

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 653**

[Docket No. 70616-7183]

Red Drum Fishery of the Gulf of Mexico**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.**ACTION:** Final rule.

SUMMARY: NOAA issues this final rule to implement Amendment 1 to the Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (FMP). This final rule (1) establishes primary and secondary fishing areas and prohibits harvest of red drum from secondary areas, (2) revises quota provisions to include allocations for shrimp vessels and recreational fishing vessels, (3) revises the closure requirement to apply to shrimp and recreational vessels, (4) prohibits the sale of fish taken under the bag limit, (5) establishes that fish harvested in the exclusive economic zone (EEZ) will be landed in conformance with State laws, and (6) revises the procedure for specifying total allowable catch (TAC) and modifying quotas for the primary area. The intended effect is to protect and rebuild the red drum resource throughout its range through cooperative State/Federal management and to prevent overfishing while achieving optimum yield (OY) from the red drum fishery on a continuing basis.

EFFECTIVE DATE: October 16, 1987.

ADDRESS: Copies of the environmental assessment and the supplemental regulatory impact review/initial regulatory flexibility analysis may be obtained from William R. Turner, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: William R. Turner, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce (Secretary) prepared the FMP under the authority of section 304(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Implementing regulations for the FMP were effective December 19, 1986 (51 FR 46678, December 24, 1986). Earlier, the Secretary promulgated an emergency rule (51 FR 23553, June 30, 1986) that limited directed net harvest of red drum from the EEZ to one million pounds during its 90-day effective period (June 25 to September 23, 1986); it also limited incidental catch in other commercial fisheries to five percent of red drum by

weight of the total catch aboard a vessel. The directed fishery was closed on July 20, 1986 (51 FR 26554, July 24, 1986; corrected at 51 FR 27413, July 31, 1986). The Secretary extended the emergency rule (51 FR 34220, September 26, 1986) for a second 90-day period, until December 22, 1986.

In Amendment 1 to the FMP, the Gulf of Mexico Fishery Management Council (Council) revised and restated the management unit, problems in the fishery, management objectives, OY, the procedure for specifying harvest levels from the EEZ, allowable harvest levels, and other provisions. The preamble to the proposed rule to implement Amendment 1 (52 FR 22822, June 16, 1987) described these changes and their rationale and is not repeated here.

Comments and Responses

Comments criticizing the proposed rule and amendment were received from Organized Fishermen of Florida, Alaska Factory Trawler Association, Southeastern Fisheries Association, National Fisheries Institute, Pacific Seafood Processors Association, Fish Consumers Association, one commercial purse seine captain, and a minority report signed by two members of the Council. Mixed comments indicating support for some measures and problems or potential problems with others were received from the Florida Department of Natural Resources, Florida Marine Fisheries Commission, U.S. Coast Guard, and U.S. Fish and Wildlife Service. Letters in support of Amendment 1 and the proposed rule were received from approximately 3,000 members of the Coastal Conservation Association and from several recreational fishing organizations. In general, critical comments challenged the composition and structure of the management unit, procedures for specifying harvest levels, and the deletion of provisions describing supersession of State law when landing red drum taken from the EEZ during a directed commercial fishery. Other miscellaneous comments were received, but most were related to these topics and all are addressed below.

Management Unit

One organization indicated that blue runner, black drum, ladyfish, and crevalle jack should be included in the management unit because they occur in close association with red drum. Although not genetically related, these species were originally proposed for inclusion in the FMP. It was generally believed that the market could expand for one or more of these species in search of a substitute for red drum, and

that their inclusion in the FMP would provide a basis for accumulating data in the event the management became warranted. Based on comments received on the proposed rule to implement the FMP, these species were eliminated from the management unit. The reason was discussed in the preamble to the final rule for the FMP.

Other comments indicated that there is no justification for dividing the Gulf of Mexico EEZ into primary and secondary management areas. Although there is no direct genetic evidence on red drum to support stock differences in these areas, indirect evidence from mark-recapture studies, harvest data, and socio-economic considerations support the division. Historically, more than 98 percent of the total recreational and commercial catch of red drum from the EEZ has been harvested from the primary area. Data from Florida and Texas, the States bordering the secondary areas, indicate high fishing mortality rates in those areas. Further, owing to the nine-mile jurisdictional authority of these two States in the Gulf of Mexico, red drum in these secondary areas appear concentrated in waters under State control. Available data on red drum migration indicate little intermixing between areas. Although limited, considered together this information suggests that escapement from State waters bordering the secondary areas has been insufficient to maintain the offshore brood stock of red drum. Total closure of the secondary areas coupled with intensified conservation efforts evident on the part of the States is expected to protect and enhance rebuilding of the offshore red drum population in those areas. Such constraints should result in relatively slight socioeconomic impacts, as less than two percent of the total of the red drum harvest has been from the secondary areas.

Specification of Harvest Levels

Comments in this category generally were concerned with who specifies the allowable catch levels and by what process. Additionally, there was concern with the 20-percent level of juvenile escapement targeted for inshore waters and its relationship to allowable catch, its measurement, and its scientific basis.

The achievement of a 20-percent level of juvenile escapement to offshore waters does not trigger the opening of a directed commercial fishery. It is simply a prerequisite which will foster rebuilding of the offshore spawning stock biomass to levels that could support renewed fishing effort. A

general rule of thumb used by fishery biologists is that spawning stock biomass should not be reduced below 20 to 40 percent of the level existing before exploitation. Certain fisheries exploited beyond this level have collapsed. Therefore, the Council has recommended that the States take measures to allow the escapement of 20 to 40 percent of the juveniles that would have escaped from nearshore waters in the absence of an inshore fishery. An initial goal of 20 percent escapement is recommended. NMFS, through its Southeast Fisheries Center, will annually review the stock assessment data to determine if the 20-percent (or any future) escapement level is appropriate to achieve the objectives of the amendment. NMFS will also monitor the States' efforts to increase juvenile escapement to the determined levels and to provide estimates of escapement. On the basis of the best scientific information currently available, escapement is the determining factor in increasing the offshore spawning stock biomass. Based on annual stock assessments, NMFS will determine current levels of escapement and what levels are required over time to reach a spawning stock biomass that ensures optimum recruitment and enhancement of inshore and offshore populations. NMFS is presently funding and will evaluate the success of State projects conducted under the Marine Fisheries Initiative (MARFIN) program to measure levels of escapement.

The opening of a directed commercial fishery in the primary area will not occur until stock assessment data identifies a level of surplus spawning stock that can be safely removed while incurring little risk of overfishing. Accordingly, NMFS will provide an annual assessment of the red drum stock that will be used to specify a range of acceptable biological catch (ABC) for the primary area. The Council in turn will use that information to make necessary adjustments to the amount of allowable catch from within or below the range of ABC and to establish appropriate quotas for forthcoming fishing seasons. These decisions are within the authority of the Council, subject to conformance with the national standards of 50 CFR Part 602. Under the FMP prepared by the Secretary, the Regional Director was responsible for these decisions. The use of FMP amendment procedures to specify allowable catch and quotas ensures a greater cross-section of review, promotes conservation, minimizes risk to the resource, and takes advantage of statutory deadlines

in making timely adjustments to TAC and quotas.

State/Federal Cooperative Management

Several respondents commented that deletion of supersession provisions in Amendment 1 is in direct conflict with responsibilities recognized in the Secretarial FMP, and sets an improper precedent for managing other fisheries under the Magnuson Act. According to the comments, use of State landing laws to control harvest in the EEZ appears contrary to the intent of the Magnuson Act and an abdication of management authority by the Secretary.

NOAA does not agree that the Secretary has relinquished management responsibility to the States or that the actions embodied in Amendment 1 are contrary to the Magnuson Act. Rather, the changes represent a shift to a more pragmatic approach, where the States and the Federal government share more equitably the burdens and responsibilities of red drum management. It recognizes that the States play an integral role in preserving and rebuilding offshore stocks. State inshore fisheries, where the majority of the harvest has historically taken place, are totally dependent on offshore spawners. State implementation of conservation fishing regulations not only protects inshore red drum fisheries, but should also ensure adequate escapement to restore offshore stocks and subsequent resumption of the offshore fishery. The 20 percent escapement provision emphasizes the necessity for a shared research and development program. Amendment 1 focuses on both inshore and offshore stock problems as equally important to restoration of this resource. It provides that State landing and possession laws apply to all presently allowable EEZ bag limits and commercial incidental catch. Further, Amendment 1 continues to provide for the landing and sale of lawfully captured red drum from the EEZ whenever a directed fishery is resumed. Such fish will be properly documented and landed as "imports." This will allow marketing of these fish in a way that is compatible with State laws where sale of domestically landed red drum is prohibited, but where certified imports are exempt and can be legally marketed. This approach supports and strengthens State conservation programs without diluting or disrupting enforcement capabilities.

Other Comments

One agency supported the short-term goal of protecting offshore spawners while encouraging and supporting the States' efforts to protect juveniles in

estuarine waters, but expressed concern with the long-term management strategy because it could result in the resumption of offshore harvest. The direction of future management of red drum resources depends upon how the stocks respond to current management practices as reflected by the annual stock assessments. Permanent closure of the EEZ to a directed commercial harvest of red drum would constitute an inflexible management approach oblivious to factual biological information emerging from ongoing studies, be insensitive to user-group concerns and allocation responsibilities under the Magnuson Act, and obstruct the Council's deliberative processes.

Another agency indicated that the identification of problems in Amendment 1 should be expanded to include, "competition between recreational and commercial uses," and that the document should contain greater elaboration of this issue. User-group competition is included in problem (4) as identified in the proposed rule and Amendment 1. NOAA believes that the management approach described in Amendment 1 reasonably addresses problems associated with the competition for access to this resource in an atmosphere of State-Federal cooperation and is consistent with conservation decisions.

One agency commented that defining allowable incidental catch in terms of landed catch precludes enforcement at sea of incidental catch limitations. Where possible, the final rule prohibits possession of red drum in or from the EEZ or a primary or secondary area. Compliance with restrictions which apply on a trip basis, however, must be determined on landed catch. A vessel which catches red drum in excess of five percent by weight early in a fishing trip should not be considered to be in violation when it could end the trip within the legal limit. NOAA expects that relevant observations at sea will be communicated to and coordinated with authorized officers ashore to maximize enforcement efforts. Enforcement at sea is required to detect illegal transfers of red drum and to document any fishing operations that do not minimize wastage.

One agency recommended that the final rule define the eastern boundary of the secondary area off Florida to clarify its limits off the southern tip of Florida. A clear definition of that boundary, based on the delineation between the Gulf of Mexico and the Atlantic Ocean as contained in 50 CFR 601.12(c), is included in the definition of secondary areas.

One agency expressed concern that the language of the existing § 653.3(c), making the regulations applicable within the boundaries of any national park, monument, or marine sanctuary in the Gulf of Mexico, is inconsistent with an avowed purpose of Amendment 1, i.e., deletion of the exemption from State landing laws. NOAA does not view § 653.3(c) as operating to displace laws which are otherwise made applicable to these types of areas. This general language ensures protection of the resource throughout its range in the EEZ compatible with other applicable restrictions.

One agency recommended a minimum size of 18 inches for all red drum taken from the EEZ to aid State enforcement when a directed net harvest is resumed. Consideration of such a recommendation would be appropriate when resumption of a directed commercial fishery is contemplated.

A commenter, concerned about the "dumping" of excess red drum because nets were set around too many fish, proposed a prohibition on and a severe penalty for dumping. The final rule contains prohibitions on fishing operations which cause wastage of red drum.

Changes From the Proposed Rule

Section 653.1 is reorganized for simplicity and clarity, language is added to clarify that the regulations apply only to fishing vessels of the United States, and reference to § 653.22(g) as an exception to applicability of the regulations only in the EEZ of the Gulf of Mexico is removed. The provision allowing continued application of State landing and possession laws to certain red drum harvested in the EEZ is contained in § 653.2(d) of this rule and does not constitute an exception to the applicability of the rules of this part.

In § 653.2, the terms and definitions for *Commercial quota* and *Non-directed commercial red drum fishing (fishery)* are no longer used and are removed. The latter term implied that there could be a commercial fishery in which catch of red drum is a secondary or tertiary target species. Such is not the case. Red drum taken in any commercial fishery other than the directed commercial red drum fishery is incidental catch in other commercial fisheries. Removal of the term *Non-directed commercial red drum fishing (fishery)* is reflected in rewording throughout the final rule. In the definition of *Directed commercial red drum fishing (fishery)*, the exemption for shrimp trawling is removed. All commercial fishing activity in which the weight of red drum landed exceeds five percent of the total weight

of all other fish on board is a directed red drum fishery. The terms *Commercial fishing* and *Recreational fishing* are replaced by *Commercial fishing (fishery)* and *Recreational fishing (fishery)* and their definitions are revised for clarity and consistency. The definition of *Authorized officer* is revised to be more specific as to the participants in any agreement whereby a Federal or State officer becomes an authorized officer. In the definition of *Center Director*, the telephone number is corrected. Reference to Figure 2 is removed from the definitions of *Primary area* and *Secondary areas* and the figure is removed as it is not necessary for a clear understanding of the areas. In the definition of *Primary area*, the western boundary is clarified. Specification of the eastern boundary of the EEZ seaward of the fishery jurisdiction of Florida is added to the definition of *Secondary areas*.

In § 653.3, paragraph (b) is revised to clarify that the U.S. Coast Guard is not a party to the State/Federal agreement for data collection.

In § 653.3(d), the requirement that certain persons landing red drum must comply with "other fishery" laws of the State where landed is removed. Specifying compliance with only the "landing and possession" laws of the State where landed is in accord with Amendment 1 and avoids the ambiguity of the phrase "other fishery" laws.

In § 653.5, a change to paragraph (b) is added because of the removal of the term "non-directed red drum fishery".

In § 653.7, excess verbiage in paragraph (a)(1) is removed, paragraphs (a)(7) and (8) are revised consistent with the creation of primary and secondary areas, and paragraphs (a) (17) through (22) are added to provide specific prohibitions for failure to meet the requirements of § 653.22.

In § 653.21, paragraph (a) is revised to substitute "primary area" for "EEZ" and to clarify that the quota is for each fishing season.

Section 653.22 is reorganized for clarity and to apply the prohibition on wastage of red drum to all fisheries. Paragraph (c) of the proposed rule (paragraph (b)(2) in this final rule) is revised to clarify that a commercial vessel with an allowable bycatch of red drum must have a permit and that a commercial vessel over the allowable limit is considered as conducting a directed commercial red drum fishery. Paragraph (g) is removed as the applicability of State landing and possession laws is covered in § 653.3(d). Paragraph (h) [Reserved] is removed. Landing restrictions will be included in paragraph (b)(1) when directed

commercial red drum fishery is authorized.

In § 653.23 paragraph (a) is no longer applicable and is removed and paragraphs (b) and (c) of the proposed rule are designated as (a) and (b) and revised for clarity.

In § 653.24, paragraph (d) is revised to clarify that a change in TAC will be by amendment to the FMP and paragraph (e) is revised to clarify that the percentage of any excess red drum which may be included in the TAC will be set by the Council no more frequently than annually.

Classification

The Regional Director determined that Amendment 1 is necessary for the conservation and management of the red drum fishery of the Gulf of Mexico and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment (EA) for Amendment 1. The Assistant Administrator for Fisheries concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA may be obtained from the Southeast Region of NMFS (see ADDRESS).

The Administrator of NOAA determined that this is not a "major rule" requiring the preparation of a regulatory impact analysis under Executive Order 12291. The amendment's management measures are designed to maintain the productivity of each user group to the maximum extent possible while preventing overfishing of red drum and restoring the red drum stock. The major benefit of this rule is restoration and maintenance of the red drum stock.

The Council prepared a supplemental regulatory impact review (SRIR) which concluded that this rule will have the following economic effects. Greater long-term benefits, in terms of overall poundage produced, will result than from the other alternatives. The impact of the prohibition of red drum harvest from the secondary areas is expected to be negligible since, historically, 98 percent of recreational and commercial catch from the EEZ has been from the primary area. The impact of a bag limit of one fish and the impact of prohibiting directed commercial fishing for red drum, continued in Amendment 1, were described in the RIR and initial regulatory flexibility analysis (IRFA). No additional costs to participants for permits are anticipated as a result of the amendment.

Federal enforcement costs of the regulatory action are not changed by the

proposed rule. Annual State enforcement costs, estimated to be as high as \$1 million, are anticipated to be significantly reduced by the provisions which operate to preserve applicable State landing and possession laws.

A copy of the RIR/IRFA for the FMP and SRIR for Amendment 1 may be obtained from the Southeast Region of NMFS (see ADDRESS).

The General Counsel has certified to the Chief Counsel for Advocacy, Small Business Administration, that this rule will not have a significant economic impact on a substantial number of small entities. This is because it will not significantly alter current fishing practices. Although all present participants in the fishery will now be required to land red drum in conformance with State law, landings will not be affected since harvesting will be permitted in those States (Alabama, Mississippi, Louisiana) where 98 percent of the historical catch has occurred, and fish can continue to be landed in accordance with State law. The Council prepared an IRFA as part of the SRIR which concluded that this proposed rule will have an insignificant effect on fishing entities. These effects are included in the SRIR, which is summarized above. The action will enhance enforcement activities and will provide benefits in the form of an improved resource and higher landings in the long term.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act. The collection of information requirements of the FMP were approved under OMB Control Number 0648-0117.

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, Alabama, Mississippi, and Louisiana. Texas does not have an approved coastal zone management program. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies of Florida and Louisiana agreed with this determination. The State agencies of Alabama and Mississippi failed to comment during the statutory time period and, accordingly, concurrence is implied.

List of Subjects in 50 CFR Part 653

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 11, 1987.

Bill Powell,
Executive Director, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 653 is amended as follows:

PART 653—RED DRUM FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 653 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. Section 653.1 is revised to read as follows:

§ 653.1 Purpose and scope.

The purpose of this part is to implement the Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (FMP) prepared by the Secretary of Commerce and amended by the Gulf of Mexico Fishery Management Council. The regulations in this part, except for § 653.5, apply to fishing for red drum by fishing vessels of the United States in the EEZ in the Gulf of Mexico. The reporting requirements in § 653.5 apply to vessels of the United States and persons participating in the fishery in both the EEZ and State jurisdictions.

3. In § 653.2, the definitions for *Commercial quota* and *Non-directed commercial red drum fishing (fishery)* are removed; definitions for *Commercial fishing*, *Recreational fishing*, paragraph (c) under the definition for *Authorized officer*, *Directed Commercial red drum fishing (fishery)*, and the telephone number under *Center Director* are revised; a phrase is added to the definition for *Exclusive economic zone (EEZ)* between the words "means the" and the word "area"; and new definitions for *Primary area*, *Secondary area*, and *Total allowable catch (TAC)* are added in alphabetical order to read as follows:

§ 653.2 Definitions.

Authorized officer means

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

Center Director * * * telephone 305-361-4200 * * *

Commercial fishing (fishery) means fishing or fishing activities which result in the harvest of fish one or more of

which (or part thereof) is sold, traded or bartered.

Directed commercial red drum fishing (fishery) means any commercial fishing activity in which the weight of red drum landed exceeds five percent of the total weight of all other fish on board.

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is the area * * *

Primary area means the EEZ seaward of the fishery jurisdictions of Alabama, Mississippi, and Louisiana, bounded on the east by a line directly south from the boundary between Alabama and Florida (87°31.1' W. longitude) to its intersection with the outer limit of the EEZ, and bounded on the west by a line beginning at the boundary between Texas and Louisiana (midpoint between the gulfward extension of the Sabine Pass jetties) to 29°32.1' N. latitude, 93°47.7' W. longitude, thence directly south to its intersection with the outer limit of the EEZ.

Recreational fishing (fishery) means fishing or fishing activities which result in the harvest of fish none of which (or part thereof) is sold, traded, or bartered.

Secondary areas means (a) the EEZ seaward of the fishery jurisdiction of Florida in the Gulf of Mexico and (b) the EEZ seaward of the fishery jurisdiction of Texas, with boundaries consistent with the immediately adjacent boundaries described for the primary area. For the purposes of this definition, the eastern boundary of the EEZ in the Gulf of Mexico is a line from the outer limit of the EEZ north along 83°00' W. longitude to the outer limit of the waters of Florida off the Dry Tortugas Islands, thence in a clockwise direction around that outer limit to 24°35' N. latitude, thence east along 24°35' N. latitude to the outer limit of the waters of Florida off the Marquesas Keys.

Total allowable catch (TAC) means the maximum permissible annual harvest from the primary area set from within or below the ABC range after consideration of biological, economic, and social factors and the risk of inducing recruitment overfishing associated with that harvest level.

4. In § 653.3, paragraph (b) is revised and a new paragraph (d) is added to read as follows:

§ 653.3 Relation to other laws.

(b) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a State/Federal agreement for data collection and a tripartite agreement among the State, the U.S. Coast Guard, and the Secretary for enforcement.

(d) A person landing red drum from the recreational fishery or from a commercial fishery, other than a directed red drum fishery, must comply with the landing and possession laws of the State where landed.

5. In § 653.4, paragraph (a) is revised to read as follows:

§ 653.4 Permits and fees.

(a) *Applicability.* A permit is required for a commercial vessel fishing in the EEZ, other than a shrimp fishing vessel, to possess or land red drum.

6. In § 653.5, paragraph (b), introductory text, is revised to read as follows:

§ 653.5 Reporting requirements.

(b) *Other commercial fisheries.* An owner or operator of a commercial fishing vessel, other than a shrimp fishing vessel, which possesses or lands red drum as incidental catch, if selected by the Center Director, must

7. In § 653.7, the word "or" at the end of paragraph (a)(15) is removed; the period at the end of paragraph (a)(16) is removed and a semi-colon is added in its place; paragraphs (a)(1), (7), and (8) are revised; and new paragraphs (a)(17) through (22) are added to read as follows:

§ 653.7 Prohibitions.

(a) * * *

(1) Retain or land red drum in a commercial fishery, other than the shrimp fishery, without a permit as required by § 653.4(a).

(7) Retain on board a vessel or possess red drum in or from the secondary areas as specified in § 653.22(a);

(8) Retain on board a vessel or possess red drum in or from the primary area under a quota specified in § 653.21(b) or (c) after such quota is reached and notice is published in accordance with § 653.23(a);

(17) Conduct a directed commercial red drum fishery in the primary area as specified in § 653.22(b)(1) and (2);

(18) Retain on board a vessel or possess red drum in or from the primary area in a recreational fishery in excess of the bag limit specified in § 653.22(b)(3) or as modified in accordance with § 653.23(b);

(19) Sell, barter, or trade red drum taken under the bag limit specified in § 653.22(b)(3)

(20) Conduct fishing operations in a way that causes wastage of red drum as specified in § 653.22(c);

(21) Transfer at sea red drum harvested from or possessed in the EEZ from fishing vessel to any other vessel as specified in § 653.22(d); or

(22) Possess in the EEZ or land red drum from the primary area without the head and fins intact as required by § 653.22(e).

8. Section § 653.21 is revised to read as follows:

§ 653.21 Quotas.

(a) The total allowable harvest of red drum for the directed commercial red drum fishery in the primary area is zero for each fishing season.

(b) The total allowable harvest of red drum taken as incidental catch in other commercial fisheries, excluding the shrimp fishery, in the primary area is 100,000 pounds for each fishing season.

(c) The total allowable harvest of red drum taken as incidental catch in the commercial shrimp fishery in the primary area is 200,000 pounds for each fishing season.

(d) The total allowable harvest of red drum for recreational fishing in the primary area is 325,000 pounds for each fishing season.

(e) The TAC in the primary area is 825,000 pounds for each fishing season.

9. Section § 653.22 is revised to read as follows:

§ 653.22 Harvest and landing limitations.

(a) *Harvest from secondary areas.* No red drum may be harvested or possessed in or from the secondary areas. Red drum caught in the secondary areas must be released immediately with a minimum of harm.

(b) *Harvest from the primary area—*
(1) *Directed commercial red drum fishery.* No red drum may be harvested from the primary area in the directed commercial red drum fishery.

(2) *Incidental catch in other commercial fisheries.* A commercial vessel which fishes in the primary area and which takes red drum as incidental catch may not land red drum in excess of five percent of the total weight of all other fish and/or shrimp on board. A

commercial fishing vessel which lands red drum in excess of this limitation will be considered as conducting a directed commercial red drum fishery. Any commercial vessel which takes red drum, other than a shrimp fishing vessel, must have a permit as required by § 653.4(a).

(3) *Recreational bag limit.* A person in a recreational fishery may not possess red drum in or from the primary area in excess of one red drum per person per trip. Red drum in excess of this bag limit must be released immediately with a minimum of harm. Red drum harvested under the bag limit may not be sold.

(c) *Wastage prohibited.* A person or vessel must conduct fishing operations in a way that minimizes wastage of red drum.

(d) *Transfer at sea.* Red drum harvested from or possessed in the EEZ may not be transferred from a fishing vessel to any other vessel.

(e) *Head and fins intact.* Red drum possessed in the EEZ, or harvested from the primary area and landed, must have head and fins intact.

10. Section § 653.23 is revised to read as follows:

§ 653.23 Closures.

(a) The Secretary, by publication of a notice in the Federal Register, will prohibit the retention on board or landing of red drum taken as incidental catch in a commercial fishery in or from the primary area under a quota specified in § 653.2 (b) or (c) for the remainder of a fishing season when the respective quota for that fishery is reached or is projected to be reached.

(b) The Secretary, by publication of a notice in the Federal Register, will set the recreational bag limit specified in § 653.22(b)(3) at zero and prohibit further retention on board or landing of red drum in the recreational fishery in or from the primary area for the remainder of a fishing season when the quota specified in § 653.21(d) is reached or is projected to be reached.

11. Section 653.24 is revised to read as follows:

§ 653.24 Allowable catch and allocation procedures.

(a) Prior to October 1, each year, the Center Director will

(1) Update the stock assessment for red drum;

(2) Reassess the MSY level;

(3) Specify the best estimate of the standing stock and its age composition;

(4) Reexamine and specify the level of offshore standing stock necessary to

optimize larval recruitment to the inshore fishery;

(5) Specify the geographical variations in stock abundance, mortality, juvenile escapement, and recruitment;

(6) Summarize current and historical information on migratory movements of the stock; and

(7) Analyze social and economic data available in the fishery.

(b) The Council will appoint a scientific assessment group that will review the Center Director's reports, current harvest statistics, and economic, social, and other relevant data and will prepare a written assessment report to the Council specifying a range of ABC for the primary area. The report will

(1) Set forth a risk analysis showing the probabilities of adversely impacting the spawning stock biomass (SSB) through fishing at each level of ABC and the economic and social impacts of those levels;

(2) Include consideration of the fishing mortality rates relative to F_{MSY} and $F_{0.1}$, abundance relative to optimum SSB, trends in recruitment, and whether overfishing is occurring for the stock as a whole or upon a portion of the stock in any geographical area;

(3) In specifying ABC, separately identify the quantity of the offshore population, in excess of the SSB necessary to optimize recruitment, that may be harvested; and

(4) When requested by the Council, include information on bag limits, size limits, specific gear harvest limits, and other restrictions required to prevent a user group from exceeding its allocation or quota under a TAC specified by the Council, along with the economic and social consequences of such restrictions.

(c) The Council will consider the report and recommendations of the scientific assessment group and relevant public comments. A public hearing will be held at the time and place the

Council takes action on the report. Other public hearings may be held. The Council may convene its Red Drum Advisory Panel and Scientific and Statistical Committee to provide advice before taking action.

(d) In specifying TAC, the Council will consider the recommendations, comments, and advice provided for in paragraphs (b) and (c) of this section and will set TAC from within or below the ABC range by FMP amendment.

(e) If an offshore population (above annual surplus production) exceeds a SSB necessary to optimize recruitment, the percentage of the excess which may be included in the TAC will be set by the Council periodically but no more frequently than annually.

(f) The Council will make changes in use group allocations for the primary area, if any, by FMP amendment.

[FR Doc. 87-21388 Filed 9-14-87; 8:45 am]
BILLING CODE 3510-22-M