



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BJ20

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;

Reef Fish Fishery of the Gulf of Mexico; Amendment 51

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 51 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce (Secretary), Amendment 51 would establish and modify status determination criteria and harvest levels for the gray snapper stock. The purposes of Amendment 51 are to end overfishing of gray snapper and achieve optimum yield (OY) for the stock.

DATES: Written comments must be received by [*INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER***].

ADDRESSES: You may submit comments on Amendment 51 identified by "NOAA-NMFS-2019-0116" 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-2019-0116, 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 without change. All personal identifying information (e.g., name, address), 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 51, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from www.regulations.gov or the Southeast Regional Office Web site at <https://www.fisheries.noaa.gov/action/amendment-51-establish->

gray-snapper-status-determination-criteria-and-modify-annual-catch.

FOR FURTHER INFORMATION CONTACT: Peter Hood, NMFS Southeast Regional Office, telephone: 727-824-5305, 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 an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The Council prepared the FMP being revised by Amendment 51, and, if approved, Amendment 51 would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

Gray snapper in the Gulf exclusive economic zone (EEZ) are managed as a single stock with a stock annual catch limit (ACL), and a stock annual catch target (ACT). There is no allocation between the commercial and recreational sectors. Gray snapper occur in estuaries and shelf waters of the Gulf, and are particularly abundant off south and southwest Florida.

Generally, the fishing season is open year-round, January 1 through December 31. However, accountability measures (AMs) for gray snapper specify that if commercial and recreational landings exceed the stock ACL in a fishing year, then during the following fishing year if the stock ACL is reached or is projected to be reached, the commercial and recreational sectors will be closed for the remainder of the fishing year. The gray snapper ACL and AMs were implemented in 2012 (76 FR 82044; December 29, 2011) and the stock ACL of 2.42 million lb (1.1 million kg), round weight, was not exceeded between 2012 and 2018. A preliminary review of the most recent landings data suggest the ACL will also not be exceeded in 2019. However, landings in 2014 and 2016 did exceed the ACLs proposed in Amendment 51. Unless stated otherwise, all weights in this notice are described in round weight.

In 2018, the stock status of gray snapper was evaluated for the first time through a Southeast Data, Assessment, and Review benchmark stock assessment (SEDAR 51). SEDAR 51 was completed and reviewed by the Council's Scientific and Statistical Committee (SSC) in May 2018. The SSC accepted the gray snapper assessment as the best scientific information available and determined that the stock is experiencing overfishing as of 2015 because the fishing mortality rate (F) in 2015 was greater than the maximum fishing mortality threshold (MFMT). However, the SSC

was not able to determine if the stock is overfished because the maximum sustainable yield (MSY) and minimum stock size threshold (MSST) for gray snapper are not specified in the FMP.

Actions Contained in Amendment 51

Amendment 51 includes actions to set the MSY, MSST, OY, and modify the MFMT, overfishing limit (OFL), acceptable biological catch (ABC), ACL and ACT for the gray snapper stock in the Gulf. Amendment 51 also updates the goals and objectives of the FMP.

Maximum Sustainable Yield

SEDAR 51 could not estimate the actual MSY with the best scientific information available. Therefore, the Council considered alternatives for an MSY proxy that uses the spawning potential ratio (SPR). The SPR is the ratio of the average number of eggs per fish over its lifetime when the stock is fished compared to the same value when the stock is not fished. The SPR assumes that a certain amount of fish must survive and spawn in order to replenish the stock. Analyses of stocks with various life histories suggest that, in general, MSY is most commonly associated with the yield when fishing at an F that corresponds to an SPR between 30 and 40 percent.

After reviewing the SEDAR 51 assessment, the SSC recommended that the MSY proxy be set at the yield when fishing at an F corresponding to 30 percent SPR ($F_{30\%SPR}$), which is consistent with the current MFMT definition. However, the

Council noted that the Gulf red snapper proxy is set at the yield when fishing at an F corresponding to 26 percent SPR ($F_{26\%SPR}$), which allows for a larger yield at a given stock size. After further analyses and review, the SSC determined that the yield when fishing at $F_{26\%SPR}$ is scientifically acceptable as a proxy for MSY, but maintained its previous recommendation of the more risk-averse MSY proxy using the yield when fishing at $F_{30\%SPR}$ because of the uncertainty in the SEDAR 51 assessment.

The Council selected the yield when fishing at $F_{26\%SPR}$ for the MSY proxy. This proxy is consistent with the MSY proxy used for red snapper, which has a similar life history to gray snapper. The Council selected this proxy to balance protection of the gray snapper stock with the increase in social and economic benefits for fishers targeting the species that is expected to result from allowing more harvest.

Status Determination Criteria

NMFS uses the MSST and MFMT to determine if a stock is overfished or undergoing overfishing, respectively. If the stock biomass falls below the MSST, then the stock is considered overfished and the Council would then need to develop a rebuilding plan capable of returning the stock to a level that allows the stock to achieve MSY on a continuing basis. In years when there is a stock assessment, if fishing mortality exceeds the MFMT, a stock is considered to be undergoing overfishing

because this level of fishing mortality, if continued, would reduce the stock biomass to an overfished condition. In years in which there is no assessment, overfishing occurs if landings exceed the OFL.

Currently, the MFMT is equal to $F_{30\%SPR}$. Because the MSY proxy selected in Amendment 51 is the yield when fishing at $F_{26\%SPR}$, the Council chose to modify the MFMT to be equal to $F_{26\%SPR}$ for consistency. Under this definition, projections from SEDAR 51 suggest overfishing ended in 2017.

The MSST needs to be equal or less than the biomass (B) capable of producing MSY or MSY proxy ($B_{MSY(or\ MSY\ proxy)}$). The closer the MSST value is to $B_{MSY(or\ MSY\ proxy)}$, the more likely a stock could be declared overfished due to year-to-year fluctuations in stock biomass, resulting in an unneeded rebuilding plan. However, if MSST is set too low, then rebuilding the stock to MSY levels could result in more stringent management measures. Consistent with other reef fish stocks with a defined MSST (gag, red grouper, red snapper, vermilion snapper, gray triggerfish, greater amberjack, and hogfish), the Council selected the MSST for gray snapper as $0.50 * B_{MSY(or\ MSY\ proxy)}$. The Council determined that because the Magnuson-Stevens Act requires ACLs and AMs to prevent overfishing, and that any overfishing be ended immediately, it is unlikely that sustained overfishing would occur and cause a stock to fall below the MSST. Under this MSST,

the result of SEDAR 51 indicate that the gray snapper stock would not be overfished.

Optimum Yield

The Council determined that the OY should be the yield when fishing at 90 percent of F_{MSY} (or MSY_{proxy}). This value would allow for more harvest over the long term and likely have greater social and economic benefits, although it provides less protection to the stock than other values considered (the yield when fishing at 50 and 75 percent of F_{MSY} (or MSY_{proxy})). However, as noted previously, the ACLs and AM control yearly harvest and are designed to prevent overfishing.

Overfishing Limit, Acceptable Biological Catch, Annual Catch Limit, and Annual Catch Target

The current OFL, ABC, and ACL for gray snapper were established in the Generic ACL/AM Amendment using the Council's ABC control rule for stocks that have not been assessed, but are stable over time (76 FR 82044; December 29, 2011). The OFL is equal to 2.88 million lb (1.31 million kg), which is the mean plus 2.0 standard deviations of the annual landings from 1998 through 2008. The ABC is equal to 2.42 million lb (1.1 million kg), which is the mean plus 1.0 standard deviation of the annual landings from 1998 through 2008. The ACL is equal the ABC, and the ACT is 14 percent less than the ACL at 2.08 million lb (0.9 million kg).

Amendment 51 would modify the OFL and ABC consistent with the projections from SEDAR 51 for the MSY proxy selected by the Council and the SSC recommendations. The OFLs would be 2.58 million lb (1.17 million kg) for 2020, and 2.57 million lb (1.166 million kg) for 2021 and subsequent fishing years. The ABCs would be 2.51 million lb (1.14 million kg) for 2020 and subsequent years. The Council then used its ACL/ACT control rule to determine that an 11 percent buffer between the ABCs and ACLs was appropriate to account for management uncertainty. This results in Gulf gray snapper stock ACLs that would be 2.24 million lb (1.02 million), round weight, for the 2020 fishing year. In 2021, and subsequent fishing years, the ACL would be set at 2.23 million lb (1.01 million kg), round weight.

The gray snapper ACT is not currently used for management purposes. Therefore, the Council decided not to set an ACT through Amendment 51.

Proposed Rule for Amendment 51

A proposed rule to implement Amendment 51 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule for Amendment 51 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 51 for Secretarial review, approval, and implementation. Comments on Amendment 51 must be received by [*INSERT DATE 60 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER***]. Comments received during the respective comment periods, whether specifically directed to Amendment 51 or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 51. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 51 or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: February 25, 2020.

Karyl K. Brewster-Geisz,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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