

484) to be sufficiently great to threaten the continued existence of the Humboldt marten, nor do we have information in our files indicating that mortality from vehicle collisions threatens martens in coastal northern California and coastal Oregon. The petition also states that martens are vulnerable to mortality from starvation and poisoning, although the petition acknowledges that the extent of the threat of these factors to the Humboldt marten has not been quantified (CBD and EPIC 2010, p. 28). We conclude that information in the petition and in our files does not indicate that mortality from poisoning or starvation threatens the continued existence of martens in coastal northern California and coastal Oregon. However, we will evaluate these potential threats more thoroughly in our 12-month finding.

The petition further states that global climate change threatens the Humboldt marten (CBD and EPIC 2010, p. 28). According to the petition, vegetation changes resulting from climate change could cause changes in the type and availability of prey for martens and could affect availability of resting and denning sites, shrub cover, and canopy cover. The petition also states that climate change could lead to tree mortality from insect infestation, disease, and drought. While we acknowledge that climate change will result in a variety of environmental changes including changes in vegetation composition and structure, information presented in the petition is too general and speculative to determine whether climate change effects may threaten the continued existence of the Humboldt marten, and we do not have specific information available in our files indicating that climate change threatens the continued existence of the Humboldt marten.

#### Summary of Factor E

In summary, we find that the information provided in the petition, as well as other information readily available in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to other natural or manmade factors affecting its continued existence, specifically small population effects. We will review threats posed by small population effects more thoroughly during our status review.

#### Finding

On the basis of our determination under section 4(b)(3)(A) of the Act, we determine that the petition presents substantial scientific or commercial

information indicating that listing the Humboldt marten throughout all or a significant portion of its range may be warranted. This finding is based on substantial information provided in the petition and in our files for Factor A, Factor C, Factor D, and Factor E. We determine that the information provided under Factor B is not substantial.

Because we have found that the petition presents substantial information indicating that listing the Humboldt marten may be warranted, we are initiating a status review to determine whether listing the Humboldt marten under the Act is warranted. Because ongoing genetics research may result in changes to American marten taxonomy, we will examine whether the purported subspecific designation of Humboldt marten is appropriate during our status review. If the Humboldt marten does not maintain its status as a subspecies, we will examine during our status review whether the Humboldt marten meets criteria for designation as a distinct population segment under our February 7, 1996, DPS policy (61 FR 4722).

The “substantial information” standard for a 90-day finding differs from the Act’s “best scientific and commercial data” standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

#### References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Arcata Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

#### Authors

The primary authors of this document are the staff members of the Arcata Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 30, 2011.

**Rowan W. Gould,**

*Acting Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

#### RIN 0648-AY74

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 20A

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

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

**SUMMARY:** NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 20A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 20A) for review, approval, and implementation by NMFS. Amendment 20A proposes actions for the wreckfish individual transferable quota (ITQ) program, including actions to define and revert inactive wreckfish quota shares, redistribute reverted quota shares to remaining shareholders, establish a cap on the number of wreckfish quota shares a single entity may own, and establish an appeals process for redistribution of reverted wreckfish quota shares. The actions contained in Amendment 20A are intended to help achieve the optimum yield (OY) from the wreckfish commercial sector in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received on or before March 12, 2012.

**ADDRESSES:** You may submit comments on the amendment identified by “NOAA-NMFS-2011-0277” by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment", then enter "NOAA-NMFS-2011-0277" in the keyword search and click on "search". To view posted comments during the comment period, enter "NOAA-NMFS-2011-0277" in the keyword search and click on "search". NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of Amendment 20A may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm>.

**FOR FURTHER INFORMATION CONTACT:** Nikhil Mehta, telephone: (727) 824-5305, or email: [nikhil.mehta@noaa.gov](mailto:nikhil.mehta@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The 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.

The FMP being revised by Amendment 20A was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

### Background

Wreckfish is part of the snapper-grouper fishery and is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The wreckfish commercial sector has been managed under an ITQ program since March 1992, through Amendment 5 to the Snapper-Grouper FMP, in order to end derby fishing (race to fish) practices. Currently, there is latent effort in the

wreckfish commercial sector with very few active participants. In August 2010, the Council's Scientific and Statistical Committee (SSC) recommended an acceptable biological catch (ABC) for wreckfish off the southern Atlantic states of 250,000 lb (113,389 kg), round weight. The proposed rule for the Comprehensive Annual Catch Limit Amendment (Comprehensive ACL Amendment) published on December 1, 2011 (76 FR 74757), and would implement an ACL of 250,000 lb (113,389 kg), round weight for wreckfish. The Comprehensive ACL Amendment would further allocate 95 percent of the wreckfish ACL to the commercial sector (237,500 lb; 107,728 kg, round weight). In November 2011, the Council's SSC met and recommended a revised wreckfish ABC equal to 235,000 lb (106,594 kg), round weight. The Council then met in December 2011 and reviewed and accepted the SSC's recommendation to reduce the wreckfish ABC which would in turn reduce the wreckfish ACL. Therefore, to incorporate this recommended revised ACL, NMFS published an amended proposed rule for the Comprehensive ACL Amendment on December 30, 2011 (76 FR 82264) to implement the revised wreckfish ABC and ACL of 235,000 lb (106,594 kg), round weight, of which 223,250 lb (101,264 kg) would be allocated to the commercial sector. This would be an 89 percent reduction from the current total allowable catch for wreckfish of 2 million lb (907,185 kg), round weight. The intent of Amendment 20A is to achieve OY in the wreckfish commercial sector while maximizing harvest potential and not exceeding the ACL.

### *Define and Revert Inactive Wreckfish Quota Shares*

The ACL for the wreckfish commercial sector proposed in the Comprehensive ACL Amendment and in the amended proposed rule, would result in a significant reduction in the amount of available harvest associated with each wreckfish quota share, including inactive wreckfish quota shares, in order to maintain harvest at or below the ACL. As a result, if inactive wreckfish quota shares are not reverted it is likely that harvest would only reach approximately 130,735-160,338 lb (59,300-72,728 kg), round weight, after applying the new ACL. Out of the 20 current wreckfish quota shareholders, there are 13 inactive wreckfish quota shareholders holding a combined 28.18 percent of wreckfish quota shares. Amendment 20A proposes to revert these wreckfish quota shares and

redistribute them among the seven remaining active wreckfish quota shareholders.

### *Redistribute Reverted Wreckfish Quota Shares to Remaining Shareholders*

Amendment 20A proposes to redistribute the above mentioned wreckfish quota shares to remaining wreckfish quota shareholders based on landings history from fishing years 2006/2007 through 2010/2011. The percentage of wreckfish quota shares redistributed to the remaining wreckfish quota shareholders would range from 0.04 percent to 9.91 percent.

### *Establish a Cap on the Number of Wreckfish Quota Shares a Single Entity May Own*

Amendment 20A proposes to establish a cap of 49 percent of the total wreckfish quota shares a single entity can own. This would prevent any one entity from holding the majority of wreckfish quota shares, and would result in no active entities exceeding the quota share cap.

### *Establish an Appeals Process for Redistribution of Wreckfish Quota Shares*

Five percent of the wreckfish quota shares for the 2012/2013 fishing year would be set-aside by Amendment 20A, to resolve any appeals of wreckfish quota shares for a period of 90-days starting on the effective date of the final rule. The Regional Administrator (RA) would review, evaluate, and provide final decisions on appeals. Hardship arguments would not be considered. The RA would determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA could use state landings records. Appellants would submit NMFS' logbooks or state landings records to support their appeal. After the appeals process has been completed, any amount of quota shares remaining from the set-aside would be redistributed to remaining ITQ shareholders, according to the redistribution method specified above.

A proposed rule that would implement measures outlined in Amendment 20A has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, 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.

Comments received by March 12, 2012, will be considered by NMFS in its

decision to approve, disapprove, or partially approve Amendment 20A. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 20A or the proposed rule for Amendment 20A during their respective comment periods will be addressed.

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

Dated: January 6, 2012.

**Steven Thur,**

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

[FR Doc. 2012-398 Filed 1-11-12; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 100217095-1780-03]

RIN 0648-AY56

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 32

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

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

**SUMMARY:** NMFS published a proposed rule on November 2, 2011 (76 FR 67656) to implement management measures described in Amendment 32 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 32) prepared by the Gulf of Mexico Fishery Management Council (Council). During the comment period for that proposed rule, NMFS identified an inconsistency in the codified text of that rule regarding the accountability measures for recreational gag and red grouper that needs correction. This rule proposes to further revise the recreational accountability measures for gag and red grouper to correctly specify what will occur if the ACL is exceeded and the species is overfished. This proposed rule is intended to end overfishing of gag, allow the gag stock to rebuild, and co-manage gag and red grouper by implementing concurrent management measures.

**DATES:** Written comments must be received on or before January 27, 2012.

**ADDRESSES:** You may submit comments on the proposed rule identified by “NOAA-NMFS-2011-0135” by any of the following methods:

- **Electronic submissions:** Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on “submit a comment,” then enter “NOAA-NMFS-2011-0135” in the keyword search and click on “search.” To view posted comments during the comment period, enter “NOAA-NMFS-2011-0135” in the keyword search and click on “search.” NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments through means not specified in this rule will not be accepted.

Electronic copies of Amendment 32, which includes a draft environmental impact statement (DEIS), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm>.

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

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico 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 the Magnuson-Stevens Act.

#### Background

A proposed rule for Amendment 32 was published on November 2, 2011 (76 FR 67656) with the comment period ending December 2, 2011. That

proposed rule included measures to adjust the commercial gag quota and recreational annual catch target (ACT) for 2012 through 2015 and subsequent fishing years, consistent with the gag rebuilding plan established in Amendment 32; adjust the shallow-water grouper quota; adjust the commercial and recreational sector’s annual catch limits (ACLs) for gag and red grouper; adjust the commercial ACL for SWG; establish a formula-based method for setting gag and red grouper multi-use allocation for the grouper/tilefish individual fishing quota program in the Gulf of Mexico; set the recreational gag fishing season from July 1 through October 31; reduce the gag commercial size limit to 22 inches (59 cm) total length (TL); and modify the gag and red grouper accountability measures (AMs).

During the comment period for that proposed rule, NMFS identified an inconsistency in the codified text regarding the AMs for gag and red grouper. In § 622.49, paragraph (a)(4)(ii)(C), the codified text for gag recreational AMs states that, “if gag recreational landings, as estimated by the SRD, exceed the applicable ACL specified in paragraph (a)(4)(ii)(D), and gag are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.” However, in § 622.49, paragraph (a)(4)(ii)(B), the codified text states that, “Without regard to overfished status, and in addition to the measures specified in paragraph (a)(4)(ii)(A), if gag recreational landings, as estimated by the SRD, exceed the applicable ACLs specified in paragraph (a)(4)(ii)(D), the AA will file a notification with the Office of the Federal Register to maintain the gag target catch level, specified in paragraph (a)(4)(ii)(D), for that following fishing year at the level of the prior year’s target catch, unless the best scientific information available determines that maintaining the prior year’s target catch is unnecessary.” The codified text for red grouper recreational AMs in § 622.49, paragraphs (a)(5)(ii)(C) and (B) is identical to the gag codified text. Therefore, if gag or red grouper are overfished and recreational landings exceed the ACL and an overage adjustment is made to the ACL the following year, the ACL could actually