



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF539

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 44

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico (Gulf) Fishery Management Council (Council) has submitted Amendment 44 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Amendment 44 would revise minimum stock size thresholds (MSST) for seven stocks in the Gulf of Mexico (Gulf) reef fish fishery management unit. The MSST would be revised for the gag, red grouper, red snapper, vermilion snapper, gray triggerfish, greater amberjack, and hogfish stocks. The need for Amendment 44 is to provide a sufficient buffer between spawning stock biomass at maximum sustainable yield (B_{MSY}) and MSST to reduce the likelihood that stock status changes frequently between overfished and

not overfished as a result of scientific uncertainty or natural fluctuations in biomass levels.

DATES: Written comments on Amendment 44 must be received by [insert date 60 days after date of publication in the *FEDERAL REGISTER*].

ADDRESSES: You may submit comments on Amendment 44 identified by "NOAA-NMFS-2017-0101" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0101, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Peter Hood, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive

information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 44 may be obtained from www.regulations.gov or the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>. Amendment 44 includes an environmental assessment and a fishery impact statement.

FOR FURTHER INFORMATION CONTACT: Peter Hood, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: peter.hood@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the *Federal Register* notifying the public that the FMP or amendment is available for review and comment.

Amendment 44 to the FMP was prepared by the Council and, if approved, would be incorporated into the management of Gulf reef fish through the FMP.

Background

In 1999, the Council submitted the Generic Sustainable Fisheries Act Amendment to comply with status determination criteria (SDC) requirements of the Sustainable Fisheries Act of 1996. NMFS approved most of the fishing mortality threshold (MFMT) criteria, but disapproved all of the definitions for maximum sustainable yield (MSY), optimum yield (OY), and MSST. The Council subsequently began establishing these reference points and SDC on a species-specific basis as stock assessments were later conducted, and is currently preparing a plan amendment to address all of the unassessed reef fish stocks. Amendment 44 focuses on those assessed stocks with MSSTs, which are gag, red grouper, red snapper, vermilion snapper, gray triggerfish, greater amberjack, and hogfish. Red snapper, gray triggerfish, and greater amberjack are currently considered overfished and are under rebuilding plans. The other 4 stocks are not considered overfished (gag, red grouper, vermilion snapper, and hogfish).

For most of the assessed federally managed reef fish stocks in the Gulf with defined MSSTs, the overfished status, when applied, has been evaluated using the formula: $(1-M) * B_{MSY}$ (M is the natural mortality rate and B is a measure of stock biomass). For some stocks that have a very low natural mortality rate, the formula $(1-M) * B_{MSY}$ results

in an MSST that is very close to the B_{MSY} . For example, red snapper is a moderately long-lived fish that has a natural mortality rate of about 0.1. The above formula results in an MSST of 90 percent of B_{MSY} . In such situations it can be difficult to determine if a stock is actually less than MSST due to the imprecision and accuracy of the data used in stock assessments. In addition, natural fluctuations in stock biomass levels around the B_{MSY} level may temporarily reduce the stock biomass to be less than MSST. Setting a greater buffer between B_{MSY} and MSST can reduce the risk of mistakenly declaring a stock overfished.

In Amendment 44, the Council evaluated MSSTs ranging from $0.85*B_{MSY}$ (or proxy) to $0.50*B_{MSY}$ (or proxy), and selected $0.50*B_{MSY}$ (or proxy) as its preferred alternative. This is consistent with the National Standard 1 guidelines and reduces the likelihood of a stock being declared overfished as a result of scientific uncertainty or natural fluctuations in biomass levels. Setting the MSST at this level could result in a very restrictive rebuilding plan if the biomass level of a stock drops below the MSST and NMFS declares that the stock is overfished. However, the Council determined that the requirements for overfishing limits, annual catch limits, and accountability measures, reduce

the probability that sustained overfishing would occur and cause a stock to fall below the MSST.

The MSST proposed in Amendment 44 is used for at least some stocks managed by three of other the regional fishery management councils (New England, Mid-Atlantic, and North Pacific). If this MSST definition is approved, NMFS expects that the Gulf red snapper and gray triggerfish stocks would be reclassified as not overfished, but rebuilding, because the biomass for these two stocks is currently estimated to be greater than 50 percent of B_{MSY} . The greater amberjack stock would remain classified as overfished.

Procedural Aspects of Amendment 44

The Council has submitted Amendment 44 for Secretarial review, approval, and implementation. NMFS' decision to approve, partially approve, or disapprove Amendment 44 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability. After consideration of these factors, and consistency with the Magnuson-Stevens Act and other applicable laws, NMFS will publish a notice of agency action in the *Federal Register* announcing the Agency's decision to approve, partially approve, or disapprove Amendment 44. Because none of the measures included in the amendment involve regulatory

changes, no proposed or final rule is required at this time. If approved, the provisions of Amendment 44 would not be specified in regulations but would be considered an amendment to the FMP.

Consideration of Public Comments

Comments on Amendment 44 must be received by [*insert date 60 days after publication in the FEDERAL REGISTER*]. Comments received during the comment period for this notice of availability will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 44. Comments received after the comment period will not be considered by NMFS in this decision. All comments received by NMFS during the comment period will be addressed in the notice of agency action.

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

Dated: September 19, 2017.

Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory
Programs,
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