally permitted vessels that land vermilion snapper is substantially less than the number of vessels with a Gulf reef fish permit. From 2011 through 2015, approximately 35 percent to 40 percent of the vessels with a Federal permit landed vermilion snapper in any given year. During that same 5-year period, an annual average of 342 federally permitted vessels landed vermilion snapper. NMFS estimates these 342 vessels are operated by 252 businesses.

The 342 vessels landed an average of 4,914 lb (2,229 kg), gutted weight, of vermilion snapper with a dockside value of \$15,293 (2015 dollars) annually. This average annual dockside revenue from landings of vermilion snapper represents approximately 12 percent of the average vessel's annual dockside revenue from all species. However, there are considerable differences in average annual landings of vermilion snapper by gear type from 2011 through 2015. For example, the average longline vessel annually landed 72 to 73 lb (32 to 33 kg), gutted weight, of the species, whereas the average hook-and-line vessel landed over 7,000 lb, (3,175 kg) gutted weight, annually. Hook-and-line is the primary gear type used by the commercial

sector. The average federally permitted hook-and-line vessel landed 7,078 lb (3,211 kg), gutted weight, of vermilion snapper annually with a dockside value of \$22,276 (2015 dollars), and those vermilion snapper landings represent approximately 17 percent of that average vessel's annual dockside revenue from all landings.

For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily involved in commercial fishing (NAICS 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. Based on the average annual revenue for a federally permitted vessel that lands vermilion snapper, regardless of gear used, it is concluded that most to all of the businesses that harvest vermilion snapper from the Gulf EEZ are small.

Amendment 47 would establish an MSY proxy for vermilion snapper and that has no direct impact on any small business.

This proposed rule would decrease the stock ACL of vermilion snapper. The stock ACL is currently 3.42 million lb (1.55 million kg), round weight, and has been in place since 2012. This proposed rule would decrease the stock ACL to 3.11 million lb (1.41 million kg), round weight.

If combined landings reach or are projected to reach the stock ACL, the commercial and recreational fishing seasons are closed early as a result of accountability measures being triggered. Since 2012, there have been no early closures because combined commercial and recreational landings of vermilion snapper have been less than the stock ACL. From 2012 through 2015, combined landings varied from approximately 2.54 million lb (1.15 million kg) to 3.17 million lb (1.44 million kg), round weight, annually and averaged approximately 2.73 million lb (1.24 million kg). Since 2013, combined landings have been less than 3.00 million lb (1.36 million kg), round weight, every year, and preliminary data for 2016 indicate combined landings of approximately 2.63 million lb (1.19 million kg), round weight. Preliminary landings data for 2016 indicate combined landings of approximately 2.6 million lb (1.18 million kg), round weight. Moreover, as of November 27, 2017, for commercial landings and through the third wave for recreational landings,

combined landings for 2017 are approximately 2.4 million lb (1.09 million kg), round weight. Based on recent landings data, it is expected that combined landings of vermilion snapper would be less than the proposed stock ACL of 3.11 million lb (1.41 million kg), round weight, and there would be no early closures. Therefore, NMFS expects the reduction of the stock ACL would have no economic impact on small businesses that harvest vermilion snapper from the Gulf EEZ.

No new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

In conclusion, NMFS expects this proposed rule would not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required and none has been prepared.

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

Commercial, Fisheries, Fishing, Gulf, Recreational, Vermilion snapper.

Dated: December 21, 2017.

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 proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, 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 § 622.41, revise the last sentence of paragraph (j) to read as follows:

**§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

\* \* \* \* \*

(j) \* \* \* The stock ACL for vermilion snapper is 3.11 million lb (1.41 million kg), round weight.

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