

compared using a random block design and analysis of variance techniques. Five survey tows at each of the six designated sample areas will be conducted once a month from January through March and extended until June, if necessary. Sample stations will be limited to depths of less than 35 fathoms (19.13 m) within the project sample area. Finfish bycatch during the proposed winter sampling period is expected to be low as determined by previous finfish sampling surveys. Smelt, winter flounder, and sticklebacks are the species most likely to concentrate in the nearshore areas. Finfish bycatch will be documented and then discarded after some commercial finfish species stomach samples are taken. Although the survey tows are expected to collect limited numbers of regulated species, some level of entrapment may help assess the effectiveness of bycatch reduction devices and gear modifications. The survey will also help to determine population densities of both juvenile and commercially harvested adult *Crangon*, percent distribution within samples areas, and seasonal distribution patterns. All catches of *Crangon* will be frozen and saved for processing trials. Commercial sized *Crangon* will be processed by facilities in Maine that will handle the peeling, packaging, cooking, and presentation of product samples to foreign buyers to compare with European *Crangon* market products.

EFPs would be issued to the participating vessels to exempt them from the mesh size, minimum fish size, and days-at-sea restrictions of the Northeast Multispecies Fishery Management Plan.

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

Dated: December 4, 1997.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. ; I.D. 120497C]

RIN 0648-AK28

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Minimum Size Limit

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

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement the provisions of a regulatory amendment prepared by the Gulf of Mexico Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This proposed rule would maintain the current minimum size limit for red snapper of 15 inches (38.1 cm), total length (TL). Under the present regulations, the minimum size limit would increase to 16 inches (40.6 cm), TL, on January 1, 1998. The intended effect of this proposed rule is to maximize the economic benefits from the red snapper resource within the constraints of the rebuilding program for this overfished resource.

**DATES:** Written comments must be received on or before December 29, 1997.

**ADDRESSES:** Comments on the proposed rule must be sent to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the framework regulatory amendment, which includes an environmental assessment and a regulatory impact review (RIR) should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619-2266; Phone: 813-228-2815; Fax: 813-225-7015.

**FOR FURTHER INFORMATION CONTACT:** Peter Eldridge, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery in the Exclusive Economic Zone of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and

Management Act by regulations at 50 CFR part 622.

The Council has proposed an adjusted management measure (a regulatory amendment) for the Gulf red snapper fishery for NMFS' review, approval, and implementation. This measure was developed and submitted to NMFS under the terms of the FMP's framework procedure for annual adjustments in total allowable catch and related measures for the red snapper fishery (framework procedure). The proposed rule would implement the measure contained in the Council's regulatory amendment.

#### Red Snapper Minimum Size Limit

The red snapper resource in the Gulf of Mexico is overfished and is currently under a management program to restore the stock to a threshold level of 20-percent spawning potential (SPR) by the year 2019. Amendment 5 to the FMP established a gradual increase in the recreational and commercial minimum size limit for red snapper, from 13 inches (33.0 cm), TL, to 14 inches (35.6 cm), TL, in 1994, 15 inches (38.1 cm), TL, in 1996, and 16 inches (40.6 cm), TL, in 1998. Amendment 5 noted that this action would increase the yield-per-recruit obtained from the fishery provided that the potential gains were not negated from additional release mortality of undersized fish.

The 1997 red snapper stock assessment evaluated the impact of increases in the minimum size through a series of simulations. The assessment concluded that under the constant catch scenario, as presently implemented, an increase in minimum size limit from 15 inches (38.1 cm) to 16 inches (40.6 cm), TL, would have little, if any, effect on the SPR value in the year 2019 because of the associated discard mortality. Therefore, it would not contribute to rebuilding the resource. The assessment indicated that as minimum size increases, the portion of the stock that is available to contribute to the yield decreases. Consequently, in these simulations, fishermen would have to fish harder to produce the same yield. This simulated increase in effort in turn would result in more fish being released and, thus, subject to release mortality. The Reef Fish Stock Assessment Panel reviewed the 1997 assessment and concurred with the conclusion that increasing the minimum size from 15 inches (38.1 cm) to 16 inches (40.6 cm), TL, would not be expected to result in biological benefits.

Testimony, to date, from recreational and commercial fishermen has indicated serious concern about additional discard mortality if the

minimum size limit is increased to 16 inches (40.6 cm), TL. Some fishermen have reported that the increase in minimum size would force them to fish further offshore, where discard mortality would be higher because of greater depth. In addition, fishing further offshore would increase fishing costs.

#### Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce, based on the Council's RIR that assesses the economic impacts of the management measures proposed in this rule on fishery participants, 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 as follows:

The proposed action to maintain the current size limit for red snapper in the Gulf of Mexico will not decrease commercial vessel and for-hire revenues. Without this action the size limit would increase on January 1, 1998, with possible decreases in commercial vessel and for-hire revenues. Since no additional permits or gear modifications are required, there will be no public burden to comply. Since all the impacted firms are small, there is no differential impact. Because the proposed action does not affect a major change in the commercial or the for-hire sector, no additional capital costs are required.

As a result, a regulatory flexibility analysis was not prepared.

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

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

Dated: December 5, 1997.

**Gary C. Matlock,**

*Acting Assistant Administrator for Fisheries, 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, 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 § 622.37, paragraph (d)(3) is revised to read as follows:

#### § 622.37 Minimum sizes.

\* \* \* \* \*

(d) \* \* \*

(3) Red snapper—15 inches (38.1 cm), TL.

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