

portion of the final aggregate DSH allotment reduction allocation for each State by multiplying the State's UPF by the aggregate DSH allotment reduction allocated to the UPF factor under paragraph (e)(5) of this section for the respective State group.

(8) *High volume of Medicaid inpatients factor (HMF) calculation.* CMS will calculate the HMF by determining a percentage for each State by dividing the State's total DSH payments made to non-high Medicaid volume hospitals by the total of such payments for the entire State group.

(9) *HMF application and reduction amount.* CMS will determine the HMF portion of the final aggregate DSH allotment reduction allocation for each State by multiplying the State's HMF by the aggregate DSH allotment reduction allocated to the HMF factor under paragraph (e)(5) of this section for the respective State group.

(10) *High level of uncompensated care factor (HUF) calculation.* CMS will calculate the HUF by determining a percentage for each State by dividing the State's total DSH payments made to non-High Uncompensated Care Level hospitals by the total of such payments for the entire State group.

(11) *HUF application and reduction amount.* CMS will determine the HUF portion of the final aggregate DSH allotment reduction allocation by multiplying each State's HUF by the aggregate DSH allotment reduction allocated to the HUF factor under paragraph (e)(5) of this section for the respective State group.

(12) *Section 1115 budget neutrality factor (BNF) calculation.* This factor is only calculated for States for which all or a portion of the DSH allotment was included in the calculation of budget neutrality under a section 1115 demonstration for the specific fiscal year subject to reduction pursuant to an approval on or before July 31, 2009. CMS will calculate the BNF for qualifying states by the following:

(i) For States whose DSH allotment was included in the budget neutrality calculation for a coverage expansion that was approved under section 1115 as of July 31, 2009, (without regard to approved amendments since that date) determining the amount of the State's DSH allotment included in the budget neutrality calculation for coverage expansion for the specific fiscal year subject to reduction. This amount is not subject to reductions under the HMF and HUF calculations.

(ii) Determining the amount of the State's DSH allotment included in the budget neutrality calculation for non-

coverage expansion purposes for the specific fiscal year subject to reduction.

(iii) Multiplying each qualifying State's value of paragraph (e)(12)(ii) of this section by the mean HMF reduction percentage for the respective State group.

(iv) Multiplying each qualifying State's value of paragraph (e)(12)(ii) of this section by the mean HUF reduction percentage for the respective State group.

(v) For each State, calculating the sum of the value of paragraphs (e)(12)(iii) and of (e)(12)(iv) of this section.

(13) *Section 1115 budget neutrality factor (BNF) application.* This factor will be applied in the State-specific DSH allotment reduction calculation.

(14) *State-specific DSH allotment reduction calculation.* CMS will calculate the state-specific DSH reduction by the following:

(i) Taking the sum of the value of paragraphs (e)(7), (e)(9), and (e)(11) of this section for each State.

(ii) For States qualifying under paragraph (e)(12) of this section, adding the value of paragraph (e)(12)(v) of this section.

(iii) Reducing the amount of paragraph (e)(14)(i) of this section for each State that does not qualify under paragraph (e)(12)(v) of this section based on the proportion of each State's preliminary unreduced DSH allotment compared to the national total of preliminary unreduced DSH allotments so that the sum of paragraph (e)(14)(iii) of this section equals the sum of paragraph (e)(12)(v) of this section.

(f) *Annual DSH allotment reduction application.* For each fiscal year 2014 and fiscal year 2015, CMS will subtract the State-specific DSH allotment amount determined in paragraph (e)(14) of this section from that State's final unreduced DSH allotment. This amount is the State's final DSH allotment for the fiscal year.

- 3. Section 447.299 is amended by:
- A. Redesignating paragraph (c)(18) as (c)(21).
- B. Adding paragraphs (c)(18), (c)(19) and (c)(20).
- C. Revising newly redesignated paragraph (c)(21).

The additions and revisions read as follows:

**§ 447.299 Reporting Requirements.**

\* \* \* \* \*

(c) \* \* \*

(18) *Medicaid provider number.* The provider identification number assigned by the Medicaid program.

(19) *Medicare provider number.* The provider identification number assigned by the Medicare program.

(20) *Total hospital cost.* The total annual costs incurred by each hospital for furnishing inpatient hospital and outpatient hospital services.

(21) *Reporting.* States must report DSH payments made to all hospitals under the authority of the approved Medicaid State plan. This includes both in-State and out-of-State hospitals. For out-of-State hospitals, States must report, at a minimum, the information identified in § 447.299(c)(1) through (c)(6), (c)(8), (c)(9), (c)(17), (c)(18), and (c)(19).

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: August 29, 2013.

**Marilyn Tavenner,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: September 9, 2013.

**Kathleen Sebelius,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2013-22686 Filed 9-13-13; 4:15 pm]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 130627573-3796-02]

**RIN 0648-BD39**

**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:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). This rule increases the 2013 commercial and recreational quotas for red snapper in the Gulf of Mexico (Gulf) reef fish fishery and re-opens the red snapper recreational season for 2013. This final rule is intended to allow increased harvest of Gulf red snapper without increasing the risk of red snapper experiencing overfishing or jeopardizing the rebuilding plan.

**DATES:** This rule is effective October 1, 2013.

**ADDRESSES:** Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act analysis may be obtained from the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/2013/rs\\_tac\\_framework/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2013/rs_tac_framework/index.html).

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

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage the Gulf reef fish fishery under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On August 14, 2013, NMFS published a proposed rule for the framework action and requested public comment (78 FR 49440). The proposed rule and the framework action outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

Through this final rule, NMFS sets the commercial quota for red snapper at 5.610 million lb (2.545 million kg), round weight, and the recreational quota at 5.390 million lb (2.445 million kg), round weight. NMFS also re-opens the recreational fishing season for red snapper in the Gulf EEZ beginning October 1.

In the proposed rule for this action, NMFS explained that the Council's Scientific and Statistical Committee (SSC) would meet in August 2013 to review the new projections for red snapper, and was expected to provide new acceptable biological catches (ABCs) based on a constant catch scenario. The SSC did meet in August 2013 and provided the following updated ABCs: 13.5 million lb (6.1 million kg), round weight, for the 2013 fishing year, 12.8 million lb (5.8 million kg), round weight, for the 2014 fishing year, and 11.5 million lb (5.2 million kg), round weight, for the 2015 fishing year. These ABCs are based on a scenario that assumes constant catches of 11.0 million lb (5.0 million kg), round weight, for the 2013 and 2014 fishing years. If the allowable catch remained at 11.0 million lb (5.0 million kg), round weight, in 2015, the allowable catch would not exceed the new ABC set for the 2015 fishing year.

Through this final rule, the red snapper commercial quota increases by 1.295 million lb (587,402 kg), round weight. This increase will be distributed to Gulf red snapper individual fishing quota (IFQ) shareholders on or shortly after October 1, 2013.

The recreational quota increases by 1.245 million lb (564,723 kg), round weight. Under 50 CFR 622.34(b), the red snapper recreational fishing season opens each year on June 1 and closes when the recreational quota is projected to be reached. Prior to June 1 each year, NMFS projects the closing date based on the previous year's data, and notifies the public of the closing date for the upcoming season. If subsequent data indicate that the quota has not been reached by that closing date, NMFS may re-open the season.

NMFS projected the 2013 recreational quota of 4.145 million lb (1.880 million kg), round weight, would be met by June 29, 2013. Preliminary catch estimates produced by the Marine Recreational Information Program (MRIP)—using new methodology for the June season—are unexpectedly high relative to previous years, indicating the private and for-hire components of the recreational sector landed 5.8 million lb (2.631 million kg), round weight. Landings available through June, including both MRIP and headboat landings, total 6.13 million lb (2.781 million kg), round weight. The original quota, which was developed using the prior methodology, was 4.145 million-lb (1.880 million-kg), round weight. It is misleading to make a direct comparison between these numbers, however, because if the new MRIP methodology had been available to use in the 2013 stock assessment on which the current ABCs and quotas are based, then the original quotas may have been set much higher.

Overall, the new MRIP catch estimates are more accurate and less biased than those produced in past years because MRIP redesigned the Access Point Angler Intercept Survey in March 2013 to provide better coverage of the variety of fishing trips ending at different times of day. However, the new estimates only cover a single month long season, and if the new survey methodology indeed eliminated past biases, then the new estimates may not be directly comparable to the 2013 quota or other red snapper management reference points, which were based on historical catch estimates using years of data and the prior methodology. The proportion of the catch increase that may be attributed to improving the geographic and temporal coverage of sampling under the new survey

methodology versus the proportion that may be due to a true increase in landings has not been determined. Additionally, MRIP, which estimates catches of many species, produces estimates more accurately over longer time frames and larger geographic areas than what is currently available for recreational red snapper management.

At this time, NMFS does not have a sufficient understanding of how to use the new MRIP landing estimates without better understanding how they fit into the broader scientific basis for red snapper management, which includes the stock assessment and the full historical times series of fishery-dependent and fishery-independent data. Evaluations are underway to better understand the relative contribution of the methodology change versus true shifts in angler behavior and landings to the unexpectedly high estimates for this year. This evaluation is still underway and will not be completed in time to be used for decisions on the season length of the October recreational red snapper season. NMFS plans to thoroughly evaluate this issue in the update assessment to be completed in early 2015. In the interim, the Southeast Fisheries Science Center (SEFSC) has determined that the best scientific information available to determine landings during the June season is the projection used to set the season length. This projection estimated that the 4.145-million lb (1.880-million kg), round weight, quota would be landed during the 28-day season.

Available data show a small increase in fishing effort Gulf-wide, no significant changes in catch rates, and an average size of red snapper for 2013 consistent with the projections. Additionally, headboat landings through June 2013 are slightly less than landings through June 2012. Therefore, NMFS has determined the best scientific information available on which to base a decision whether or not to proceed with a fall season is the analysis projecting the number of days available for a supplemental season with the 1.245 million-lb (564,723-kg), round weight, increase in the recreational quota. There is uncertainty in the projection, because it is based on assumptions about effort levels, catch-per-unit effort, and average weights for landed fish. Because the SEFSC could not verify these assumptions with actual estimates, due to the issues outlined above, they recommend that this uncertainty be factored into decisions about season length for the fall season.

The 21 days originally projected for the supplemental season were based on assuming catch rates (landings per day)

during fall would be 50 percent less than the catch rates projected for summer. However, during public testimony at the Council's August 2013 meeting, for-hire business owners indicated they were booked for the supplemental season. Additionally, comments received on the proposed rule indicated many private anglers were planning fishing trips during October, leading NMFS to determine there may be greater participation during this fall than might be expected based on previous years. Given questions about the new data, the past performance of the fishery, the increase in fishing effort in June, and the expectation of higher than normal effort during the fall, NMFS prefers to be cautious in deciding for how long to re-open the recreational fishing season. It would not be realistic to assume fall catch rates will be the same as in the summer, due to children being in school, the possibility of inclement weather, and other recreational opportunities available to the public, such as hunting and football. Therefore, catch rates for fall are assumed to be 75 percent of summer catch rates, which allows for 14 days of fishing.

Based on the increase in the recreational quota implemented by this final rule and the analysis of the fall catch rates, NMFS has determined that the recreational sector may re-open for an additional 14 days. The method for calculating this fall season length can be found in SERO-LAPP-2013-05 at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/2013/rs\\_tac\\_framework/documents/pdfs/gulf\\_rs\\_fall\\_season.pdf](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2013/rs_tac_framework/documents/pdfs/gulf_rs_fall_season.pdf). NMFS will re-open the recreational fishing season at 12:01 a.m., October 1, 2013, as approved by the Council. NMFS will close recreational harvest of red snapper in the Gulf EEZ at 12:01 a.m., local time, October 15, 2013, and it will remain closed until the start of the next fishing season. During the closure, the bag and possession limit for red snapper in or from the Gulf EEZ is zero. In addition, a person aboard a vessel for which a Federal charter vessel/headboat permit for Gulf reef fish has been issued must also abide by these closure provisions in state waters.

### Comments and Responses

NMFS received a total of 78 public comments on the proposed rule; 4 from organizations and the rest were from individuals. Fourteen commenters submitted suggestions for the reef fish fishery that were outside the scope of the framework and the proposed rule, including comments related to other aspects of red snapper management

such as changing the size limit, reallocation between sectors, regional management, increasing the bag limit, establishing a split recreational season, establishing a charter IFQ program, changing the dates of the regular recreational season, and establishing a recreational tag system. Two comments expressed general support for the rule. Specific comments related to the actions contained in the framework and the proposed rule as well as NMFS' respective responses are summarized below.

*Comment 1:* Many commenters supported increasing the allowable catch to 11.0 million lb (5.0 million kg). Most described seeing more red snapper than ever before. Some support a conservative approach to developing the recommended allowable catch with a goal of trying to stabilize the seasonal fishing opportunities.

*Response:* NMFS agrees with the Council's decision to increase the allowable catch to 11.0 million lb (5.0 million kg), round weight. The Council's decision was based on a new stock assessment and is intended to allow the greatest increase in the commercial and recreational quotas while ensuring constant or increasing quotas for at least the next 3 years.

*Comment 2:* Two commenters supported increasing the quota, but felt the increase is too conservative and could be much more.

*Response:* NMFS disagrees that the Council should have selected an allowable catch that is greater than 11.0 million lb (5.0 million kg), round weight. The Council considered alternatives that would have set the 2013 allowable catch greater than 11.0 million lb (5.0 million kg), round weight, but would have then required a decrease in the allowable catch for 2014 and 2015. During public testimony at Council meetings, a majority of stakeholders supported setting management measures that would bring stability to both the commercial and recreational sectors. The Council agreed with stakeholders that a constant catch strategy would provide the greatest economic benefit over the next 3 years, and determined that by foregoing some catch in 2013, higher allowable catches could be set for 2014 and 2015, and catch could be held relatively constant.

*Comment 3:* Two commenters supported the allowable catch increase only for 1 year. They believe this to be important because Amendment 28 to the FMP includes a review of the red snapper allocation between the commercial and recreational sectors and if the Council and NMFS determine an adjustment of the sector allocation is

necessary, the allowable catch could be divided up differently in subsequent years.

*Response:* NMFS does not agree that it is necessary to limit the increase to 1 year. Since 2010, the allowable catches for red snapper have increased annually. Through each rulemaking to revise the red snapper allowable catches, the allowable catch increases were set without a time limit; however, the Council may change the allowable catches at any time in response to new information. The Council is currently developing Amendment 28 to the FMP and will determine if revising the allocation between the sectors is appropriate. Setting the allowable catch at 11.0 million lb (5.0 million kg), round weight, for consecutive fishing years does not preclude the Council from changing the allocation during that time period.

*Comment 4:* Some commenters supported increasing the allowable catch, but felt the total increase should go to the recreational sector.

*Response:* Allocation of the allowable catch between the commercial and recreational sectors was established in Amendment 1 to the FMP (55 FR 2078, January 22, 1990). As stated above, the Council is considering reallocation of the allowable catch between the sectors in Amendment 28 to the FMP. Until a change is made to the FMP, the allowable catch will continue to be allocated with 49 percent to the recreational sector and 51 percent to commercial sector.

*Comment 5:* Two commenters supported increasing the commercial and recreational quotas, but recommended the Council apply the guidance in its ACL/ACT control rule directly to each sector, providing commercial and recreational management buffers of 0 percent and 15–20 percent, respectively. The commenters stated that the failure to include meaningful accountability measures for the recreational sector, including a buffer specific to the recreational sector, ignores the history of overharvesting in the recreational sector. This will result in another de facto reallocation from the commercial to the recreational sector that is inconsistent with the apportionment between those sectors as established by the FMP.

*Response:* NMFS disagrees that the Council should have applied the ACL/ACT control rule and set an ACT 15–20 percent below the recreational quota. Although the recreational quota has been exceeded in prior years, the Council determined that applying the buffer recommended by the control rule

was not necessary to ensure that the adjusted 2013 recreational quota is not exceeded. NMFS agrees with the Council's determination. The decision on a 2013 fall recreational season was based on projections of how many days would be needed to harvest the additional 1.245 million lb (564,723 million kg), round weight. The projections used biological data and landings that are more updated than what was used for projections in prior years and are based on more robust models. Recreational red snapper harvest rates and average sizes have been changing rapidly in response to stock rebuilding. Past projections underestimated average fish weights and daily angler catch rates, resulting in projections overestimating the number of days necessary to harvest the recreational quota. Projection models were improved this year to account for rapidly increasing angler catch rates and fish weights. This is supported by data from the June season showing that average red snapper weights were not significantly different than those used in the projections.

Additionally, the most recent assessment indicates the population growth rate is slowing, and appears to be stabilizing in terms of recruitment and fish size. Because the red snapper population appears to be stabilizing and the 2013 projection model is more robust and contains more updated data, NMFS expects the projections to more accurately predict the number of days needed to harvest the additional recreational quota. In addition, NMFS has acted conservatively and determined that the fall season should open for only 14-days as opposed to the 21-days originally projected. This will further help ensure that the recreational harvest is constrained to the quota.

*Comment 6:* Some commenters did not believe the data used for decisions on red snapper management were appropriate; however, none of these commenters concluded with support or opposition to the proposed allowable catch increase. Most commenters felt that the population is healthier and in greater numbers than what NMFS data show. Some also believe the average size of red snapper is getting larger.

*Response:* In 2013, a benchmark assessment (SEDAR 31) was completed for Gulf red snapper. Stock assessment procedures involve a wide variety of interest groups such as fishermen, dealers, and environmental groups, as well as fishery scientists, to ensure the assessment is based on the best available scientific information and methodologies. SEDAR 31 shows that red snapper numbers and size are

increasing and that red snapper are not undergoing overfishing, but that red snapper remains overfished. However, the assessment also indicates that adequate progress is being made to rebuild the stock to the target rebuilding level by 2032, the end of the rebuilding plan.

*Comment 7:* Many commenters supported re-opening the recreational fishing season in October. An October season would restore the industry and attract fishermen from all over the southeast back to the Gulf coast region. They felt the current red snapper population could easily support the proposed October re-opening without damage to the fishery. Several stated that the weather was bad for sports fisherman during the early season, and very few days were fishable. Most felt that the result will be a positive economic impact for every sector of the tourism industry and a welcome opportunity for loyal fishing visitors.

*Response:* NMFS agrees that a re-opening of the recreational fishing season would have a positive benefit for anglers and communities. Increasing operating costs and the down-turn in the national economy have reduced business for for-hire vessel owners and support industries for private anglers (bait shops, etc.). Any additional opportunity for red snapper fishing should improve this situation. Because the quotas are consistent with the rebuilding plan for red snapper, the recreational sector can be re-opened without significant adverse impacts to the stock.

*Comment 8:* Some commenters supported re-opening the recreational fishing season on weekends only or on weekends plus Fridays and/or Mondays. The majority of recreational fisherman work during the week and therefore cannot fish during the week. This would also lengthen the season so that storms and rough water conditions would not have such a devastating effect on the coastal economies.

*Response:* The Council chose to hold the supplemental season on consecutive days after listening to public testimony at its July 2013 meeting. Although the Council heard testimony in favor of both continuous and weekend-only seasons, the majority of participants preferred a continuous season beginning October 1. NMFS agrees that a continuous season allows for more total days of fishing because effort is lower during weekdays, and provides opportunity for people who fish on week days as well as those that fish on weekends.

*Comment 9:* Two commenters stated that the economic discussion in the proposed rule failed to provide adequate

analysis of the economic effects on private anglers and shore-side businesses associated with private recreational fishing.

*Response:* The economic effects on private anglers and the shore-side businesses associated with private recreational fishing are not discussed in the proposed rule because the information on the expected economic effects provided in the proposed rule was limited to the requirements of the Regulatory Flexibility Act (RFA). The RFA requires an analysis of anticipated economic impacts on small entities that are directly regulated. Private anglers are not considered small entities under the RFA and the shore-side businesses associated with private recreational angling are not being directly regulated by the rule. The economic impacts on private anglers and the shore-side businesses associated with private recreational fishing were evaluated in the framework action, which, as noted in the proposed rule, is available on the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html).

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the conservation and management of red snapper and is consistent with the framework action, the FMP, the Magnuson-Stevens Act and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted, would not have a significant adverse economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

This rule is expected to directly affect commercial and for-hire vessels that harvest red snapper. In addition to needing red snapper IFQ allocation, a commercial reef fish permit is required to sell red snapper and to harvest red snapper in excess of the bag limit in the Gulf EEZ. An estimated 888 vessels possess a valid (non-expired) or renewable commercial reef fish permit. A renewable permit is an expired permit that may not be actively fished, but is renewable for up to 1 year after permit expiration. However, over the period 2007–2011, an average of only 333 vessels per year recorded commercial harvests of red snapper. As a result, for

the purpose of this assessment, the number of potentially affected commercial vessels is estimated to range from 333–888. The average commercial vessel in the Gulf reef fish fishery is estimated to earn approximately \$50,000 (2011 dollars) in annual gross revenue, while the average commercial vessel with red snapper landings is estimated to earn approximately \$96,000 in annual gross revenue.

A Federal reef fish for-hire vessel permit is required for for-hire vessels to harvest red snapper in the Gulf EEZ. On June 24, 2013, 1,353 vessels had a valid or renewable reef fish for-hire permit. The for-hire fleet is comprised of charter vessels, which charge a fee on a per-vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Although the for-hire permit application collects information on the primary method of operation, the resultant permit itself does not identify the permitted vessel as either a headboat or a charter vessel, operation as either a headboat or charter vessel is not restricted by the permitting regulations, and vessels may operate in both capacities. However, only federally permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the NMFS Southeast Fisheries Science Center that the vessel primarily operates as a headboat. Seventy vessels were registered in the SHRS as of March 1, 2013. As a result, 1,283 of the vessels with a valid or renewable reef fish for-hire permit are expected to operate as charter vessels. The average charter vessel is estimated to earn approximately \$80,000 (2011 dollars) in annual gross revenue and the average headboat is estimated to earn approximately \$242,000 in annual gross revenue.

NMFS has not identified any other small entities that will be directly affected by this rule.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$19.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. This receipts threshold is the result of a final rule issued by the SBA on June 20, 2013, that increased the size standard for Finfish Fishing from \$4.0 to \$19.0 million (78 FR 37398). The

receipts threshold for a business involved in the for-hire fishing industry is \$7.0 million (NAICS code 487210, fishing boat charter operation). This receipts threshold has not been changed as a result of recent review by the SBA. All commercial and for-hire vessels expected to be directly affected by this rule are believed to be small business entities.

This rule will increase the red snapper commercial quota by 1.295 million lb (587,402 kg), round weight, and the red snapper recreational quota by 1.245 million lb (564,723 kg), round weight. The increase in the commercial quota is expected to result in an increase in gross revenue (ex-vessel revenue minus the 3-percent cost recovery fee) for commercial vessels that harvest red snapper of approximately \$4.81 million (2011 dollars), or approximately \$5,417–\$14,444 per vessel (\$4.81 million/888 vessels = \$5,417 per vessel; \$4.81 million/333 vessels = \$14,444 per vessel). The expected range in the increase in gross revenue per vessel is equal to approximately 10.8 percent (\$5,417/\$50,000) and 15.1 percent (\$14,444/\$96,000) increases in the average annual gross revenue per vessel, respectively.

The increase in the recreational quota is expected to result in an increase in net operating revenue (gross revenue minus operating costs except for labor) for for-hire businesses of approximately \$3.361 million (2011 dollars) for charter vessels and approximately \$3.765 million for headboats. The projected increase in net operating revenue for charter vessels is equal to approximately \$2,600 per vessel (\$3.361 million/1,283 vessels), or approximately 3.3 percent (\$2,600/\$80,000) of average annual gross revenue per vessel. For headboats, the projected increase in net operating revenue would be equal to approximately \$53,800 per vessel (\$3.765 million/70 vessels), or approximately 22.2 percent (\$53,800/\$242,000) of average annual gross revenue per vessel.

The information provided above supports a determination that this rule will have beneficial effects on affected small entities, and therefore will not have a significant adverse economic impact on a substantial number of small entities. An initial regulatory flexibility analysis (IRFA) was prepared for the proposed rule, and the resultant analysis concluded the same finding of positive economic impacts. No challenge of this determination was received through public comment of the proposed rule. However, two comments on the proposed rule stated that the economic discussion failed to provide

adequate analysis of the economic effects on private anglers and shore-side businesses associated with private recreational fishing. The economic effects of the proposed rule on these sectors were evaluated for and provided in the framework action. The economic effects on private anglers and the shore-side businesses associated with private recreational fishing are not discussed in the proposed rule because the information on the expected economic effects provided in the proposed rule was limited to the requirements of the RFA. The RFA requires an analysis of anticipated economic impacts on small entities that are directly regulated. Private anglers are not small entities under the RFA and the shore-side businesses associated with private recreational fishing are not being directly regulated by the rule. The economic impacts on private anglers and the shore-side businesses associated with private recreational fishing were evaluated in the framework action, which, as noted in the proposed rule, is available on the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html).

No additional issues associated with the economic analysis contained in the proposed rule were raised through public comment. A summary of all the comments received is provided in the previous section of this preamble. No changes were made to this final rule as a result of these comments.

Because this rule will have beneficial effects on affected small entities, a final regulatory flexibility analysis was not required or prepared. Copies of the RIR and IRFA are available (see **ADDRESSES**).

The NOAA Assistant Administrator for Fisheries (AA) waives the 30-day in effectiveness of the management measures contained in this final rule under 5 U.S.C. 553(d)(1) because it is a substantive rule that relieves a restriction on the regulated community. The AA also finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3) because it would be contrary to the public interest. The Council voted at its July Council meeting to re-open the recreational red snapper fishing season on October 1, 2013, if NMFS determined that additional harvest was available. The Council intended to provide recreational red snapper fishermen as much advanced notice as possible in order to plan their business practices for a fall re-opening. Because NMFS has determined that additional harvest of red snapper is available for the 2013 fishing year, re-opening recreational

harvest on October 1, 2013, is necessary. In addition, some fishermen have already booked their fishing trips for an October 1 re-opening and planned their business practices accordingly. Therefore, if NMFS were to delay the effectiveness of this final rule to a date after October 1, 2013, those trips would need to be re-booked and fishing opportunities could be foregone. This could cause confusion among fishermen, disrupt their business plans, and cause them to incur additional expenses.

Further, this rule provides benefits to the public because it increases commercial and recreational quotas for Gulf red snapper and it will benefit fishermen to realize these increases without delay. The commercial sector will realize these increases through additional shares and allocation towards their IFQs and the recreational sector will realize these increases in additional fishing days. This final rule provides fishermen the opportunity to harvest additional red snapper without jeopardizing the rebuilding plan. For all of these reasons, the AA waives the 30-day delay in effectiveness of this final rule.

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

Fisheries, Fishing, Gulf, Quotas, Red Snapper.

Dated: September 12, 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.*

For the reasons set out in the preamble, 50 CFR part 622 is 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 § 622.39, paragraphs (a)(1)(i) and (a)(2)(i) are revised to read as follows:

**§ 622.39 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(i) *Commercial quota for red snapper*—5.610 million lb (1.957 million kg), round weight.

\* \* \* \* \*

(2) \* \* \*

(i) *Recreational quota for red snapper*—5.390 million lb (1.880 million kg), round weight.

\* \* \* \* \*

[FR Doc. 2013-22701 Filed 9-13-13; 4:15 pm]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 120918468-3111-02]

**RIN 0648-XC875**

**Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the 2013 total allowable catch of pollock for Statistical Area 630 in the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 16, 2013, through 1200 hours, A.l.t., October 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The C season allowance of the 2013 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA is 9,378 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish of the GOA (78 FR 13162, February 26, 2013). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby decreases the C season pollock allowance by 915 mt to reflect the total overharvest of the B season allowance in Statistical Area 630. Therefore, the

revised C season allowance of the pollock TAC in Statistical Area 630 is 8,463 mt (9,378 mt minus 915 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the C season allowance of the 2013 TAC of pollock in Statistical Area 630 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,263 mt and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 12, 2013.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: September 13, 2013.

**James P. Burgess,**

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

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