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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 191105-0075]**

**RIN 0648-BJ28**

**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:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to implement management measures described in a framework action to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf), as prepared by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would modify the red snapper Federal charter vessel/headboat (for-hire) component's annual catch target (ACT) for the 2020 and subsequent fishing years. The purpose of the framework action is to allow for greater harvest of red snapper by the Federal for-hire component.

**DATES:** Written comments must be received by [*insert date 30 days after date of publication in the Federal Register*].

**ADDRESSES:** You may submit comments on the proposed rule identified by "NOAA-NMFS-2019-0108" 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-2019-0108](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0108), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all 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](http://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 the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/framework-action-fishery-management-plan-reef-fish-resources-gulf-mexico-modification>.

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [peter.hood@noaa.gov](mailto:peter.hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage the Gulf reef fish fishery under the FMP. The FMP, which includes red snapper, was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and

achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

All weights described in this proposed rule are in round (whole) weight.

### **Background**

The current red snapper stock ACL is equal to the acceptable biological catch (ABC) of 13.74 million lb (6.23 million kg); 51 percent is allocated to the commercial sector and 49 percent to the recreational sector. The recreational sector's ACL is further divided into the private angling component (57.7 percent) and Federal for-hire component (42.3 percent). In addition, ACTs are in place for the recreational sector and its respective components. The ACT is a level of catch reduced from the ACL to account for management uncertainty. The separate recreational component ACLs and ACTs were implemented in 2015 and are currently set to expire in 2022 (81 FR 86971, December 2, 2016). However, if approved and implemented,

Amendment 50A to the FMP would continue the separation of the private angling and Federal for-hire components. The notice of availability for Amendment 50A published on August 6, 2019 (84 FR 38198) and the proposed rule to implement Amendment 50A published on October 2, 2019 (84 FR 52438).

The regulations require NMFS to project the component fishing seasons based on the respective ACTs. The ACTs were implemented to reduce the likelihood of exceeding the private angling or Federal for-hire component ACLs, as well as the total recreational ACL. The commercial sector does not have an ACT because it is managed under an individual fishing quota program that effectively constrains landings to the commercial ACL.

Because the Federal for-hire component has not exceeded its ACL, the Council developed a framework action in 2018 to reduce the 20 percent buffer between the Federal for-hire component ACL and ACT for 2019 only (84 FR 7828, March 5, 2019). The 2018 framework action set the Federal for-hire component ACT 9 percent less than the component ACL. This buffer was based on the application of the Council's ACL/ACT Control Rule, which recommends a buffer

based on factors such as recent harvest overages, the percent standard error in Federal for-hire landing estimates, stock status, and whether in-season accountability measures are used.

The reduction in the Federal for-hire component's ACL/ACT buffer was effective only for 2019 to coincide with the second year of temporary changes to the management of the private angling component. All five Gulf states received exempted fishing permits (EFPs) from NMFS for the 2018 and 2019 fishing years to allow them to test limited state management of the private angling component. Each state was allocated a percentage of the private angling ACL and each state determined whether to manage to a reduced portion of its ACL. The Council determined that the reduction in the Federal for-hire component ACT buffer should be limited to 2019 because of the increased risk of the recreational sector ACL being exceeded after the EFPs are no longer in effect. Under the EFPs, any overages by the private-angling component are deducted from the subsequent year's state ACL.

In the current framework action, the Council did not consider decreasing the private angling component ACT

buffer because the Council recently submitted to NMFS for review Amendments 50A-F to the FMP. These amendments, if implemented, would delegate authority to each of the Gulf states to establish specific management measures applicable to private anglers in Gulf Federal waters who are landing red snapper in that state, including the length of the fishing season. Similar to the EFPs, these amendments would allocate a percentage of the private angling ACL and each state would determine whether to manage to a reduced portion of its ACL. As stated previously, Amendment 50A would also continue the separation of the private angling and Federal for-hire components that is set to end after the 2022 fishing year. Given the proposed changes in private recreational component management described in Amendments 50A-F, the Council determined that it is appropriate to keep the 9 percent Federal for-hire ACL/ACT buffer beyond 2019.

**Management Measures Contained in this Proposed Rule**

For red snapper, this proposed rule would maintain the Federal for-hire component ACL/ACT buffer at 9 percent below the component ACL. Currently, the buffer would return to 20 percent on January 1, 2020, and the Federal for-hire

component ACT would be 2.504 million lb (1.136 million kg). This framework action would maintain the ACT at 2.848 million lb (1.292 million kg). Using the 9 percent buffer results in a Federal for-hire component ACT that is 344,000 lb (156,036 kg) more than if the 20 percent buffer were used. NMFS expects this increase in the ACT to result in a Federal for-hire season that is approximately 7 to 8 days longer in 2020 than if the lower ACT were used to project the season.

NMFS assumes that if Amendments 50A-F are approved, they will be implemented first. Therefore, the regulatory text in this proposed rule reflects certain measures contained in the proposed regulatory text for those amendments. Specifically, the proposed rule for Amendments 50A-F would remove paragraph 50 CFR 622.41(q)(2)(iii)(A), which specifies the red snapper total recreational ACT, because the total recreational ACT would serve no management purpose under the delegation. The proposed rule for Amendments 50A-F would also remove text in 50 CFR 622.41(q)(2)(iii)(B) that would end the separation of the recreational sector components and would add text clarifying the harvest restrictions for the Federal for-

hire component when the Federal season is closed. If Amendments 50A-F are not implemented, or this proposed rule is implemented first, the regulatory text in the final rule would be revised accordingly.

**Classification**

Pursuant to section 304(b) (1) (A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the applicable FMP, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this proposed rule and its purpose and need are contained in the **SUMMARY** section of the preamble.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a

substantial number of small entities. The factual basis for this certification is as follows.

The rule concerns recreational fishing for red snapper in the Gulf exclusive economic zone (EEZ). Anglers (recreational fishers) who fish for red snapper in the Gulf EEZ would be directly affected; however, anglers are not considered small entities as that term is defined in 5 U.S.C. 601(6). The rule would indirectly impact Federal for-hire fishing vessels if it causes changes in angler demand for Federal for-hire fishing services; however, the RFA does not consider indirect impacts. Hence, it is concluded that the rule would not have a significant economic impact on a substantial number of small entities and an initial regulatory flexibility analysis is not required and none has been prepared.

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

Fisheries, Fishing, Gulf, Recreational, Red snapper.

Dated: November 6, 2019.

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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 proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF of MEXICO, AND  
SOUTH ATLANTIC**

1. The authority citation for part 622 continues to  
read as follows:

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

2. In § 622.41, revise paragraph (q)(2)(iii)(B) to  
read as follows:

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

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(q) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(B) *Federal charter vessel/headboat component ACT*. The Federal charter vessel/headboat component ACT applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. A person aboard a vessel that has been issued a charter vessel/headboat permit for Gulf reef fish any time during the fishing year may not harvest or possess red snapper in or from the Gulf EEZ when the Federal charter vessel/headboat component is closed. The component ACT is 2.848 million lb (1.292 million kg), round weight.

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