

based on the application *and* the public comments. Among its comments, the public can submit opinions as to whether the application is complete. The public gets to see an application sooner as opposed to not seeing it until NHTSA makes a threshold completeness determination. The public can point out what it sees as insufficiencies to the agency; and if the agency agrees, the application will be denied unless it is later supplemented. If an application is supplemented, the public will have access to any supplemental information to the same extent as if the supplement happened before the application became public under the old rule. In addition, the public can, if it so chooses, comment on completeness, or on any other supplemental information submitted through the public comment process.

Finally, the final rule does not impose additional requirements on the public to perform research, as the Petitioners claimed without support. Although published exemption applications may be incomplete, NHTSA is still required to make an “adequate justification” determination based on the information provided by the applicant. An application that lacks merit or critical information will be denied, based on public input and the agency’s analysis, regardless of whether there is a threshold completeness determination. A determination that an application is complete is not a determination that the application should be granted. If NHTSA determines that the application does not contain “adequate justification,” the Administrator denies it and notifies the applicant in writing, pointing out the areas of insufficiency.¹⁵ It is not the public’s duty to perform research to determine areas of insufficiency. The Administrator also publishes in the **Federal Register** a notification of the denial and the reasons for it, which is available to the public. Further, if a member of the public believes the agency’s explanation for granting an application lacks sufficient supporting arguments and facts, he or she may seek to have the agency reconsider the grant.

D. NHTSA Provided a Reasoned Justification for the Amendment

NHTSA articulated the purpose behind changing this procedural rule in the preamble to the rule. Specifically, NHTSA changed its procedure “to expedite the publishing of documents soliciting public comment on exemption petitions.”¹⁶ Petitioners’ argument that

“NHTSA has put forth no data or evidence in the Final Rule that the current requirement of waiting until the application is complete before publishing it in the **Federal Register** has caused undue delay or hardship on any applicant, the agency, or the public” lacks merit. NHTSA provided a reasoned explanation of its change in procedure. See *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). NHTSA explained how the prior procedure led to delays.¹⁷ The agency also explained that the prior procedure was unnecessary under the statute, particularly in light of the substantive determination it will continue to make regarding whether a petition contains an adequate justification.¹⁸ Petitioners’ assertions regarding the public interest have not convinced the agency that it should return to its prior procedure, which would reduce transparency and delay the ability of the public to obtain and comment on exemption applications.

III. Conclusion

For the reasons discussed above, the agency is denying the Petitioners’ petition for reconsideration of the December 26, 2018 final rule (83 FR 66158).

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.4.

James Clayton Owens,
Acting Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200124–0029; RTID 0648–XS030]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; 2020 Red Snapper Private Angling Component Closures in Federal Waters off Texas

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces closures for the 2020 fishing season for the red snapper private angling component in

the exclusive economic zone (EEZ) off Texas in the Gulf of Mexico (Gulf) through this temporary rule. The red snapper recreational private angling component in the Gulf EEZ off Texas closes on April 1, 2020 until 12:01 a.m., local time, on June 1, 2020, and will close again at 12:01 a.m., local time, on August 3, 2020 until 12:01 a.m., local time, on January 1, 2021. This closure is necessary to prevent the private angling component from exceeding the Texas regional management area annual catch limit (ACL) and to prevent overfishing of the Gulf red snapper resource.

DATES: This closure is effective on April 1, 2020 until 12:01 a.m., local time, on June 1, 2020, then closes again at 12:01 a.m., local time, on August 3, 2020 until 12:01 a.m., local time, on January 1, 2021.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727–824–5305, email: susan.gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes red snapper, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing Amendment 40 to the FMP established two components within the recreational sector fishing for Gulf red snapper: the private angling component, and the Federal for-hire component (80 FR 22422, April 22, 2015). Amendment 40 also allocated the red snapper recreational ACL (recreational quota) between the components and established separate seasonal closures for the two components. On February 6, 2020, NMFS implemented Amendments 50 A–F to the FMP, which delegated authority to the Gulf states (Louisiana, Mississippi, Alabama, Florida, and Texas) to establish specific management measures for the harvest of red snapper in Federal waters of the Gulf by the private angling component of the recreational sector (85 FR 6819, February 6, 2020). These amendments allocate a portion of the private angling ACL to each state, and each state is required to constrain landings to its allocation.

As described at 50 CFR 622.23(c), a Gulf state with an active delegation may request that NMFS close all, or an area of, Federal waters off that state to the

¹⁵ 49 CFR 555.7(d).

¹⁶ 83 FR 66158, 66159.

¹⁷ *Id.*

¹⁸ *Id.*

harvest and possession of red snapper by private anglers. The state is required to request the closure by letter to NMFS, providing dates and geographic coordinates for the closure. If the request is within the scope of the analysis in Amendment 50A, NMFS publishes a notification in the **Federal Register** implementing the closure for the fishing year. Based on the analysis in Amendment 50A, Texas may request a closure of all Federal waters off the state to allow a year-round fishing season in state waters. As described at 50 CFR 622.2, “off Texas” is defined as the waters in the Gulf west of a rhumb line from 29°32.1′ N lat., 93°47.7′ W long. to 26°11.4′ N lat., 92°53′ W long., which line is an extension of the boundary between Louisiana and Texas.

On March 27, 2020, NMFS received a request from the Texas Parks and Wildlife Department (TPWD) to close the EEZ off Texas to the red snapper private angling component during the 2020 fishing year. Texas requested that the closure be effective as soon as practicable through May 31, 2020, and then from August 3, 2020, through the end of the fishing year. NMFS has determined that this request is within the scope of analysis contained within Amendment 50A, which analyzed the potential impacts of a closure of all federal waters off Texas when a portion of the Texas quota has been landed and is consistent with the Reef Fish FMP. As explained in Amendment 50A, Texas intends to maintain a year-round fishing season in state waters during which the remaining part of Texas’ ACL could be caught. This Federal waters closure will result in a 63-day red snapper private angling component season in the EEZ off Texas.

Therefore, the red snapper recreational private angling component in the Gulf EEZ off Texas will close on April 1, 2020 until 12:01 a.m., local time, on June 1, 2020, and will close again at 12:01 a.m., local time, on August 3, 2020, until 12:01 a.m., local time, on January 1, 2021. This closure applies to all private-anglers (those on board vessels that have not been issued a valid charter vessel/headboat permit for Gulf reef fish) regardless of which state they are from or where they intend to land.

On and after the effective dates of these closures in the EEZ off Texas, the harvest and possession red snapper in the EEZ off Texas by the private angling component is prohibited and the bag and possession limits for the red snapper private angling component in the closed area is zero.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf red snapper and is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.23(c) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action is based on the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to implement this action to close the Federal private angling component of the red snapper recreational sector in the EEZ off Texas constitute good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the area closure authority and the state-specific private angling ACLs has already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because a failure to implement the closure immediately may result an overage of the Texas ACL and less access to red snapper in state waters.

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

Dated: April 1, 2020.

Hélène M.N. Scalliet,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200227-0066; RTID 0648-XY094]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for northern rockfish in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2020 total allowable catch (TAC) of northern rockfish in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 2, 2020, through 2400 hours, A.l.t., December 31, 2020. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 17, 2020.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2019-0089, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to: <https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0074>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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.

Pursuant to the final 2020 and 2021 harvest specifications for groundfish in