

interfere with ongoing security assessment investigations and program suitability determinations and impose an impossible administrative burden by requiring such investigations to be continuously reinvestigated. The information contained in the system may also include classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose sensitive security information protected pursuant to 49 U.S.C. 114(s) and 49 CFR part 1520, the disclosure of which could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of screening applicants for program suitability, TSA must be able to review information from a variety of sources. What information is relevant and necessary may not always be apparent until after the evaluation is completed. In the interests of transportation security, it is appropriate to include a broad range of information that may aid in determining an applicant's suitability for the Registered Traveler program.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access and amendment provisions of subsection (d).

Issued in Arlington, Virginia, on May 24, 2005.

**David M. Stone,**

*Assistant Secretary.*

[FR Doc. 05-10632 Filed 6-7-05; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 050228048-5144-02; I.D. 021705A]

**RIN 0648-AS19**

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Vermilion Snapper Rebuilding Plan

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 23 to the Fishery Management Plan (FMP) for the

Reef Fish Resources of the Gulf of Mexico (Amendment 23) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule increases the minimum size limit for vermilion snapper to 11 inches (28 cm), total length (TL), for the recreational and commercial sectors; establishes a 10-fish recreational bag limit for vermilion snapper within the existing 20-fish aggregate reef fish bag limit; and closes the commercial vermilion snapper fishery from April 22 through May 31 each year. In addition, consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Amendment 23 establishes a stock rebuilding plan, biological reference points, and stock status determination criteria for vermilion snapper in the Gulf of Mexico. The intended effect of this final rule is to end overfishing and rebuild the vermilion snapper resource.

**DATES:** This final rule is effective July 8, 2005.

**ADDRESSES:** Copies of the Regulatory Impact Review (RIR), Final Regulatory Flexibility Analyses (FRFA), Final Supplemental Environmental Impact Statement (FSEIS), and Record of Decision (ROD) may be obtained from the Southeast Regional Office, NMFS, 263 13<sup>th</sup> Avenue South, St. Petersburg, FL 33701.

**FOR FURTHER INFORMATION CONTACT:**

Peter Hood, telephone: 727-551-5728, fax: 727-824-5308, e-mail: [peter.hood@noaa.gov](mailto:peter.hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

NMFS approved Amendment 23 on May 23, 2005. NMFS published a proposed rule to implement Amendment 23 and requested public comment on the proposed rule through April 25, 2005 (70 FR 11600, March 9, 2005). The rationale for the measures in Amendment 23 is provided in the preamble to the proposed rule and is not repeated here.

#### Comments and Responses

Following is a summary of comments received on Amendment 23 and the associated proposed rule along with NMFS' responses.

*Comment 1:* Increasing the minimum size from 10 inches (25.4 cm) to 11 inches (28.0 cm) total length and establishing a commercial closed season

from April 21 to May 31 will result in high rates of discard mortality, minimizing the effectiveness of harvest reduction measures.

*Response:* All harvest reduction measures examined in Amendment 23 have some associated discard mortality. In evaluating the measures, the Council balanced harvest reduction, the degree of discard mortality, and the economic efficacy of each alternative.

Increasing the minimum size to 11 inches (28 cm) would temporarily increase the number of discards. However, it also protects vermilion snapper spawning by protecting immature fish from harvest and allows mature fish additional spawning seasons. As time proceeds, the number of discards should decrease somewhat as the population rebuilds and larger fish become more available.

The closed season for the commercial fishery was requested by industry representatives to avoid a 12-inch minimum size limit, avoid trip limits, and minimize the economic harm to markets of an extended season closure. To minimize the number of vermilion snapper discarded when the commercial red snapper season is open, the season closure was designed to only span one red snapper 10-day season (May 1 through May 10). The closed season will have some positive effect on vermilion snapper spawning because it covers the beginning of the reproductive season.

*Comment 2:* Three comments were received suggesting the recreational and commercial fisheries should be closed at the same time to halt illegal sale of vermilion snapper by anglers when the commercial season is closed.

*Response:* To sell reef fish, a valid Federal commercial reef fish permit is required. Reef fish can only be sold to a dealer who has a valid Federal permit for Gulf reef fish. Thus, the sale of recreationally caught reef fish such as vermilion snapper is illegal. While keeping concurrent closed seasons for the commercial and recreational fisheries would aid enforcement of illegal sales, the Council determined that it preferred a year-round recreational fishery. A recreational closed season would only increase bycatch mortality for this mainly non-target species. To achieve the needed harvest reductions, they chose to increase the minimum size and decrease the bag limit to provide protection to the stock year-round.

The Council selected the closed season for the commercial fishery based on industry input. Commercial fishermen opposed trip limits as a means to achieve the required reductions. They suggested one 40-day

closed period would not affect product value by reducing access to markets once the season re-opened, and they selected the closure to center on May because harvest was highest, the markets were glutted reducing wholesale dockside prices, and fish were aggregated for spawning and easy to catch.

*Comment 3:* Five commenters indicated Amendment 23 should include alternatives for monitoring and minimization of bycatch. They suggested coordinating vermilion and red snapper management practices could minimize bycatch.

*Response:* The Council recently approved, and NMFS is in the process of implementing, additional bycatch reporting methodologies in Amendment 22 to the FMP. These include the development of an observer program managed by NMFS for the reef fish fishery and enhancement of the Marine Recreational Fisheries Statistics Survey (MRFSS) by including headboats, using the same sampling methodology as used for charter vessels. Given these measures, NMFS does not see the need for additional reporting requirements at this time.

A bycatch practicability analysis was conducted for the vermilion snapper fishery in Amendment 23. The analysis concluded that it is not practical to further minimize bycatch in the directed vermilion snapper fishery. The economic and social costs and benefits associated with management measures intended to sustain the stock outweigh the benefits of trying to further minimize bycatch. Although all of the proposed harvest reduction measures would increase bycatch to varying degrees, increases in stock abundance would exceed losses resulting from bycatch, allowing the stock to rebuild to  $B_{MSY}$ . Additionally, because vermilion snapper constitute a small directed fishery, it is not expected that bycatch reduction measures would greatly affect other reef fish species caught as bycatch, such as red snapper.

Linking vermilion snapper management to red snapper management, for example, through establishment of concurrent fishing seasons, would be one way to minimize vermilion snapper bycatch. However, for both the recreational and commercial vermilion snapper fisheries, this would result in greater reductions in harvest than required by the rebuilding plan. For the commercial fishery, the reductions in harvest would be well over 50 percent, and for the recreational fishery, the reduction would be approximately 30 percent (based on landings data presented in

Table 4.2.3.1.8 in Amendment 23). The reduction required by the vermilion snapper rebuilding plan is 26.3 percent for the commercial fishery and 21.5 percent for the recreational fishery.

An additional factor complicating co-management of these species is that vermilion snapper is a minor component of the reef fish fishery and so is generally not targeted. This means vermilion snapper are likely to be caught on reef fish trips targeting species other than red snapper, such as grouper and amberjack. If the seasons for red snapper and vermilion snapper are linked, then reef fish fishermen catching vermilion snapper during the closed season would have to discard those fish. This could actually lead to an increase in the bycatch mortality of vermilion snapper.

Finally, an individual fishing quota (IFQ) management system is being developed for the commercial red snapper fishery. IFQs, if implemented, would give individual fishermen shares in the fishery that they could fish anytime during the fishing year. This would result in the elimination of seasonal closures for the commercial red snapper fishery.

*Comment 4:* Five comments were received suggesting the rebuilding period for the stock should be shorter than the currently proposed maximum allowable time period.

*Response:* The Council evaluated rebuilding periods shorter than the allowed maximum of 10 years. In selecting a rebuilding plan, it is necessary to balance the conservation mandate provided by national standard 1 with the directive provided by national standard 8 to minimize to the extent practicable adverse economic impacts on fishing communities.

A 3-year rebuilding period that used a no-harvest strategy was not practicable because it required eliminating all discard mortality from directed and non-directed fisheries, would actually increase discard mortality dramatically because all unavoidable commercial and recreational catch would have to be released, and would cause major economic and social hardships on the directed fishery.

The Council also evaluated 7-year rebuilding plans. While they would end overfishing within one year after the rebuilding plans are implemented and would provide a quicker recovery of the stock, the initial reductions in harvest would be approximately 30 percent or greater. This initial reduction in harvest would create too much of a negative short-term impact on the economic and social environment of the fishery.

*Comment 5:* Three comments indicated that the reductions in harvest applied to the commercial and recreational fisheries are not fair and equitable.

*Response:* As stated in Amendment 23, the rebuilding plan requires across-the-board reductions in harvest of 25.5 percent for the proposed rebuilding plan. However, the Council noted that the vermilion snapper harvest increased dramatically during the late 1980s and early 1990s due primarily to increases in commercial harvest. This increase is believed to have created the overfishing and overfished conditions that are addressed by Amendment 23. Thus, the Council determined some shift of the socioeconomic costs of rebuilding to the commercial fishery was needed. The reduction assigned to the recreational fishery was 21.5 percent, which required an increased harvest reduction for the commercial fishery of 26.3 percent. In comparison to the across-the-board 25.5 percent reduction requirement in the rebuilding plan, the percent increase in the reduction for the commercial fishery (1.3 percent more than 25.5 percent) is lower than the percent decrease in the recreational fishery (3.5 percent less than 25.5 percent) because most landings are by the commercial sector.

*Comment 6:* The analysis of the alternatives is based on an uncertain assessment model and uses outdated information rather than relying on the best scientific data available.

*Response:* Amendment 23 is based on the best available scientific information and accordingly will establish a 10-year vermilion snapper rebuilding plan ending overfishing and rebuild the stock to  $B_{MSY}$ . The Council's Reef Fish Stock Assessment Panel (RFSAP) examined several models developed and analyzed as part of the assessment. The RFSAP determined the surplus production models, which tracked total fish biomass rather than separating them into age classes, were more appropriate because of difficulties in the age-length relationship for vermilion snapper. Moreover, the RFSAP chose what was termed the base model as the best model because of its relatively good fit to the observed data.

The rebuilding time frame and harvest reduction measures were developed from the base model for the stock assessment. However, running the assessment model to project future outcomes was complicated by new data collected since 1999 that suggest the stock is in better condition than predicted. These extended indices suggested vermilion snapper has either stabilized or increased since 1999.

Stock assessments are based on complex models that take in a variety of fishery information, integrating estimates of stock abundance with fishing effort to project how many fish may be caught for various time periods. It is difficult to evaluate the effects of new information without conducting a new assessment. Therefore, to estimate harvest reductions, fishing mortality rates from 2000–2003 were assumed to remain at the 1999 levels. New data were incorporated into the harvest levels by scaling up harvests from 2003 and into the future by the amount the 2000–2002 harvests exceeded those predicted by the 2001 assessment model. This approach was more conservative than if harvest and biomass levels had been scaled up to reflect recent harvests and catch-per-unit-effort values, but not so restrictive had recent harvest data been used in the model without any scaling.

A new stock assessment will occur later in 2005 using the Southeast Data Assessment and Review (SEDAR) process. The results of this assessment will be presented to the Council and NMFS in either late 2005 or early 2006. Based on the assessment outcome, the development of new management measures may be needed to maintain harvest levels consistent with the rebuilding plan. A description of how the Council and NMFS would review and adjust the rebuilding plan, either through a plan amendment, regulatory amendment, interim rule, or emergency action, is contained in the amendment.

*Comment 7:* One commenter indicated the SEIS fails to meet several basic standards required of all EISs according to Federal regulations, particularly not providing a full range of management options.

*Response:* NMFS, Council, and Environmental Protection Agency (EPA) staff have extensively reviewed the SEIS for consistency with NEPA. In its review of the draft and final SEIS, the EPA rated both versions of the document with a “lack of objection.” Additionally, the scoping and public hearing drafts of this document have been made available for public review and comment.

The Council initially examined a variety of rebuilding plans, but some of these were rejected for further analyses for a variety of reasons. A 3-year rebuilding plan, the time needed to rebuild the vermilion snapper stock to  $B_{MSY}$  in 3 years in the absence of any fishing, was considered. However, this plan was rejected because zero harvest would cause major economic and social hardship on the recreational for-hire and commercial fisheries. The Council also evaluated three 10-year rebuilding

plans and three 7-year rebuilding plans that had to be modified after landing estimates were revised to account for new fishing effort information. Finally, the Council rejected two 7-year constant harvest rebuilding plans because they did not provide much additional benefit over the 10-year constant harvest rebuilding plan.

The Council also initially considered several harvest reduction measures. The Council chose a 10-year stepped rebuilding strategy that required approximately a 25.5-percent reduction in total harvest during the first 4 years. Alternatives that either did not meet or significantly exceeded the percent reduction necessary for the stepped rebuilding strategy were removed from further consideration. While all harvest reductions cause hardship during the first 5 years of implementation, those greater than 30 percent were believed too disruptive early in the rebuilding process because the biological gains at the end of the rebuilding time were all the same. All of the tools available for reducing harvest (bag, trip, size, season, and quota options) remain as considered alternatives but are within the range of 21.5 to 30.0 percent, depending on the option.

There are other tools that can reduce effective harvest, such as closing essential fish habitat for vermilion snapper (e.g., marine protected areas (MPAs)) or mandating gear changes (e.g., minimum hook size or number of hooks per line). These were considered by the Council, but deemed impractical because this species comprises less than 10 percent of the species harvested in the reef fish fishery. Any measures to implement MPAs or gear changes would affect other managed species in the reef fish management unit as well as those in other finfish fisheries.

*Comment 8:* One commenter suggested Amendment 23 should have included ecosystem-based management alternatives to reduce harvest.

*Response:* The Council did consider ecosystem-based forms of management such as MPAs and fishing gear restrictions. Vermilion snapper, like most other snappers, do not seem to have well-established, small geographic niches where spawning occurs. Broad areas of hard bottom would have to be closed to significantly benefit vermilion snapper spawning or essential fish habitat, and these areas would encompass habitat used for similar purposes by nearly all other reef fish species. The Council also considered changes to reef fish fishing gear such as increasing hook size or reducing the number of hooks per line. However, these methods, like MPAs, would affect

the harvest of any other species in the fishing area and therefore were not considered in this amendment, which is specific to only one species in the reef fish management unit. These types of management tools are appropriate for broad use for protection of essential fish habitat and reduction of effort and bycatch in the reef fish fishery.

*Comment 9:* One commenter indicated there should be a 10-percent reduction in the vermilion snapper total allowable catch.

*Response:* To rebuild the vermilion snapper stock, current harvests need to be reduced overall by 25.5 percent. This reduction will allow the vermilion snapper stock to rebuild. Once the stock has been rebuilt, the stock will be managed for optimum yield. This harvest level will be maintained by fishing 75 percent of  $F_{MSY}$ . This should result in approximately 94 percent of  $MSY$ . While this reduction is not quite the 10 percent requested by the commenter, the stock biomass will be able to build to approximately 25 percent above  $B_{MSY}$ , and the chance the stock will become overfished will be less than 30 percent.

*Comment 10:* One commenter suggested the Council and NMFS do not need to adhere to the 1-year deadline to submit a plan for ending overfishing and rebuilding an overfished stock (16 U.S.C. 1854(e)(3)) if updated information on the stock will soon be available and the Council and NMFS have shown substantial progress in developing the plan.

*Response:* The Magnuson-Stevens Act states that if the Secretary determines at any time that a fishery is overfished, the appropriate Council will be notified, and the Secretary will request action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Council then has 1 year to prepare a fishery management plan, plan amendment, or proposed regulations for the fishery to end overfishing and rebuild affected stocks. The Magnuson-Stevens Act also states that, if the Council does not submit a fishery management plan, plan amendment, or proposed regulations to the Secretary within the 1-year period after a fishery is declared overfished, the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months.

*Comment 11:* One commenter suggested enforcement should be increased to ensure regulations are followed in the fishery.

*Response:* Regulations promulgated through this final rule include size limits, bag limits, and seasonal closures. Currently the vermilion snapper fishery is regulated using size and bag limits, so these two measures should not create an increased enforcement burden. Seasonal closures have been used successfully to manage other reef fish species such as red snapper, red grouper, gag, black grouper, and greater amberjack. Adding vermilion snapper to this list will require carefully monitoring of fishing activities for this species to determine compliance with regulations. However, new methods beyond current practices would not need to be developed.

NMFS' Office for Law Enforcement (OLE) is dedicated primarily to the enforcement of laws that protect and regulate our nation's living marine resources and their natural habitat. To better utilize resources, OLE has developed partnerships with the U.S. Coast Guard, other Federal enforcement agencies, and state marine enforcement agencies.

#### Classification

The Administrator, Southeast Region, NMFS, has determined Amendment 23 is necessary for the conservation and management of the vermilion snapper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

The Council and NMFS prepared an FSEIS for Amendment 23. The FSEIS was filed with the Environmental Protection Agency on March 3, 2005. A notice of availability was published on March 11, 2005 (70 FR 12211). In approving Amendment 23, on May 23, 2005, NMFS issued a ROD identifying the selected alternatives. A copy of the ROD is available from NMFS (see ADDRESSES).

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

NMFS prepared a Final Regulatory Flexibility Analyses (FRFA). The FRFA incorporates the initial regulatory flexibility analysis and a summary of the analyses completed to support the action. Three commenters expressed concern regarding the economic impact of this rule (see Comment 5). They stated that applying a greater percentage reduction to commercial harvest than to recreational harvest is not fair and equitable. NMFS' response explains that a slightly higher percentage harvest reduction (about a 4-percent difference) was applied to the commercial sector because commercial landings increased significantly during the early 1990s and, thus, contributed more to the overfishing of vermilion snapper than

did recreational harvest. For that reason, the slightly higher percent reduction was justified and appropriate.

Therefore, no changes were made in the rule as a result of these comments. A summary of the FRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this final rule. This final rule will set specific sustainable fishing parameters for vermilion snapper and establish a rebuilding plan for the overfished vermilion snapper stock.

The objectives of this final rule are to bring management of the vermilion snapper fishery into compliance with requirements of the Magnuson-Stevens Act by addressing the overfished and overfishing conditions of the vermilion snapper stock and establishing a rebuilding plan for the overfished vermilion snapper stock.

This final rule contains no changes in record-keeping or compliance requirements.

This final rule would impact both the commercial and recreational participants in the Gulf reef fish fishery. At present, both the commercial and for-hire reef fish permits are under a moratorium, and no new permits will be issued during the moratorium. Reef fish dealers in the Gulf are required to obtain permits to purchase reef fish caught in the Gulf. There are 1,158 active commercial reef fish permits (as of October 2003). Of these commercial permittees, 441 vessels reported in their logbook submissions to have landed vermilion snapper, with most using vertical line gear. There are 1,552 for-hire vessels with active permits (as of October 2003). Also, there are 431 dealers that purchase reef fish from various vessels in the Gulf. This final rule is expected to affect these commercial vessels, for-hire vessels, and fish dealers.

According to a survey of commercial fishing vessels in the Gulf, average gross receipts ranged from \$24,095 for low-volume vertical line vessels to \$116,989 for high-volume longline vessels. The average reef fish vessel generated annual gross revenues of \$65,200, of which \$7,400 was from sales of vermilion snapper. Also, according to a survey of reef fish processors in the Southeast, employment by reef fish processors totaled 700 individuals, both part and full time. Given this number and the likelihood that fish dealers are generally of smaller size than processors, employment by any of the affected dealers is very likely to be less than 500 individuals. Furthermore, according to two surveys of for-hire vessels in the Gulf, average gross receipts for charterboats range from \$58,000 in the

eastern Gulf to \$81,000 in the western Gulf, or an overall average of \$64,000. Gross receipts for headboats range from \$281,000 in the eastern Gulf to \$550,000 in the western Gulf, or an overall average of \$400,000. A fishing business is considered a small entity if it is independently owned and operated and not dominant in its field of operation, and if it has annual receipts not in excess of \$3.5 million in the case of commercial harvesting entities or \$6.0 million in the case of for-hire entities, or if it has fewer than 500 employees in the case of fish processors, or fewer than 100 employees in the case of fish dealers. Given these data on earnings and employment, all of the business entities affected by this final rule are small business entities.

By themselves, measures for specifying sustainable fishing parameters have no economic impacts on small entities. These specifications simply establish the boundaries for management measures that may need to be implemented. Effects would be quantified and addressed, and appropriate analyses would be performed, when such management measures are considered.

Five rebuilding alternatives were considered. Alternative 1 is the no action alternative and is not considered a viable alternative because, pursuant to the Magnuson-Stevens Act, a rebuilding plan must be instituted for the overfished vermilion snapper stock. Alternative 2 is a 10-year rebuilding plan using a constant harvest strategy. Alternative 3, which is the measure specified in this final rule, is a 10-year rebuilding plan using a stepped strategy. Alternative 4 is a 10-year rebuilding plan using a constant fishing mortality strategy. Alternative 5 is a 7-year rebuilding plan using a stepped strategy. As all alternatives require harvest reductions, at least in the initial years of the rebuilding, all would result in negative short-term impacts, but, as the stock rebuilds, more positive benefits would be realized. Over the short-run, Alternative 2 results in the least negative impacts, followed by Alternative 3. Over time, Alternative 2 would provide the lowest overall economic impact on small entities. Alternatives 4 and 5 would provide higher positive economic impacts than Alternative 3 over a period of 10 years, but, in the early years of the rebuilding, these two alternatives would bring about more negative effects on small entities. Over the entire period considered, the various rebuilding alternatives may be ranked in descending order in terms of net economic impacts as follows:

Alternative 5, Alternative 4, Alternative 3, Alternative 2, and Alternative 1.

Measures to reduce harvest of the recreational and commercial sectors have direct and immediate impacts of the operations of small entities. Six recreational management measure alternatives were considered. Alternative 1 is the no action alternative, which does not effect any harvest reduction. Alternative 2 provides for a daily bag limit of 2 fish per person within the existing 20–reef fish aggregate bag limit. Alternative 3A, which is the measure specified in the rule, imposes a minimum size limit of 11 inches (28 cm) total length (TL) with a 10–fish daily bag limit per person within the existing 20–reef fish aggregate bag limit. Alternative 3B imposes a minimum size limit of 11 inches (28 cm) TL with a 7–fish daily bag limit per person within the existing 20–reef fish aggregate bag limit. Alternative 4 considers the implicit recreational allocation of total allowable catch as a quota and would subject the recreational fishery to possible quota closures. Alternative 5 requires a vermilion snapper seasonal closure from May 1 to June 21 annually. Alternative 4 provides the most net revenues to for-hire vessels in both the short term and the long term. A good deal of this effect, however, is due to the higher allocation given to the recreational sector. All other alternatives, including Alternative 3A, would generate short-term reductions but long-term increases in vessel net revenues. Alternative 3A results in the highest negative impacts in the short term and the lowest positive impacts in the long term. Alternative 3A would reduce for-hire vessel profits by \$2.29 million (\$1,476 per vessel) in the first 5 years of the rebuilding but would increase profits by \$5.05 million (\$3,254 per vessel) in the subsequent rebuilding period, resulting in an overall increase in profits by \$2.76 million (\$1,778 per vessel) for the entire 10-year rebuilding period.

Eight commercial management alternatives were considered.

Alternative 1 is the no action alternative. Alternative 2 provides for a trip limit option of 1,625 lb (737 kg) of vermilion snapper. Alternative 3 imposes a minimum size limit of 12 inches (30.5 cm) TL. Alternative 4A imposes an 11–inch (28–cm) TL minimum size limit together with a trip limit of 2,300 lb (1,043 kg) of vermilion snapper. Alternative 4B imposes an 11–inch (28–cm) TL minimum size limit together with a trip limit of 2,250 lb (1,021 kg) of vermilion snapper. Alternative 5 imposes a quota equivalent to a 67–percent allocation of

total allowable catch, thereby potentially subjecting the commercial fishery to quota closures. Alternative 6 provides for a vermilion snapper seasonal closure of August 1 through September 30 and December 1 through 31 annually. Alternative 7, which is the measure specified in the rule, imposes an 11–inch (28–cm) TL size limit and a 40-day closed season from April 22 through May 31. All alternatives would result in negative effects in the short term. Over the 10-year period, the seasonal closure (Alternative 6), the quota (Alternative 5), and the 11–inch TL minimum size along with the 40-day closure (Alternative 7) would result in the largest increase in net revenues. Size limit alternatives would result in the least increase in net revenues. In fact, the 12–inch (30.5–cm) TL minimum size limit would reduce net revenues over a 10-year period. Alternative 7 would reduce commercial vessel profits by \$1.37 million (\$3,107 per vessel) in the first 5 years of the rebuilding but would increase profits by \$2.85 million (\$6,463 per vessel) in the subsequent period, resulting in an overall increase in profits by \$1.47 million (\$3,333 per vessel) for the entire 10-year rebuilding period.

Copies of the FRFA are available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” As part of this rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all permit holders for the Gulf reef fish fishery.

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

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 2, 2005.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

#### PART 622—FISHERIES OF THE CARIBBEAN, GULF, 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 § 622.34, paragraph (n) is added to read as follows:

#### § 622.34 Gulf EEZ seasonal and/or area closures.

\* \* \* \* \*

(n) *Seasonal closure of the commercial fishery for vermilion snapper.* The commercial fishery for vermilion snapper in or from the Gulf EEZ is closed from April 22 through May 31, each year. During the closure, no person aboard a vessel for which a valid Federal commercial permit for Gulf reef fish has been issued may fish for or possess vermilion snapper in the Gulf, regardless of where harvested. However, a person aboard a vessel for which the permit indicates both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain vermilion snapper under the bag and possession limits specified in § 622.39(b)(1)(v) and (b)(2), respectively, provided the vessel is operating as a charter vessel or headboat. During the closure, the sale or purchase of vermilion snapper is prohibited as specified in § 622.45(c)(5).

\* \* \* \* \*

■ 3. In § 622.37, paragraph (d)(1)(ii) is revised to read as follows:

#### § 622.37 Size limits.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) Vermilion snapper--11 inches (27.9 cm), TL.

\* \* \* \* \*

■ 4. In § 622.39, paragraph (b)(1)(v) is revised to read as follows:

#### § 622.39 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i) through (b)(1)(iv) and paragraphs (b)(1)(vi) through (b)(1)(vii) of this section and excluding dwarf sand perch and sand perch--20, but not to exceed 10 vermilion snapper.

\* \* \* \* \*

■ 5. In § 622.45, paragraph (c)(5) is added to read as follows:

#### § 622.45 Restrictions on sale/purchase.

\* \* \* \* \*

(c) \* \* \*

(5) From April 22 through May 31, each year, no person may sell or purchase vermilion snapper harvested from the Gulf by a vessel with a valid Federal commercial permit for Gulf reef fish. This prohibition on sale/purchase does not apply to vermilion snapper

that were harvested, landed ashore, and sold prior to April 22 and were held in cold storage by a dealer or processor.

\* \* \* \* \*

[FR Doc. 05-11391 Filed 6-7-05; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 679 and 680

[Docket No. 040831251-5138-04; I.D. 082504A]

RIN 0648-AS47

#### Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources; Correction

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** NMFS issues this final rule, correcting amendment to the regulations governing the Bering Sea and Aleutian Islands crab fisheries. This action is necessary to clarify procedures and to correct discrepancies provided in a previous rulemaking. This final rule is intended to promote the goals and objectives of the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (FMP), the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable law.

**DATES:** Effective April 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7008 or [patsy.bearden@noaa.gov](mailto:patsy.bearden@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

In January 2004, the U.S. Congress amended section 313(j) of the Magnuson-Stevens Act through the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801). As amended, section 313(j)(1) requires the Secretary of Commerce to approve and implement by regulation the Crab Rationalization Program (Program), as it was approved by the North Pacific Fishery Management Council (Council) between June 2002 and April 2003, and all trailing amendments, including those reported to Congress on May 6, 2003. In June 2004, the Council consolidated its actions on the Program into the Council

motion, which is contained in its entirety in Amendment 18. Additionally, in June 2004, the Council developed Amendment 19, which represents minor changes necessary to implement the Program. The Notice of Availability for these amendments was published in the **Federal Register** on September 1, 2004 (69 FR 53397). NMFS published a proposed rule to implement Amendments 18 and 19 on October 29, 2004 (69 FR 63200). NMFS approved Amendments 18 and 19 on November 19, 2004. NMFS published a final rule to implement Amendments 18 and 19 on March 2, 2005 (70 FR 10174). NMFS also published a final rule (March 18, 2005; 70 FR 13097) to correct OMB control numbers provided in the final rule dated March 2, 2005 (70 FR 10174).

#### Need for Corrections

NOAA seeks to ensure the final rule (March 2, 2005; 70 FR 10174) conforms to the statutory requirements and intent of the Program, to provide clarification regarding the Program's regulatory requirements, and to correct minor technical errors.

##### 1. Statutory Conformance Corrections

These corrections are made to sections of the rule that do not currently conform to the statutory requirements of the Program. Some of the dates specified in the final rule for qualifying years and eligibility years were incorrect. This correction ensures that the final rule conforms to statutory requirements.

##### Table 7 to Part 680

For the Bristol Bay red king crab (BBR) Quota Share (QS) fishery, the participation seasons for Catcher Vessel Crew (CVC) and Catcher/processor Crew (CPC) QS are corrected by adding the year 1999 and removing the year 2002. On page 10293, row 1 (BBR), column D, paragraph (3) is removed. On page 10293, row 1 (BBR), column D, paragraph (2) is redesignated as paragraph (3), "October 15, 2001 through October 18, 2001." On page 10293, row 1 (BBR), column D, paragraph (1) is redesignated as paragraph (2), "October 16, 2000 through October 20, 2000." On page 10293, row 1 (BBR), column D, a new paragraph (1) is added, "October 15, 1999 through October 20, 1999."

For the Bering Sea snow crab (BSS) QS fishery, the 1998 qualifying year for QS and the 1998 eligibility year for CVC and CPC QS are corrected. On page 10293, row 2 (BSS), columns B and C, paragraphs (3) are amended by removing "March 21, 1998" and adding in its place "March 20, 1998."

For the Bering Sea Tanner crab (BST) QS fishery, the qualifying years for CVC and CPC QS are corrected. The 1991/1992 year was inadvertently omitted from the qualifying years and is added by this rule. The year November 1, 1993 through November 10, 1993 is combined with the year November 20, 1993 through January 1, 1994. On page 10293, row 3 (BST), column B, paragraphs (2) and (3) are combined as new paragraph (3), "November 1, 1993 through November 10, 1993, and November 20, 1993 through January 1, 1994." On page 10293, row 3 (BST), column B, paragraph (1) is redesignated as paragraph (2), "November 15, 1992 through March 31, 1993." On page 10293, row 3 (BST), column B, new paragraph (1) is added, "November 15, 1991 through March 31, 1992." This date was inadvertently omitted in the final rule.

For the Eastern Aleutian Islands golden king crab QS fishery (EAG), the date for the 2000 eligibility year for CVC and CPC QS is corrected. On page 10294, row 4 (EAG), column C, paragraph (5) is amended by removing "September 25, 2000" and adding in its place "September 24, 2000."

For the Western Aleutian Islands golden king crab QS fishery (WAG), the date for the 1997/1998 qualifying year for QS, the date for the 2000/2001 qualifying year for QS, 2000/2001 eligibility year for CVC and CPC QS, and the 2000/2001 recent participation season for CVC and CPC QS are corrected. On page 10294, row 7 (WAG), column B, paragraph (2) is amended by removing "August 21, 1998" and adding in its place "August 31, 1998." On page 10294, row 7 (WAG), columns B and C, paragraphs (5) and column D, paragraph (2), are amended by removing "March 28, 2001" and adding in its place "May 28, 2001."

For the Western Aleutian Islands red king crab QS fishery (WAI), the date for the 1993/1994 eligibility year for CVC and CPC QS is corrected and two typographical errors are corrected. On page 10295, row 8 (WAI), column C, paragraph (2) is amended by removing "November 1, 1995" and adding in its place "November 1, 1993." On page 10295, row 8 (WAI), column C, the introductory paragraph is amended by removing a duplicate paragraph "3 of the 4 seasons beginning on:" On page 10295, row 8 (WAI), column D, the introductory paragraph is amended by removing "fishiers" and adding in its place "fisheries."

##### Table 9 to Part 680

For the Bering Sea Tanner crab QS fishery (BSS), the date of the 1998 initial