

Approved critical uses	Approved critical user and location of use (b) North Carolina and Tennessee growers	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation Moderate to severe black root rot. Moderate to severe root-knot nematode infestation. Moderate to severe yellow and purple nutsedge infestation.
Sweet Potato Slips	(a) California growers	Local township limits prohibiting 1,3-dichloropropene.
Tomatoes	(a) Michigan growers	Moderate to severe soilborne disease infestation. Moderate to severe fungal pathogen infestation.
	(b) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Restrictions on alternatives due to karst topographical features and, in Florida, soils not supporting seepage irrigation.
	(c) Maryland growers	Moderate to severe fungal pathogen infestation.
POST-HARVEST USES		
Food Processing	(a) Rice millers in the U.S. who are members of the USA Rice Millers Association. (b) Pet food manufacturing facilities in the U.S. who are members of the Pet Food Institute. (c) Members of the North American Millers' Association in the U.S. (d) Members of the National Pest Management Association treating processed food, cheese, herbs and spices, and spaces and equipment in associated processing and storage facilities.	Moderate to severe beetle, weevil, or moth infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative. Moderate to severe beetle, moth, or cockroach infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative. Moderate to severe beetle infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative. Moderate to severe beetle or moth infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
Commodities	(a) California entities storing walnuts, beans, dried plums, figs, raisins, and dates (in Riverside county only) in California.	Rapid fumigation required to meet a critical market window, such as during the holiday season.
Dry Cured Pork Products	(a) Members of the National Country Ham Association and the Association of Meat Processors, Nahunta Pork Center (North Carolina), and Gwaltney and Smithfield Inc.	Red legged ham beetle infestation. Cheese/ham skipper infestation. Dermeasted beetle infestation. Ham mite infestation.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100217094-0195-02]

RIN 0648-AY57

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement a regulatory amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule increases the commercial and recreational quotas for red snapper and closes the recreational red snapper component of the Gulf of Mexico (Gulf) reef fish fishery at 12:01 a.m., local time, July 24, 2010. The intended effect of this rule is to help

achieve optimum yield by relaxing red snapper harvest limitations consistent with the findings of the recent stock assessment for this species.

DATES: This final rule is effective June 2, 2010.

ADDRESSES: Copies of the regulatory amendment, which includes an environmental assessment and a regulatory impact review, may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813-348-1630; fax 813-348-1711; e-mail gulfcouncil@gulfcouncil.org; or may be downloaded from the Council's website at <http://www.gulfcouncil.org/>.

FOR FURTHER INFORMATION CONTACT: Peter Hood, 727-824-5308.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On March 30, 2010, NMFS published a proposed rule for the regulatory amendment and requested public comment (75 FR 15665). The proposed rule and the regulatory amendment outline the rationale for the measures contained in this final rule. Additional rationale is provided here and in the comments and responses section.

Management Measures Contained in this Final Rule

Revisions to Commercial and Recreational Quotas

The regulatory amendment sets the total allowable catch (TAC) for 2010 and subsequent fishing years for Gulf red snapper at 6.945 million lb (3.150 million kg). Based on the recent red snapper assessment update, the overfishing limit (OFL), as endorsed by the Council's Scientific and Statistical Committee (SSC) for 2010 is 9.26 million lb (4.2 million kg). However, because there is considerable uncertainty around assessment model results, the SSC recommended an acceptable biological catch (ABC) of 6.945 million lb (3.150 million kg), which is 25 percent below the OFL, to account for scientific uncertainty and in accordance with the National Standard 1 Guidelines (74 FR 3178, January 16, 2009). When setting the TAC for red snapper in 2010, the Gulf Council cannot exceed the ABC recommended by the Council's SSC. Based on the current commercial and recreational

allocations (51 percent commercial and 49 percent recreational), red snapper TAC is implemented through this final rule by setting the commercial quota for Gulf red snapper at 3.542 million lb (1.607 million kg) and the recreational quota at 3.403 million lb (1.544 million kg).

Closure Date of the Recreational Red Snapper Fishing Season

The Magnuson-Stevens Act requires NMFS to close the recreational red snapper fishery in Federal waters when the quota is met or projected to be met. Finalized 2009 recreational landings data indicate that the recreational red snapper quota is projected to be met on or by July 23, 2010. Therefore, NMFS will close the recreational red snapper fishing season at 12:01 a.m., local time, July 24, 2010, which constitutes a 53-day fishing season. As compared to the recreational fishing season under the existing 2.45 million lb (1.11 million kg) quota, and assuming similar effort and catch rates for 2010, the season would have been 27 to 34 days. However, taking into account the 2.09 million lb (0.95 million kg) quota overage in 2009 and the new 3.403 million lb (1.544 million kg) quota implemented through this final rule, the recreational fishing season will remain open for 53 days in 2010. These management measures achieve the goal of National Standard 1 of the Magnuson-Stevens Act, which states that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield for the fishery.

Comments and Responses

The following is a summary of the comments NMFS received on the proposed rule and NMFS' respective responses. During the comment period, NMFS received 260 comments, including 249 from private citizens, 6 from governmental or civic organizations, 4 from recreational fishing organizations, and 1 from an environmental group.

Comment 1: The recreational and commercial quotas should be increased and the season length should either match or exceed the 2009 75-day season.

Response: The 2009 red snapper stock assessment update indicated that the red snapper stock in the Gulf of Mexico is improving under the current rebuilding plan. This is consistent with the observations provided in the comments. Although the stock is still considered overfished, it is no longer undergoing overfishing and harvest levels may be increased.

For the recreational fishery, even though the quota will be increased, a 2010 season of 75 days or more is not justified or appropriate. The 75-day season in 2009 resulted in an overage of the recreational quota by approximately 2.09 million lb (0.95 million kg). Projections indicate that for recreational catch to not exceed the new 3.403 million lb (1.544 million kg) quota in 2010, the season length may only be 53 days long. If the quota were to remain at 2.45 million lb (1.11 million kg), projections indicate the fishery could stay open for 27-34 days.

NMFS used historical landings and changes in regulations to project the length of the season. Landings information are obtained from the Marine Recreational Fisheries Statistics Survey, including the for-hire charter survey; Southeast Fisheries Science Center headboat survey; and Texas Parks and Wildlife Department charter and private/rental creel survey. Season lengths are then projected under different management scenarios. Details of how these data are applied to project season length may be found at: <http://sero.nmfs.noaa.gov/sf/GulfRedSnapperHomepage.htm>.

Comment 2: The bag limit should be increased or the size limit should be decreased because the stock condition is improving or because of possible increases in discards and discard mortality from the increased stock abundance.

Response: For the Council and NMFS to increase the bag limit or reduce the size limit, under an increased quota, the trade off would be to reduce the length of the season. However, comments received in response to the proposed rule and comments received by the Council requested the season remain open for as long as possible. In developing the regulatory amendment supporting an increase in the total allowable catch, the Council decided to leave size or bag limits unchanged to facilitate lengthening the season. The Council and NMFS have addressed measures to reduce discard mortality in other actions such as the requirement for dehookers, circle hooks, and venting tools.

Comment 3: The commercial and recreational quotas should be based on a total allowable catch of 9.26 million lb (4.2 million kg).

Response: Based on the recent red snapper assessment update, the OFL, as endorsed by the Council's SSC for 2010 is 9.26 million lb (4.2 million kg). The OFL is an estimate of the catch level above which overfishing is occurring. At its February meeting, the Council voted on and NMFS is implementing a TAC of

6.945 million lb, based on the SSC's ABC recommendation, which is 75 percent of the OFL. The ABC is a level of a stock or stock complex's annual catch that accounts for scientific uncertainty in the estimate of OFL. Because there is considerable uncertainty around assessment model results, the SSC determined that setting the ABC at 75 percent of the OFL would allow the red snapper stock to continue to rebuild within the rebuilding plan timeframe. Section 302(h)(6) of the Magnuson-Stevens Act mandates that each Council "may not exceed the fishing level recommendations of its SSC" and section (g)(1)(B) identifies these fishing level recommendation categories to include: "ABC, preventing overfishing, maximum sustainable yield, and achieving rebuilding strategies." Therefore, the greatest level of TAC the Council may recommend, based on the ABC recommended by the SSC, is 6.945 million lb (3.150 million kg).

Comment 4: Any increase in the commercial quota should be distributed to individual fishing quota (IFQ) shareholders who have lower catch histories as a result of having Class 2 licenses (200-lb (90.7-kg) trip limit).

Response: The current red snapper IFQ program distributes increases and decreases in the commercial quota among IFQ participants based on the number of IFQ shares they own. The increased commercial quota will be distributed proportionately among current red snapper IFQ shareholders as of the effective date of this final rule, pursuant to Amendment 26 to the FMP. If any share transfers are pending the day the rule becomes effective, additional allocation will go to the original share holder. To change this form of distribution would require a plan amendment to the Reef Fish FMP and, therefore, is beyond the scope of the regulatory amendment and this final rule.

Comment 5: The allocation between commercial and recreational sectors should be changed to favor the recreational fishery.

Response: Allocations in the red snapper component of the Gulf reef fish fishery (51 percent commercial and 49 percent recreational) used in the regulatory amendment are based on historical percentages harvested by user groups during the base period of 1979 to 1987. To change the current allocation would require a plan amendment to the FMP and, therefore, is beyond the scope of the regulatory amendment and this final rule.

Comment 6: The science upon which the recreational season length estimate

is based is unreliable and should not be used to set season length or estimate recreational levels relative to the quota.

Response: The methods and data used to project the recreational season length are thoroughly reviewed by the Southeast Fisheries Science Center to ensure best scientific practices are followed. In addition, the stock assessment used to estimate the 2010 red snapper season length is based on the Southeast Data, Assessment, and Review (SEDAR) process. The SEDAR process was initiated in 2002 to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. The SEDAR process seeks improvements in the scientific quality of stock assessments, including attempts to place greater relevance on historical and current information to address existing and emerging fishery management issues. This process emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. The SEDAR process is organized around three workshops. The data workshop documents, analyzes, and reviews data sets to be used for assessment analyses. The assessment workshop develops and refines quantitative population analyses and estimates population parameters. The final workshop is conducted by a panel of independent experts who review the data and the assessment and recommends the most appropriate values for critical population parameters and management considerations. Recent assessments of the red snapper stock were conducted within this process. All workshops and Council-initiated meetings to review the assessment were open to the public and included constituents on the various SEDAR panels that reviewed the data and provided recommendations on management measures.

Comment 7: The estimate of the number of potentially affected entities in the for-hire fleet is incorrect; there have never been more than 1,350 active permits in the fishery.

Response: In the proposed rule, NMFS stated, "On December 23, 2009, there were 1,266 active Gulf reef fish for-hire permits" and "Because of the extended renewal period, numerous permits may be expired but renewable at any given time of the year. It is estimated that the total number of permits (and associated vessels) active for some portion of the entire calendar year is a few hundred more than the number of permits active on any given

date." When the moratorium on for-hire reef fish permits was established in 2003, NMFS initially issued 1,625 moratorium reef fish permits. NMFS agrees the number of permits issued has continually declined since then. Since publication of the proposed rule, NMFS has tabulated the number of unique reef fish for-hire permits that were valid (non-expired) and, therefore, able to be fished during the 2009 calendar year. This number is 1,424, or 158 more than the number of active permits reported in the proposed rule. NMFS believes that some confusion regarding the appropriate totals may be attributed to conflicting definitions of the term "active" in the context of a permit. The NMFS definition of the term "active" refers to a non-expired permit at a point in time, and does not necessarily denote a permit for a vessel that actively fished. It is possible that the comment referred to the number of permits for vessels that actively fished rather than the number of valid permits. Because logbooks are not required in this sector, available data do not allow determination of the number of permits for vessels that actually fished.

Comment 8: Although the recreational quota is being increased, a reduced season will cause economic harm to fishing communities dependent on recreational fishing.

Response: The 2010 season will be shorter than the 2009 season. However, the 2009 season is not the appropriate baseline to use for analysis of the effects of the 2010 TAC increase. The recreational sector exceeded the red snapper quota by approximately 2.09 million lb (0.95 million kg) in 2009. Section 407(d) of the Magnuson-Stevens Act mandates NMFS to close the recreational red snapper component of the Gulf reef fish fishery when the red snapper quota is met or projected to be met. Therefore, the correct baseline for analysis of the expected effects of the 2010 TAC increase is the season that would be expected to occur in the absence of the TAC increase and not the 75-day season that occurred in 2009. As a result, while the 2010 season will be shorter than the 2009 season and fishing may not be as profitable, the 2010 season will be longer than the season that would occur in the absence of the TAC increase, and economic benefits to fishing communities will increase relative to conditions that would occur in 2010 in the absence of the TAC increase.

Classification

The Administrator, Southeast Region, NMFS, determined that the regulatory amendment is necessary for the

conservation and management of the red snapper component of the Gulf reef fish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

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

Dated: April 27, 2010.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 622 is 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 § 622.42, paragraphs (a)(1)(i) introductory text and (a)(2)(i) are revised to read as follows:

§ 622.42 Quotas.

* * * * *

(a) * * *

(1) * * *

(i) Red snapper -3.542 million lb (1.607 million kg), round weight.

* * * * *

(2) * * *

(i) Recreational quota for red snapper. The recreational quota for red snapper is 3.403 million lb (1.544 million kg), round weight.

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[FR Doc. 2010-10238 Filed 4-28-10; 4:15 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0911161406-0195-04]

RIN 0648-AY37

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Correction

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

ACTION: Final rule; correction.

SUMMARY: This action corrects the SUPPLEMENTARY INFORMATION section to a final rule published in the **Federal Register** on April 20, 2010, which erroneously waived the 30 day delay in effective date. A 30-day delay in effectiveness will allow fishermen to come into compliance with the terms of the rule, as was originally intended, without compromising any other aspect of the fishery. NMFS will not enforce the requirement that owners be onboard vessels unless otherwise required by statute or regulation.

DATES: Effective May 3, 2010.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Need for Correction

In the final rule, published on April 20, 2010, that revised the Individual Fishing Quota Program for the sablefish and halibut fisheries off Alaska (75 FR 20526), make the following correction in the SUPPLEMENTARY INFORMATION section. On page 20527, in the second column, delete this paragraph:

“For the same reasons, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30 day delay in effective date.”

Dated: April 27, 2010.

Samuel D. Rauch III,

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

[FR Doc. 2010-10237 Filed 4-28-10; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362-0087-02]

RIN 0648-XW20

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 28, 2010, through 1200 hrs, A.l.t., July 1, 2010.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 300 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010), for the period 1200 hrs, A.l.t., April 1, 2010, through 1200 hrs, A.l.t., July 1, 2010.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached.

Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and