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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BI84

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Reef Fish Fishery of the Gulf of Mexico; State Management
Program; Amendments 50A-F**

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 (Gulf) Fishery Management Council (Council) has submitted Amendments 50A, 50B, 50C, 50D, 50E, and 50F to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), for review, approval, and implementation by NMFS (Amendments 50A-F). Amendments 50A-F would delegate authority to Louisiana, Mississippi, Alabama, Florida, and Texas (Gulf states), to establish specific management measures for the harvest of red snapper in Federal waters in the Gulf by the private angling component of the recreational sector. The purposes of Amendments 50A-F are to increase fishing opportunities and economic benefits by allowing each Gulf state to establish specific management measures for the recreational harvest of red snapper in Federal waters by

private anglers landing in that state.

DATES: Written comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments on Amendments 50A-F identified by "NOAA-NMFS-2017-0122" 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-2017-0122, 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 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 Amendments 50A-F, which include an environmental impact statement, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the website:

http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/am46_gray_trigger/documents/pdfs/gulf_reef_am46_gray_trigg_final.pdf.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: Lauren.Waters@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 an FMP or amendment, publish an announcement in the *Federal Register* notifying the public that the FMP or amendment is available for review and comment.

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

Background

The red snapper stock annual catch limit (ACL) is divided into commercial (51 percent) and recreational (49 percent)

sector allocations. In 2015, through Amendment 40 to the FMP, the recreational sector was separated into a private angling component and a Federal charter vessel and headboat (for-hire) component until the end of 2022 (80 FR 22422, April 22, 2015). Within the recreational sector, the recreational ACL is allocated 57.7 percent to the private angling component and 42.3 percent to the for-hire component. Recreational harvest of red snapper in Gulf Federal waters is managed through a two-fish bag limit, a 16-inch (40.6 cm) total length (TL) minimum size limit, and fishing seasons for each component that begin on June 1 and close when the annual catch target (ACT) of the respective recreational component is projected to be reached. However for the 2018 and 2019 fishing years, NMFS issued exempted fishing permits to each of the five Gulf states to allow each state to set the fishing season for private anglers landing in that state. The for-hire component fishing season continues to be set by NMFS. The Gulf red snapper stock is not undergoing overfishing, and is not overfished but continues to be managed under a rebuilding plan that ends in 2032.

From 1996 through 2014, the recreational fishing season for red snapper in Gulf Federal waters became progressively shorter, and increased catch rates and inconsistent (longer) Gulf state water recreational fishing seasons contributed to recreational harvest overages. Recreational fishermen throughout the Gulf

have requested more flexibility from the Council and NMFS in recreational red snapper management to provide greater socio-economic benefits to their local areas.

In 2017, the Council began developing Amendments 50A-50F to establish state management programs for the harvest of red snapper in the Gulf by the recreational sector. State management refers to allowing a state to set some regulations applicable to anglers landing red snapper in that state (e.g., recreational bag limits and season length), or in some circumstances applicable to anglers fishing for red snapper in Federal waters off that state (e.g., closed areas). Amendment 50A includes actions affecting all Gulf states and the overall Federal management of recreational red snapper, regardless of whether all Gulf states participate in a state management program. Amendments 50B-F are individual amendments for each Gulf state (Louisiana, Mississippi, Alabama, Florida, and Texas, respectively) and contain the Council's selection of preferred alternatives for each individual state management plan.

Management measures under a state's approved state management program would have to achieve the same conservation goals as the current Federal management measures (e.g., constrain harvest to the state's allocated portion of the recreational ACL). Although under state management for measures controlling certain harvesting activities, red snapper would

remain a federally managed species. The Council's Scientific and Statistical Committee would continue to recommend the acceptable biological catch for red snapper, while the Council would determine the total recreational sector, component, and state ACLs. Unless area closures off a state are established in Federal waters, enforcement would primarily be conducted in state waters and dockside.

Actions Contained in Amendments 50A-F

Amendments 50A-F include measures: identifying the recreational component to include in state management programs; establishing the state-specific allocation of the annual catch limit (ACL); delegating the authority to the states to establish the recreational fishing season, recreational bag limit, and size limits; establishing the post-season ACL adjustments; and establishing the procedure for states to request an area closure in Federal waters off their state.

Recreational Components Included in State Management Programs

Currently, the Council and NMFS establish all management measures for both the Federal private angling and for-hire components in Gulf Federal waters. Amendments 50A-F would delegate to each state the authority to establish specific management measures applicable to the private angling component only. The Council and NMFS would continue to specify all management measures applicable to the Federal for-hire

component. The sunset provision ending sector separation after the 2022 fishing year would be removed, and separate component ACLs would continue to be set for each component indefinitely. The Council decided not to pursue state management of the for-hire component at this time in order to reduce the administrative burden and potential complication of enforcement in developing a program for that component. The Council wanted to have Amendments 50A-F implemented for the 2020 fishing year, and including the for-hire component may have affected this timeline.

Delegation

Currently, each Gulf state decides when to open and close their respective state waters to fishing for reef fish. These state water recreational reef fish seasons may not be consistent with the fishing seasons in Federal waters. In state waters, the states establish other management measures, such as recreational bag limits and size limits, while the Council has the responsibility for reef fish management measures applicable in Federal waters. Amendments 50A-F would delegate some management authority to a Gulf state to regulate recreational harvest of red snapper in Federal waters by private anglers landing in that state. Each state would be required to establish the private angling season structure for harvest of its assigned portion of the ACL, monitor landings, and prohibit further landings of red

snapper when the state-specific component ACL is reached or projected to be reached. Each state would also be required to specify a bag limit and a minimum size limit within the range of 14 to 18 inches (35.6 cm to 45.7 cm), TL. In combination, these measures must be expected to maintain harvest levels within the state's ACL. A state could also establish a maximum size limit.

If NMFS determines that a state's red snapper private angling regulations are inconsistent with the FMP and the state fails to correct the inconsistency after notice and an opportunity to do so, or a state does not specify the required management measures, then NMFS would suspend that state's delegation and publish a document in the *Federal Register* stating that the default management measures for the red snapper private angling component apply in Federal waters off that state. The default management measures are the current season (June 1 until the projected closure date), bag limit (2 fish per person per day), and minimum size limit (16 inches (40.6 cm), TL).

The areas of Federal waters off Florida and off Texas are currently defined in the regulations. Amendment 50A would specify the area of Federal waters off Alabama, Mississippi, and Louisiana so that each Gulf state would have a defined Federal water boundary off that state.

Allocation

Currently, the red snapper private angling component ACL is managed as a single unit for all of the Gulf states. Amendment 50A would apportion the private angling component ACL to each state. The allocation would be based on the allocations requested by each state in its EFP application, which totaled 96.22 percent of the overall component ACL. The remaining 3.78 percent would be apportioned between Florida and Alabama, proportionally, based on their EFP allocation request. This results in the apportionment of the private angling ACL to each Gulf state as follows: Alabama 26.298 percent (1,122,662 lb (509,231 kg)), round weight, Florida 44.822 percent (1,913,451 lb (867,927 kg)), round weight, Louisiana 19.120 percent (816,233 lb (370,237 kg)), round weight, Mississippi 3.550 percent (151,550 lb (68,742 kg)), round weight, and Texas 6.210 percent (265,105 lb (120,250 kg)), round weight.

If NMFS suspends one or more state's delegation, NMFS would project the private angling season in Federal waters off the applicable states based on the remaining aggregate portion of the ACL reduced by the established 20 percent buffer that is used to determine the Federal annual catch target. Anglers who fish in Federal waters off a state without an active delegation of authority would fish under the default Federal regulations described previously.

Post-season ACL adjustments

Amendments 50B-F would establish post-season quota adjustments. An overage adjustment, or payback provision, is an accountability measure (AM) that reduces the following year's ACL by some specified amount, usually the amount the ACL was exceeded. The current recreational red snapper post-season AM applies when the stock is classified as overfished and an overage of the total recreational sector's ACL occurs. The AM requires NMFS to reduce the recreational sector ACL and ACT, and applicable component ACL and ACT, in the year following an overage of the total recreational ACL by the full amount of the overage, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary. Amendments 50B-F would establish post-season ACL overage adjustments for states with an active delegation, regardless of stock status. If the landings of a state exceed that state's ACL, then in the following fishing year that state's ACL would be reduced by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary. The total recreational ACL and the private angling component ACL would also be reduced.

In Amendments 50B-F, the Council expressed its intent to allow for carryover of a state's unused portion of its ACL to the following fishing year if permitted under a separate

amendment to the FMP that the Council was developing to add a carryover provision to the Acceptable Biological Catch Control Rule. In June 2019, the Council postponed work on that amendment. Therefore, NMFS is not proposing to implement this provision at this time.

Area closures

Amendment 50A would allow a Gulf state, consistent with the terms of an active delegation, to request that NMFS close all, or an area of, Federal waters off that state to the harvest and possession of red snapper by private anglers. The state would request the closure by letter to NMFS, providing dates and geographic coordinates for the closure. If the request is within the scope of the analysis in Amendment 50A, NMFS would publish a document in the *Federal Register* implementing the closure in Federal waters off that state for the fishing year.

Based on the analysis in Amendment 50A, Texas would be able to request a closure of all Federal waters off the state to allow a year-round fishing season in state waters and a limited season in Federal waters. Florida would be able to request a closure of Federal waters off the state seaward of the 20-fathom (36.6-m) depth contour, or seaward of the 35-fathom (64.0-m) depth contour, for the duration of Florida's open private angling component season. Alabama would be able to request a closure of Federal waters off the state seaward of the 20-fathom

(36.6-m) depth contour, or seaward of the 35-fathom (64.0-m) depth contour, for the duration of Alabama's open private angling component season. Florida and Alabama want the ability to close deeper waters to potentially extend their seasons by decreasing the average size of fish landed. These areas were chosen because an approximation for the 20-fathom depth contour is currently defined in 50 CFR 622.34(d) for the seasonal shallow-water grouper closure, and an approximation of the 35-fathom depth contour is partially defined in 50 CFR 622.35(b) for the seasonal eastern Gulf longline closure. The coordinates for any closure off Texas, Florida, or Alabama are provided in Appendix H of Amendment 50A and would be included in the *Federal Register* document implementing the closure. Neither Louisiana nor Mississippi provided any potential closures to analyze in Amendment 50A and these states would not be able to request Federal waters closures through this process without further action by the Council.

Proposed Rule for Amendments 50A-F

A proposed rule that would implement Amendments 50A-F has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the *Federal Register* for public

review and comment.

Consideration of Public Comments

The Council has submitted Amendments 50A-F for Secretarial review, approval, and implementation. Comments on Amendments 50A-F must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments received during the respective comment periods, whether specifically directed to Amendments 50A-F or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendments 50A-F and will be addressed in the final rule.

All comments received by NMFS on Amendments 50A-F 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: July 31, 2019.

Alan D. Risenhoover,

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

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