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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170619570-8056-02]

RIN 0648-BG92

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Modifications to the Number of Unrigged Hooks Carried On Board Bottom Longline Vessels

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in an abbreviated framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico (Gulf) Fishery Management Council (Council). This final rule removes the limit on the number of unrigged hooks that a commercial reef fish vessel with a bottom longline endorsement is allowed on board when using or carrying bottom longline gear in the Federal waters of the eastern Gulf. This final rule does not change the limit of 750 hooks that these vessels can have rigged for fishing at any

given time. The purpose of this final rule is to reduce the regulatory and potential economic burden to bottom longline fishers.

DATES: This final rule is effective [*insert date of publication in the FEDERAL REGISTER*].

ADDRESSES: Electronic copies of the abbreviated framework action, which includes an environmental assessment, Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from *www.regulations.gov* or the SERO Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/Unrigged%20hooks/Unrigged_hooks_index.html.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS SERO, telephone: 727-824-5305, email: Kelli.ODonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery includes the commercial bottom longline component and is managed under the FMP. The Council prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) through regulations at 50 CFR part 622.

On October 30, 2017, NMFS published a proposed rule for the framework action and requested public comment (82 FR 50104). The proposed rule and framework action outline the rationale for the action contained in this final rule. A summary of the management measure described in the framework amendment and implemented by this final rule is provided below.

Management Measure Contained in This Final Rule

This final rule removes the current limitation on the number of unrigged hooks allowed per bottom longline vessel in the eastern Gulf exclusive economic zone (EEZ), while retaining the limit of 750 hooks that can be rigged for fishing.

The limitation on the number of unrigged hooks was put in place by Amendment 31 to the FMP, which contained several management measures to reduce sea turtle takes by the bottom longline component of the Gulf reef fish fishery (75 FR 21512; April 26, 2010). Since the implementation of Amendment 31, bottom longline endorsement holders using bottom longline gear in the eastern Gulf EEZ have reported increases in bottom longline hook losses due to shark bite-offs and through normal fishing effort. Therefore, vessel operators who use bottom longline gear in the eastern Gulf EEZ requested that the Council increase the number of total

unrigged hooks per vessel, while still keeping in place the restriction of 750 hooks rigged to fish at any one time.

Observer data from 2010-2016 have shown the average amount of hooks lost per commercial bottom longline trip in the eastern Gulf EEZ is 300 hooks. Under the current total possession limit of 1,000 hooks, if more than 250 hooks are lost, a vessel either has to fish with fewer than 750 hooks, get additional hooks from other vessels to maintain the maximum number of hooks in the water, or return to port. Removing the restriction on the total number of hooks kept on board is expected to make trips more economical by allowing fishing with the maximum number of hooks to continue without having to return to port or request additional hooks from other vessels. In addition, maintaining the current limit of 750 hooks rigged for fishing preserves the reductions in sea turtle interactions since the implementation of Amendment 31.

Comments and Responses

A total of 20 comments were received on the proposed rule for the framework action. Eleven comments were in support of the proposed rule and five comments disagreed with the proposed rule. Comments supporting the rule stated that removing the 1,000 hooks per vessel restriction would allow vessels to carry adequate replacement hooks, possibly

increase net benefits, and ease the burden on law enforcement. Other comments that were outside the scope of the proposed rule and, therefore, are not addressed here, stated that longline fishing should be prohibited in the Gulf or regulated more strictly. Specific comments opposed to the framework action and the proposed rule are grouped as appropriate and summarized below, followed by NMFS' respective responses.

Comment 1: The hook restriction should not be removed. Instead the hook limit should be based on an estimate of hooks lost per day and the total trip length, or the total number of hooks should be increased to a higher defined level.

Response: NMFS disagrees that some form of the unrigged hook restriction should remain in place. It would be difficult to establish a hook limit based on an estimate of hooks lost per day and the total trip length because trip length can vary with every trip due to unexpected circumstances such as weather, vessel mechanics, or personnel issues. So although an estimate of hooks lost per day can be calculated from observer records, this average could not be accurately applied to each vessel at the beginning of each trip. The Council did consider two options for increasing the total number hooks allowed per

vessel. However, the Council determined, and NMFS agrees, that those alternatives would increase the burden on law enforcement by requiring officers to count a greater number of unrigged hooks to verify compliance while providing no additional benefit to sea turtles because it is the number of hooks in the water that impacts the frequency of interactions.

Comment 2: Allowing an unlimited number of unrigged hooks will allow vessels to stay out longer and fish more, which could lead to overfishing and more interactions with protected species.

Response: NMFS disagrees that allowing an unlimited number of unrigged hooks on bottom longline vessels will lead to overfishing or more interactions with protected species. The management measures in place restrict the harvest of target species and preserve the reductions in sea turtle interactions since the implementation of Amendment 31. The species targeted by the eastern bottom longline component of the reef fish fishery in the Gulf EEZ are managed under the Individual Fishing Quota (IFQ) programs established in Amendments 26 and 29 to the FMP (71 FR 67447; November 22, 2006, and 74 FR 44732; August 31, 2009, respectively). Under the IFQ programs, harvest is strictly controlled and since the implementation of these

programs landings of IFQ species have been constrained to the applicable annual commercial quotas. To limit interactions with protected sea turtles, bottom longline fishing in the eastern Gulf EEZ is restricted by an annual seasonal closure for the months of June through August, and vessels are still limited to 750 hooks rigged for fishing.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law.

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

This final rule is considered a deregulatory action under Executive Order 13771.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant adverse

economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No public comments were made related to the economic implications and potential impacts on small businesses. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This rule is exempt from the requirement to delay the effectiveness of a final rule by 30 days after publication in the Federal Register, under 5 U.S.C. 553(d)(1), because the measure implemented by this final rule relieves a restriction on the regulated community. Specifically, this rule removes the restriction on the number of unrigged hooks that a commercial reef fish vessel with a bottom longline endorsement is allowed on board. This is expected to improve fishers' ability to maintain the maximum number of rigged hooks over the duration of a trip and to make trips more economical by allowing fishing with the maximum number of hooks to continue without having to return to port or request additional hooks from other vessels.

List of Subjects in 50 CFR Part 622

Bottom longline gear, Fisheries, Fishing, Gulf of Mexico, Reef fish.

Dated: February 1, 2018.

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 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 § 622.35, revise the first sentence of paragraph (b) (3) to read as follows:

§ 622.35 Gear restricted areas.

* * * * *

(b) * * *

(3) Within the Gulf EEZ east of 85°30' W. long., a vessel for which a valid eastern Gulf reef fish bottom longline endorsement has been issued that is fishing bottom longline gear or has bottom longline gear on board cannot possess more than 750 hooks rigged for fishing at any given time. * * *

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