



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 240508-0133]

RIN 0648-BM56

**Fisheries of the Caribbean, Gulf of Mexico, and South
Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red
Snapper Data Calibrations and Gray Snapper Harvest Levels**

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 a framework action under 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
modifies the ratios used to set the state-specific red
snapper private angling component annual catch limits
(ACLs) for Alabama, Florida, and Mississippi and modifies
each of these state's private angling component ACLs based
on the new ratios. In addition, this final rule modifies
the stock ACL for gray snapper in the Gulf exclusive
economic zone (EEZ). The purposes of this final rule are to
update the state specific private angling component
calibration ratios and ACLs to provide a more accurate

estimate of state landings for red snapper management and to revise gray snapper catch limits with updated scientific information to continue to achieve optimum yield (OY) for the stock.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Electronic copies of the framework action, which include an environmental assessment, regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at

<https://www.fisheries.noaa.gov/action/red-snapper-data-calibrations-and-catch-limit-modifications>.

FOR FURTHER INFORMATION CONTACT: Dan Luers, Southeast Regional Office, NMFS, telephone: 727-824-5305, email: *daniel.luers@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes both red snapper and gray snapper, is managed under the FMP. The Council prepared the FMP, which the Secretary of Commerce approved, 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 NMFS and regional fishery management councils to prevent overfishing and to

achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks to ensure that 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.

On January 17, 2024, NMFS published a proposed rule for the framework action and requested public comment (89 FR 2913). Unless otherwise noted, all weights in this final rule are in round weight.

Red Snapper

Red snapper in the Gulf EEZ is harvested by both the commercial and recreational sectors. Each sector has its own ACL and associated management measures. The stock ACL is allocated 51 percent to the commercial sector and 49 percent to the recreational sector. The recreational ACL (quota) is further allocated between the Federal charter vessel/headboat (for-hire) component (42.3 percent) and the private angling component (57.7 percent).

In February 2020, NMFS implemented state management of red snapper for the private angling component through Amendments 50 A-F to the FMP (85 FR 6819, February 6, 2020). Through these amendments, each state was allocated a portion of the red snapper private angling component ACL and was delegated the authority to set the private angling fishing season, bag limit, and size limit. These amendments

also established an accountability measure (AM) that required any overage of a state's ACL to be deducted in the following year (*i.e.*, a payback provision).

In 2023, NMFS implemented a framework action under the FMP to calibrate the red snapper ACLs for Alabama, Florida, Louisiana, and Mississippi so they could be directly compared to the landings estimates produced by each of those state's data collection program (Calibration Framework) (87 FR 74014, December 2, 2022). As explained in the Calibration Framework final rule, each of these states have relatively new programs for monitoring red snapper landed by the private-angling component (beginning in 2014 for Alabama and Louisiana and 2015 for Florida and Mississippi), and these programs do not produce results that are comparable to each other or to Federal estimates generated by the Marine Recreational Information Program (MRIP). Prior to the development of these state programs, NMFS provided the only estimates of private angler red snapper landings, except for those in Texas (Texas anglers have never participated in the NMFS recreational data collection survey). The state-specific red snapper ACLs were established using the results of a stock assessment that included recreational landings estimates produced by MRIP. The Calibration Framework final rule applied state-specific ratios to these MRIP-based ACLs (Federal equivalent ACLs) to adjust each state's private-angling ACL

to account for the monitoring programs used by each Gulf state and allow a direct comparison between the ACL and state landings estimate. The ratios implemented by the Calibration Framework final rule were: Alabama (0.4875), Florida (1.0602), Louisiana (1.06), Mississippi (0.3840), and Texas (1.00). The ratios for Alabama, Florida, Louisiana, and Mississippi were developed using available state landings data. More information on the data used to calculate the current ratios can be found in the Calibration Framework.

In June 2022, the Council asked its Scientific and Statistical Committee (SSC) to review more recent state data and provide recommendations on any appropriate changes to the calibration ratios. Alabama, Florida, and Mississippi submitted updated data for review, and in January 2023, the SSC concluded that it was appropriate to modify the ratios for Alabama, Florida, and Mississippi to 0.548, 1.34, and 0.503, respectively.

This final rule modifies the calibration ratios for Alabama, Florida, and Mississippi as recommended by the SSC and applies these ratios to the MRIP-based ACLs to update the state-survey-based ACLs. The framework action and this final rule will not change the MRIP-based (Federal equivalent) state ACLs or the total private-angling ACL. However, because the understanding of the relationship between the states' landings estimates and the Federal

landings estimates have changed, NMFS expects each of the three states to increase the number of days that private anglers are allowed to harvest red snapper.

Gray Snapper

Gray snapper in the Gulf EEZ is managed as a single stock with a stock ACL and a stock annual catch target (ACT), although the ACT is not codified in the regulations or used for management. There is no allocation of the stock ACL between the commercial and recreational sectors. AMs for gray snapper specify that if the combined commercial and recreational landings exceed the stock ACL in a fishing year, then during the following fishing year if the stock ACL is reached or is projected to be reached, the commercial and recreational sectors will be closed for the remainder of the fishing year. However, since the implementation of gray snapper catch limits in 2012, total landings have not exceeded the ACL.

Prior to 2018, the status of the gray snapper stock had not been evaluated in a stock assessment. In 2018, a Southeast Data, Assessment, and Review (SEDAR) benchmark stock assessment for gray snapper was completed (SEDAR 51) and indicated that the stock was undergoing overfishing. SEDAR 51 included recreational landings estimates calibrated to the MRIP-Coastal Household Telephone Survey (CHTS). In response to this assessment, the Council developed and NMFS implemented Amendment 51 to the FMP,

which established biological reference points, overfished status determination criteria, and the current catch limits for the gray snapper stock (85 FR 73238, November 17, 2020). These catch limits are an overfishing limit (OFL) of 2.57 million lb (1.17 million kg), acceptable biological catch (ABC) of 2.51 million lb (1.14 million kg), and stock ACL of 2.23 million lb (1.02 million kg).

In December 2022, the Southeast Fisheries Science Center finalized a new stock assessment report for gray snapper (SEDAR 75). SEDAR 75 also incorporated updated recreational landings data calibrated to the MRIP-Fishing Effort Survey (FES). MRIP-FES replaced MRIP-CHTS in 2018, and total recreational fishing effort estimates generated from MRIP-FES are generally higher than MRIP-CHTS estimates.

The Council's SSC reviewed the results of SEDAR 75 during its January 2023 meeting and determined that the assessment was consistent with the best scientific information available. Based on the results of SEDAR 75, the Council's SSC concluded the stock is not overfished or undergoing overfishing as of 2020 and also determined that the stock was not likely to have been experiencing overfishing in 2015, as was concluded in SEDAR 51.

For this framework action, the Council recommended a constant catch OFL and ABC of 7.547 million lb (3.423 million kg) and 6.226 million lb (2.824 million kg),

respectively. The Council also recommended an 8 percent buffer between the ABC and stock ACL, which is based on the Council's ACL/ACT control rule. This results in a revised stock ACL of 5.728 million lb (2.598 million kg). Because of the different recreational landings estimates used to determine the current and revised catch limits (MRIP-CHTS versus MRIP-FES), these catch limits are not directly comparable. Much of the increase in the new catch limits is due to the conversion from MRIP-CHTS to MRIP-FES. However, using recreational data collected in MRIP-CHTS for reference, the revised catch limits do represent an approximate increase of 15 percent from the current catch limits.

Management Measures Contained in this Final Rule

Red Snapper

This final rule modifies the calibration ratios used by Alabama, Florida, and Mississippi to convert MRIP-based red snapper private angling component ACLs to state-survey-based red snapper private angling component ACLs and applies those ratios to update each state's ACL.

As described above, the current state private recreational data calibration ratios for Alabama, Florida, and Mississippi are 0.4875, 1.0602, and 0.3840, respectively. The framework action and final rule revise the state private recreational calibration ratios for Alabama, Florida, and Mississippi to be 0.548, 1.34, and

0.503, respectively. NMFS notes that the calibration ratios are not codified in the regulations. Applying the new ratios to the MRIP-based, Federal equivalent ACLs (which remain the same) results in revised state-survey-based private angling component ACLs as follows: the Alabama private angling component ACL will be 664,552 lb (301,436 kg) with a Federal equivalent of 1,212,687 lb (550,066 kg); the Florida private angling component ACL will be 2,769,631 lb (1,256,283 kg) with a Federal equivalent of 2,066,889 lb (937,525 kg); and the Mississippi private angling component ACL will be 82,342 lb (37,350 kg) with a Federal equivalent of 163,702 lb (74,254 kg).

Gray Snapper

As a result of SEDAR 75 and using data through 2020, this final rule revises the gray snapper stock ACL from 2.23 million lb (1.01 million kg) to 5.728 million lb (2.598 million kg). As explained previously, the current and revised ACLs are not directly comparable. However, total harvest has never exceeded the current ACL, and the revised stock ACL represents an increase in the allowable harvest.

Comments and Responses

NMFS received seven comment submissions in response to the proposed rule which were largely in support of the framework action and proposed rule. Several comments were outside the scope of the proposed rule, including that the

gray snapper size limit is too low, Mississippi's red snapper allocation percentage is too low, recreational landings should be calculated in number of fish rather than in weight, NMFS and the Council must create a new recreational census-based reporting system that captures landings and discards, and NMFS and the Council must implement a mandatory recreational fishing permit for all Gulf anglers. While these comments discuss red and gray snapper management, this action is limited to modifying the gray snapper catch limits and modifying the red snapper calibration ratios for Alabama, Florida, and Mississippi and applying these ratios to the MRIP-based ACLs to update the state-survey-based ACLs. Broader issues such as size limits, state allocations, and monitoring methods are outside the scope of this action.

Specific comments related to the proposed rule and the framework action are summarized below and followed by NMFS' respective responses.

Comment 1: NMFS should take a precautionary approach when drastic ACL changes are recommended based on MRIP-FES. For gray snapper, the drastic increase in the stock ACL (approximately 200 percent) is not precautionary, especially given the uncertainty of the MRIP-FES data and only 54 percent of last year's stock ACL was landed.

Response: Initially, NMFS notes that this final rule does not increase the gray snapper stock ACL by 200

percent. As explained previously, most of the increase in the new catch limits is due to the conversion from MRIP-CHTS to MRIP-FES. This conversion does not reflect greater harvest than previously allowed. It changes the scale of the catch limits to be consistent with the scale of survey used to monitor those catch limits. After accounting for the change to MRIP-FES, the increase in the gray snapper stock ACL is approximately 15 percent.

NMFS does not agree that a precautionary approach is necessary with respect to the gray snapper catch limits given the current stock status of gray snapper. As required by the Magnuson-Stevens Act, the new catch limits are designed to prevent overfishing and achieve OY and are based on the best scientific information available, including recreational landings estimates calibrated to MRIP-FES, which indicates that gray snapper is not overfished or undergoing overfishing. Further, the new ACL takes into account both scientific and management uncertainty. The Council's SSC recommended an ABC that is approximately 13 percent lower than the recommended OFL, and this buffer between the OFL and the ABC accounts for scientific uncertainty and reduces the likelihood of overfishing. The Council accounted for management uncertainty and further reduced the likelihood of overfishing by recommending a stock ACL eight percent below the ABC.

Comment 2: States that exceed their red snapper private angling component ACLs should not be rewarded with calibration ratios that increase their allowable harvest. Alabama, Mississippi, and Texas benefitted from a de facto reallocation of the recreational ACL by exceeding their red snapper private angling component ACLs between 2018 and 2021 without repercussion. These states should not be rewarded with increased allocation percentages based their ACL overages.

Response: It is unclear how the commenter determined that Alabama, Mississippi, and Texas exceeded their respective ACLs or benefitted from any de facto reallocation. In 2018 and 2019, all of the Gulf states were operating under exempted fishing permits that allowed each state to set the red snapper fishing season for private anglers landing red snapper in that state. The state-specific catch levels in each EFP were based on the amounts requested by each state, which equaled 96.22 percent of the total private angling component ACL. The EFPs required each state to pay back any overage of its ACL. Florida and Alabama exceeded their ACLs in 2018 and Louisiana exceeded its ACL in 2019; those overages were paid back in the following years. More information about the EFPs and the state landings in 2018 and 2019 can be found at <https://www.fisheries.noaa.gov/southeast/state-recreational-red-snapper-management-exempted-fishing->

permits#permits.

Since 2020, each state has been operating under the authority delegated in the final rule implementing Amendments 50A-F, which specified the state-specific allocations and ACLs. However, at the time Amendments 50A-F were implemented the state-specific ACLs had not been calibrated to each state's survey. In the final rule implementing the state calibration ratios, NMFS acknowledged that the lack of the calibrated state ACLs had allowed the combined landings from the Gulf States to exceed the total private angling component ACL. NMFS also explained that when state reported landings exceeded the codified state ACLs, NMFS implemented paybacks to address the state ACL overages, but no paybacks for Mississippi or Alabama had been implemented because landings estimates provided by these states did not exceed their ACLs as codified in 2020, 2021, and 2022 (see 87 FR at 74014). The calibrated state ACLs now allow NMFS to directly compare each state's landings estimate to its ACL and implement any necessary payback.

The Council did not consider and NMFS is not making changes to the state allocations. This final rule is adjusting how Alabama, Florida, and Mississippi's red snapper private angling program landings estimates compare to the MRIP-based landings estimates. Thus while this final rule increases the state-survey based red snapper ACLs, the

MRIP-based survey (Federal equivalent) ACLs remain the same. The allocation percentages adopted in Amendment 50A are based on the MRIP-based ACL, and this final rule is not changing each Gulf state's percentage of that MRIP-based ACL.

Comment 3: NMFS must require all five Gulf states to publicly report landings in a standardized and timely manner, and NMFS must provide a central location that publicizes recreational red snapper landings and discard information from the states both in "state currency" landings and the appropriate "common currency" landings once those data are finalized.

Response: NMFS disagrees that it is appropriate to require the states to report in a standardized manner because Amendments 50A-F were designed to allow each state to manage red snapper harvest by the private-angling component using their own systems, which are not uniform. NMFS publishes red snapper recreational landings from each Gulf state, as estimated by each state survey (state currency) and as estimated by MRIP (common currency) when NMFS receives the data from all of the Gulf states for a fishing year. NMFS does not have control over when the data from each Gulf state are submitted, so landings data may not be publicly available for a number of months after the end of a fishing year. In addition, the Gulf states' estimates may be updated by a state after they are

submitted to NMFS, and those changes may occur months or years after the data have been initially submitted. For this reason, NMFS publishes the red snapper recreational landings data as most recently reported by the states without change. NMFS does not require that the states provide estimates of red snapper recreational discards because the state ACLs are expressed in terms of landed fish only. Therefore, NMFS does not publish state discard data. The most recent private recreational landings data, estimated by MRIP and as submitted by the Gulf states, can be found at:

<https://www.fisheries.noaa.gov/southeast/recreational-fishing-data/gulf-mexico-historical-recreational-landings-and-annual-catch>.

Classification

Pursuant to section 304(b) (3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the framework action, the FMP, other provisions of the Magnuson-Stevens Act, the U.S. Constitution, and other applicable law.

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

The Magnuson-Stevens Act provides the legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

A description of this final rule, why it is being

considered, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule. The objective of this final rule is to improve the management of red snapper and gray snapper based on the best scientific information available.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. NMFS did not receive any comments from SBA's Office of Advocacy or the public regarding the certification in the proposed rule. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Annual catch limits, Fisheries, Fishing, Gulf, Recreational, Red snapper, Reef fish.

Dated: May 8, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 622 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 § 622.23, revise paragraphs (a)(1)(ii)(A), (B), and (D) to read as follows:

§ 622.23 State management of the red snapper recreational sector private angling component in the Gulf EEZ.

(a) * * *

(1) * * *

(ii) * * *

(A) *Alabama regional management area* - 664,552 lb (301,436 kg); Federal equivalent - 1,212,687 lb (550,066 kg).

(B) *Florida regional management area* - 2,769,631 lb (1,256,283 kg); Federal equivalent - 2,066,889 lb (937,525 kg).

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(D) *Mississippi regional management area* - 82,342 lb (37,350 kg); Federal equivalent - 163,702 lb (74,254 kg).

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3. In § 622.41, revise paragraph (1) to read as

follows:

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

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(1) *Gray snapper*. If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for gray snapper is 5.728 million lb (2.598 million kg), round weight.

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