

continue to occur in these essential habitats, the MMPA “take” prohibition does not currently appear to provide sufficient protection to the characteristics of these habitats that make them suitable places for critical aspects of the harbor seal life cycle. NMFS is therefore considering regulatory conservation measures to: (1) Preserve the habitat functions at existing glacial haul-out sites for harbor seals; (2) limit disturbance of harbor seals at such sites; and (3) minimize the chance of long-term impacts to the population of harbor seals in Alaska.

#### Request for Information and Comments

NMFS is requesting information and comments on whether conservation measures, regulations, or other management action would be appropriate to protect harbor seals in Alaska from human activities that diminish the value of important habitat, result in unauthorized take, and/or may cause detrimental individual- and population-level impacts. NMFS is also requesting information and comments on what type of measures may provide appropriate protection for harbor seals while minimizing impacts on ocean users. Based on the best available science and input received in response to the publication of this notice, NMFS may propose management measures for public comment. The following list includes examples of potential management measures that NMFS may consider:

- Specific corridors for vessel movement.
- Vessel movement parameters relative to ice.
- Vessel speed limits.
- Required minimum approach distance and use of observers to keep a designated ship-to-seal separation distance. Similar to the minimum approach rules established for humpback whales in Hawaii and Alaska, and right whales in the North Atlantic, a limit could be established by regulation to accommodate harbor seal viewing opportunities while minimizing the potential detrimental impacts from human activity; and
- Time-area closures. Similar to seasonal measures used by the NPS to protect seals in Johns Hopkins Inlet, NMFS could establish a regulation limiting human access to certain harbor seal ice-associated habitats, or to zones within these areas. These measures could limit all human entry to the area past a particular demarcation line; measures could be specific to only certain acts within an area; measures could be full-time or limited to certain seasonally important times (e.g.,

excluding entrance during pupping and/or molting). A closure could also consist of any combination of the above.

NMFS invites information and comment from the public on management measures such as those options listed above, or on other possible measures, to help the agency decide what type of regulations, if any, would be appropriate to consider for protecting harbor seal populations in habiting glacial fjords in Alaska. In particular, we are seeking information and comments concerning:

- (1) The advisability of and need for regulations;
- (2) The geographic scope and time horizon of regulations;
- (3) Management options for regulating vessel interactions with harbor seals, including but not limited to the options listed in this notice;
- (4) Scientific and commercial information regarding the effects of vessels on harbor seals and their habitat;
- (5) Information regarding potential economic effects of regulating vessel interactions;
- (6) The feasibility of any management measure or regulation (for example, navigational safety or security concerns); and
- (7) Any additional relevant information that NMFS should consider should it undertake rulemaking.

You may submit information and comments by any one of several methods (see **ADDRESSES**). Electronic copies of the materials prepared for this action are available at <http://www.regulations.gov> or <http://alaskafisheries.noaa.gov>.

#### References Cited

A complete list of all references cited in this advanced notice of proposed rulemaking is available upon request from the NMFS office in Juneau, Alaska (see **ADDRESSES**).

Dated: March 5, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

RIN 0648-BC63

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 28

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) has submitted Amendment 28 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 28 proposes actions to establish a process for determining whether the limited harvest and possession of red snapper in or from the South Atlantic exclusive economic zone (EEZ) could occur during a given fishing year. Amendment 28 specifies the process and formula for setting commercial and recreational annual catch limits (ACLs) for red snapper if a limited fishing season may occur and specifies accountability measures (AMs). Amendment 28 also proposes during a limited fishing season to eliminate the current red snapper minimum size limit, establish a recreational bag limit and a commercial trip limit for red snapper, and establish a process for setting commercial and recreational fishing seasons for red snapper beginning in 2013. The intent of Amendment 28 is to continue the rebuilding of the red snapper stock and to provide socio-economic benefits to snapper-grouper fishermen and communities that utilize the red snapper resource.

**DATES:** Written comments must be received on or before May 13, 2013.

**ADDRESSES:** You may submit comments on Amendment 28 identified by “NOAA-NMFS-2013-0040” by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0040](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0040), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Rick DeVictor, Southeast Regional Office, NMFS, 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 28, which includes an environmental assessment, a regulatory flexibility analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/pdfs/SGAmend28.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Rick DeVictor, Southeast Regional Office, telephone: 727-824-5305, or email: [rick.devictor@noaa.gov](mailto:rick.devictor@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic, which includes red snapper, 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 Magnuson-Stevens Act. 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 plan or amendment is available for review and comment.

### Background

Red snapper are overfished and undergoing overfishing. The harvest and possession of red snapper has been prohibited since January 4, 2010, initially through temporary rules (74 FR 63673, December 4, 2009 and 75 FR 27658, May 18, 2010), and then through the final rule to implement Amendment 17A to the FMP (75 FR 76874, December 9, 2010). Amendment 17A continued the prohibition on a permanent basis by implementing an ACL for red snapper of zero (landings only). Amendment 17A also implemented a rebuilding plan for red snapper, which specifies that red snapper biomass must increase to the

target rebuilt level in 35 years, starting from 2010. The final rule implementing Amendment 17A also included a large area closure for most snapper-grouper species, however, this area closure did not become effective because it was determined not to be necessary to end the overfishing of red snapper (76 FR 23728, April 28, 2011). At its June 2012 meeting, the Council received new information from NMFS regarding discard estimates for red snapper. Using these data, the Council and NMFS determined that a limited season for red snapper was possible in 2012. At the Council's request, NMFS implemented emergency rulemaking to allow for the limited harvest and possession of red snapper in or from the South Atlantic EEZ in 2012 (77 FR 51939, August 28, 2012).

### Status of the Stock

The most recent Southeast Data, Assessment, and Review (SEDAR) benchmark stock assessment for red snapper, SEDAR 24, was completed in October 2010. Much like the stock assessment completed in 2008, this assessment showed red snapper to be overfished and undergoing overfishing, but also showed that red snapper were undergoing overfishing at a lower rate than found in the 2008 stock assessment. The next benchmark stock assessment for red snapper is scheduled for 2014.

### Actions Contained in Amendment 28

Amendment 28 would implement several management measures to allow for the limited harvest and possession of red snapper in or from the South Atlantic EEZ. When the Council approved, and NMFS implemented, the temporary rule through emergency action in 2012, they determined that retention of a limited number of red snapper (13,097 fish) would not jeopardize the rebuilding of the red snapper stock if the acceptable biological catch (ABC) was not exceeded in the previous year. In Amendment 28, the Council has made a similar determination depending on certain conditions, beginning in 2013.

### Process for Determining the Annual Red Snapper Harvest

Amendment 28 describes the annual process developed by the Council for determining whether a limited fishing season for red snapper will occur and how much red snapper may be harvested. The ABC is determined through the Council's ABC control rule and the rebuilding projections from the most recent stock assessment. Estimated landings and dead discards of red

snapper from the previous year should be available around March of each year, and NMFS would use that information in formulas approved by the Council in Amendment 28. If NMFS determines that the estimated landings and dead discards that occurred in the previous year are equal to or greater than the ABC for the current year, no harvest would be allowed and the ACL would remain equal to zero. However, if NMFS determines that the previous year's estimated landings and dead discards are less than the ABC, then the ACL would be set to the amount of harvest that may be allowed for the current year.

### Setting the Commercial and Recreational Red Snapper Fishing Seasons

If NMFS determines commercial and recreational fishing seasons are allowed for that fishing year, NMFS would announce the commercial and recreational fishing season start dates in the **Federal Register** and by other methods, as deemed appropriate. The commercial fishing season would begin on the second Monday in July, and the recreational fishing season would begin on the second Friday in July. NMFS would project when the recreational ACL would be reached and announce the fishing season end date in the **Federal Register**. The recreational season length would be based on an evaluation of historical harvest levels and fishing effort. The recreational fishing season would consist of weekends only (Fridays, Saturdays, and Sundays). NMFS would not announce the season end date for the commercial sector before the season starts, but would close the commercial sector when the commercial ACL has been reached or projected to be reached by filing an in-season closure notification with the Office of the Federal Register. After the commercial sector closes, sale and purchase of red snapper is prohibited and harvest and possession of red snapper is limited to the bag and possession limit.

If the NMFS Regional Administrator (RA) determines tropical storm or hurricane conditions exist, or are projected to exist, in the South Atlantic during the commercial or recreational fishing season, Amendment 28 would allow the RA to modify the opening and closing dates by filing a notification to that effect with the Office of the Federal Register, and announcing via NOAA Weather Radio and Fishery Bulletin any change in the red snapper commercial or recreational fishing seasons. If the projected commercial and/or recreational fishing seasons are determined by NMFS to be 3 days or

less, then the commercial and/or recreational fishing seasons would not open for that fishing year.

#### *Formula for Setting the ACLs*

Amendment 28 includes a formula for determining the commercial and recreational ACLs on an annual basis. The formula is based on total removals (landings plus discards) from prior fishing years. The formula would provide the total ACL for a limited fishing season. Then using the current allocation ratio for red snapper (28.07 percent commercial and 71.93 percent recreational), NMFS would determine the commercial and recreational ACLs. When finalized data from the prior fishing years are available, NMFS would publish a notification with the Office of the Federal Register to announce the commercial and recreational ACLs for a limited fishing season for that fishing year.

#### *AMs*

The Council and NMFS would establish in-season AMs during a limited fishing season to prevent these ACLs from being exceeded. If red snapper harvest is allowed in a given fishing year, the commercial in-season AM requires that if commercial landings reach or are projected to reach the commercial ACL, then NMFS would close the commercial sector for red snapper for the remainder of the fishing year. After the commercial sector closes, sale and purchase of red snapper is prohibited and harvest and possession of red snapper is limited to the bag and possession limit. The recreational in-season AM is the length of the recreational fishing season as determined by NMFS and announced in the **Federal Register**.

#### *Other Management Measures*

In order to reduce the probability of an overage of the commercial and recreational ACLs during the limited open seasons, Amendment 28 would implement a 75-lb (34-kg) commercial trip limit and a 1-fish per person recreational bag limit. Amendment 28 would also remove the 20-inch (51-cm), total length (TL), minimum size limit for both the commercial and recreational sectors to decrease regulatory discards of red snapper (fish returned to the water because they are below the minimum size limit).

A proposed rule that would implement measures outlined in Amendment 28 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 28 to determine whether it is consistent with the FMP, the Magnuson-Stevens

Act, and other applicable law. If the determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

#### **Consideration of Public Comments**

The Councils submitted Amendment 28 for Secretarial review, approval, and implementation. NMFS' decision to approve, partially approve, or disapprove Amendment 28 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability.

Public comments received by 5 p.m. eastern time, on May 13, 2013, will be considered by NMFS in the approval/disapproval decision regarding Amendment 28.

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

Dated: March 7, 2013.

**Kara Meckley,**

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

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**BILLING CODE 3510-22-P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

**[Docket No. 130103002-3185-01]**

**RIN 0648-BC85**

#### **Fisheries of the Northeastern United States; Proposed 2013-2015 Spiny Dogfish Fishery Specifications**

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

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

**SUMMARY:** This rule proposes catch limits, commercial quotas, and possession limits for the spiny dogfish fishery for the 2013-2015 fishing years. The proposed action was developed by the Mid-Atlantic and New England Fishery Management Councils pursuant to the fishery specification requirements of the Spiny Dogfish Fishery Management Plan. The proposed management measures are supported by the best available scientific information and reflect recent increases in spiny dogfish biomass. The proposed action is expected to result in positive economic impacts for the spiny dogfish fishery while maintaining the conservation

objectives of the Spiny Dogfish Fishery Management Plan.

**DATES:** Comments must be received on or before March 27, 2013.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2013-0044, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0044](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0044), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to John Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.

- **Fax:** (978) 281-9135, Attn: Tobey Curtis.

**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 publically accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The specifications document is also accessible via the Internet at: <http://www.nero.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Tobey Curtis, Fishery Policy Analyst, (978) 281-9273; fax: (978) 281-9135.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In 1998, NMFS declared Spiny dogfish (*Squalus acanthias*) overfished. Consequently, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) required NMFS to prepare measures to end overfishing and rebuild the spiny