

known, and the specific impacts of climate change on *Sclerocactus brevispinus* are not known. Small population size and fragmentation, in combination with other natural factors such as limitations of the cacti's pollinator's range, may be impacting reproductive success. While the petition raises some interesting issues with respect to this factor, there is insufficient information to conclude that listing may be warranted based on this factor alone.

Finding

We have reviewed the petition and literature cited in the petition and evaluated that information in relation to other pertinent literature and information available in our files. After this review and evaluation, we find that the petition presents substantial information indicating that listing *Sclerocactus brevispinus* may be warranted. The petition provides substantial information supporting the present and threatened destruction of the species' habitat from direct and indirect effects associated with energy development across more than 90 percent of the species' range. Illegal and unauthorized overcollection of the species for horticultural purposes also was identified in the petition and is verified by information in our files. As such, we are initiating a further status review of *S. brevispinus* to determine whether listing the species under the Act may be warranted.

We also have reviewed the available information to determine if the existing and foreseeable threats pose an emergency to this species. We have determined that an emergency listing is not warranted at this time because the species receives current protection under the Act by its inclusion within the currently listed *Sclerocactus glaucus* complex.

The petitioners also request that we designate critical habitat for this species. We always consider the need for critical habitat designation when listing species. If we determine in our 12-month finding that listing *Sclerocactus brevispinus* is warranted, we will address the designation of critical habitat at the time of the proposed rulemaking.

Public Comments Solicited

Section 4(b)(3)(B) of the Act requires that we make a 12-month finding as to whether a petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals to determine whether other species are threatened or endangered, and we are making

expeditious progress to list or delist qualified species. The 12-month finding is based on a status review that is initiated by a positive 90-day finding.

At this time, we are opening a 60-day comment period (see DATES) to allow all interested parties an opportunity to provide information on the status of *S. brevispinus* and on the 5-year review for the entire *Sclerocactus glaucus* complex (including *S. glaucus*, *S. wetlandicus*, and *S. brevispinus*), including potential threats to these cacti. We will base our 12-month finding, and our 5-year review (as discussed previously), on a review of the best scientific and commercial information available, including the studies cited in this notice and all such information received during the public comment period. Information regarding the following topics would be particularly useful: (1) Species biology, including but not limited to population trends, distribution, abundance, demographics, genetics, and taxonomy, including any evaluations or reviews of the studies cited in this notice; (2) habitat conditions, including but not limited to amount, distribution, and suitability; (3) conservation measures that have been implemented that benefit the species; (4) threat status and trends; and (5) other new information or data.

When our 12-month status review, and 5-year review, processes have been completed, our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their names, home addresses, or other personal information, but if you wish us to consider withholding this information, you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Please submit electronic comments in an ASCII or Microsoft Word file and avoid the use of any special characters or any form of encryption. Also, please include "Attn: Uinta Basin Hookless Cactus" or "Attn: Pariette Cactus" along with your name and return address in

your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please submit your comments in writing using one of the alternate methods provided in the ADDRESSES section.

References Cited

A complete list of all references cited herein is available, upon request, from the Utah Fish and Wildlife Service Office (see ADDRESSES).

Author

The primary author of this document is Larry England, Botanist, Utah Ecological Services Office, U.S. Fish and Wildlife Service (see ADDRESSES).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 7, 2006.

Kenneth Stansell,

Acting Director, Fish and Wildlife Service

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 061121304-6304-01; I.D. 112006B]

RIN 0648-AT87

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gulf Red Snapper Management Measures

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

ACTION: Proposed temporary rule; request for comments.

SUMMARY: This proposed rule would implement interim measures to reduce overfishing of Gulf red snapper. This proposed rule would reduce the commercial and recreational quotas for red snapper, reduce the commercial minimum size limit for red snapper, reduce the recreational bag limit for Gulf red snapper, prohibit the retention of red snapper under the bag limit for captain and crew of a vessel operating as a charter vessel or headboat, and establish a target level of reduction of shrimp trawl bycatch mortality of red

snapper. The public comment period on the proposed rule will end on January 26, 2007, to provide the Gulf of Mexico Fishery Management Council and the public the opportunity to discuss and comment on the rule at the January Council meeting. The intended effect is to reduce overfishing of red snapper in the Gulf of Mexico.

DATES: Written comments must be received on or before January 26, 2007.

ADDRESSES: You may submit comments on the proposed rule by any of the following methods:

- E-mail: 0648-AT87.Proposed@noaa.gov. Include in the subject line the following document identifier: 0648-AT87.

- 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.

- Fax: 727-824-5308; Attention: Peter Hood.

Copies of documents supporting this proposed rule, which includes a draft environmental impact statement (DEIS), and an initial regulatory flexibility analysis (IRFA), may be obtained from Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT:

Peter Hood, telephone: 727-551-5784, fax: 727-824-5308, e-mail: peter.hood@noaa.gov.

SUPPLEMENTARY INFORMATION: The red snapper fishery of the Gulf of Mexico is managed under the Fishery Management Plan (FMP) for the Reef Fish Fishery of the Gulf of Mexico and the shrimp fishery is managed under the FMP for the Shrimp Fishery of the Gulf of Mexico. The FMPs were prepared by the Gulf of Mexico Fishery Management Council (Council) and are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

The Gulf of Mexico red snapper stock is overfished and undergoing overfishing. Multiple fisheries influence the status of this stock, including the commercial and recreational red snapper fisheries, and the shrimp trawl fishery which takes red snapper incidentally when harvesting shrimp. The competing interests and goals of these multiple fisheries challenge fishery managers to balance multiple tradeoffs in rebuilding the red snapper stock.

The first rebuilding plan established in 1990 has been revised several times, including extension of the target date for rebuilding the stock, in response to new data and assessments which have provided a better understanding of stock biomass and influencing factors, including shrimp trawl bycatch mortality. The current rebuilding plan, implemented in 2005, is designed to end overfishing in 2009/2010 and rebuild the stock by 2032 to the biomass level needed to allow harvest at maximum sustainable yield on a continuing basis. The most recent stock assessment (2005) indicates red snapper catch and discard mortality in the directed red snapper fishery and bycatch mortality rates in the shrimp fishery are jeopardizing the success of the current rebuilding plan. In the western Gulf, the shrimp trawl fishery represents the greatest source of red snapper fishing mortality, followed by the commercial red snapper directed fishery, whereas the directed red snapper recreational fishery represents the greatest source of fishing mortality in the eastern Gulf. The eastern Gulf and western Gulf are separated by the Mississippi River delta.

At the August 2006 Council meeting, the Council voted to delay consideration of regulatory actions needed to address red snapper overfishing until more recent data and information become available for the directed red snapper and shrimp trawl fisheries. However, postponing development of a plan amendment would further delay progress in stock recovery because measures to address overfishing would not occur during the 2007 fishing season.

To address overfishing of the red snapper stock for 2007, NMFS is proposing this rule that would reduce fishing mortality in 2007 and allow progress towards rebuilding this stock until more permanent measures could be established to end overfishing. This proposed rule would also address overfishing by establishing a red snapper bycatch reduction goal for the shrimp fishery.

Provisions of This Proposed Rule

This proposed rule would reduce fishing mortality on red snapper in 2007 by reducing harvest and bycatch levels. Specifically, this proposed rule would: (1) reduce the red snapper total allowable catch (TAC) from 9.12 million lb (4.14 million kg) to 6.5 million lb (2.9 million kg), whole weight, resulting in a commercial quota of 3.315 million lb (1.504 million kg) and a recreational quota of 3.185 million lb (1.445 million kg); (2) reduce the daily red snapper

recreational bag limit from four to two fish per person; establish a 0-fish red snapper bag limit for the captain and crew of a vessel operating as a charter vessel or headboat; (3) reduce the commercial minimum size limit from 15 inches (38 cm) to 13 inches (33 cm), total length; and (4) establish a target reduction goal for shrimp trawl bycatch mortality on red snapper that is 50 percent less than shrimp trawl bycatch mortality during the 2001-2003 benchmark years used in the 2005 stock assessment.

Measures to Reduce Directed Fishing Mortality

In developing this proposed rule, NMFS evaluated measures for TAC and the recreational fishery based on a qualitative assumption that some level of reduction in landings has occurred due to the direct effects of hurricanes and increased fuel costs during 2004 and 2005. Sufficient data are not available at this time to quantify fully the precise level of reduction, although preliminary recreational data suggests a decrease in landings has occurred in 2006.

The Magnuson-Stevens Act requires that NMFS manage the red snapper fishery to ensure harvest is constrained to the available quotas. For the commercial fishery, the 3.315 million-lb (1.504 million-kg) quota will be managed through an individual fishing quota (IFQ) program beginning in 2007. For the recreational fishery, NMFS previously has employed bag limits, size limits, and seasonal closures in an effort to constrain harvest to the available quota while minimizing, to the extent practicable, the short-term adverse economic and social impacts.

Reduction of TAC

This proposed rule would reduce the red snapper TAC for 2007 to 6.5 million lb (2.9 million kg), which is 0.5 million lb (0.23 million kg) less than the maximum allowable biological catch (ABC). Based on the 2005 stock assessment, TACs greater than 5 million lb (2.3 million kg) would not be expected to end overfishing immediately. TACs set at 5 million lb (2.3 million kg) or less during 2007 would end overfishing immediately, but only if all sources of fishing mortality (directed harvest, shrimp trawl bycatch, and closed season discards) could be reduced to the fishing mortality rate associated with harvesting the stock at the maximum sustainable yield. TACs greater than 5 million lb (2.3 million kg) but less than 7 million lb (3.2 million kg) would reduce fishing mortality and continue to allow rebuilding progress in

2007 consistent with the current rebuilding plan which ends overfishing in 2009. The Council would need to recommend more permanent TACs within or below this range after 2007 to be consistent with the current rebuilding plan over the long-term. The higher the TAC is set in 2007, the lower the TAC will need to be set in the future to end overfishing by 2009 to maintain adequate progress under the current rebuilding plan.

Bag Limit Reductions

Assuming some level of reduction in recreational landings has occurred due to hurricanes and increased fuel prices, based on preliminary data, the combined effect of reducing the daily recreational bag limit from 4 to 2 fish per person and reducing the captain and crew bag limit for vessels operating as charter vessels or headboats to zero should control harvest sufficiently to ensure the recreational fishery remains within its 3.185 million-lb (1.445 million-kg) recreational quota while maintaining the current recreational fishing season. Reducing the bag limit is estimated to achieve at least a 17-percent reduction in harvest, and, therefore, would benefit red snapper stock recovery. Reducing the captain and crew bag limit to zero is estimated to reduce red snapper landings by approximately 2 percent. The reduction from these two measures, combined with the reduction in landings attributed to the effects of hurricanes and increased fuel prices, would allow the recreational fishery to maintain its current 194-day recreational fishing season (April 21–October 31) for 2007.

Measures to Reduce Bycatch Mortality

For the red snapper stock to recover in a manner consistent with the current rebuilding plan, bycatch mortality must be minimized. This proposed rule addresses two sources of bycatch mortality—discard mortality in the directed commercial fishery and bycatch mortality in the shrimp fishery.

Reduction in the Commercial Minimum Size Limit

To reduce the number of red snapper discarded dead in the directed commercial red snapper fishery, this proposed rule would reduce the commercial minimum size limit from 15 to 13 inches (38 to 33 cm), total length. Red snapper discard mortality rates in the directed commercial fishery are very high—estimated to range between 71 and 82 percent. By reducing the commercial minimum size limit, fish between 13 and 15 inches (33 and 38 cm) would be retained and counted toward the quota

rather than discarded, mostly dead, as bycatch. It is estimated that reducing the commercial minimum size limit by 2 inches (5 cm) would reduce the commercial red snapper fishery's dead discards by 40 to 60 percent.

NMFS carefully considered reducing the recreational minimum size limit but is not proposing to do so in this rulemaking because there is currently no scientific information to indicate a reduction in the recreational minimum size limit would reduce overfishing. This rule is being promulgated consistent with the provision of section 305(c) of the Magnuson-Stevens Act relating to interim measures needed to reduce overfishing. Measures that do not reduce overfishing would not be consistent with the regulatory authority provided in that provision of section 305(c).

Establishment of a Target Reduction for Shrimp Trawl Bycatch Mortality

To facilitate reduction of red snapper bycatch mortality in the shrimp fishery, the proposed rule would establish a target reduction in the shrimp trawl red snapper bycatch mortality rate that is 50 percent less than the bycatch mortality rate during the benchmark years, 2001–2003, used in the 2005 red snapper stock assessment. This target reflects the level of shrimp trawl effort documented in 2005 in areas where red snapper are abundant in the western Gulf of Mexico, compared to the level of effort during the benchmark years. The target goal does not meet the current rebuilding plan target mortality reduction level necessary to rebuild the red snapper stock. However, preliminary information for 2006 suggests effort in the shrimp fishery has continued to decline in offshore waters of the western Gulf of Mexico. Therefore, similar to the assumption applied to the directed red snapper fishery, NMFS is making a qualitative assumption effort for 2006 and 2007 will likely be less than the level of effort documented during 2005 for areas where red snapper are commonly taken. Additional bycatch mortality reduction is expected from the introduction of new bycatch reduction devices (BRDs) for the fishery under a pending revision to the certification criterion for BRDs. In combination, NMFS estimates red snapper bycatch mortality attributable to the shrimp fishery over the next few years may closely approximate the needed reductions from the benchmark years of 2001–2003, while allowing the industry some flexibility in achieving optimum yield, as it is currently defined for the fishery.

The Council may recommend a different course of action for a long-term management strategy to control shrimp trawl bycatch mortality of red snapper; however, the proposed reduction target would provide an interim means to address shrimp trawl bycatch in 2007. NMFS intends to provide 2006 shrimp trawl effort information to the Council as soon as it is available. If shrimp effort for 2006 is above the target, the Council may recommend further action in 2007 to maintain the proposed reductions in shrimp effort in areas of the western Gulf of Mexico where red snapper are most abundant.

Future Action

NMFS believes that this proposed rule is necessary to reduce overfishing of red snapper in the Gulf of Mexico. NMFS will consider all public comments received on this proposed rule in determining whether to proceed with a final rule and, if so, whether any revisions would be appropriate in the final rule. If NMFS issues a final rule, it would be effective for not more than 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. The final rule could be extended for an additional 180 days, provided that the public has had an opportunity to comment on the rule.

NMFS acknowledges the need to continue monitoring all sources of red snapper mortality to determine the appropriate level of future actions necessary to ensure progress consistent with the stock rebuilding plan over the long term.

Classification

At this time, NMFS has not determined whether the interim measures which this proposed rule would implement, are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on this proposed rule.

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

NMFS prepared a draft environmental impact statement (DEIS) for this action; a notice of availability was published on October 13, 2006 (71 FR 60509).

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of, and legal basis for this action are contained

at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

This proposed rule would reduce TAC in the red snapper fishery, lower the recreational red snapper bag limit to 2 fish, lower the red snapper bag limit for captain and crew of a vessel operating as a charter vessel or headboat to 0 fish, reduce the red snapper minimum size limit in the commercial fishery to 13 inches (33 cm), and establish a reduction goal for red snapper bycatch mortality in the commercial shrimp fishery. The purpose for this action is to address overfishing of the red snapper stock on a temporary basis while the Council develops a comprehensive plan to reduce directed and incidental red snapper fishing mortality rates in the red snapper and shrimp fisheries. The Magnuson-Stevens Act provides the statutory basis for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified.

This proposed action would be expected to impact red snapper commercial fishers and for-hire operators, and reef fish dealers and processors participating in the red snapper trade. The proposed action and certain proposed alternatives would also apply to the commercial shrimp fishery. However, these shrimp-related alternatives would either maintain the status quo, or otherwise accommodate current conditions, such that no direct impacts are expected to accrue at this time. Nevertheless, a description of the entities in the shrimp fishery is included in the following discussion.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters, for-hire operations, fish processors, and fish dealers. 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 \$4.0 million (NAICS code 114111, finfish fishing) for all affiliated operations worldwide. For for-hire operations, the other qualifiers apply and the annual receipts threshold is \$6.5 million (NAICS code 713990, recreational industries). For seafood processor and dealers, the SBA uses an employee threshold rather than a receipts threshold, or 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated

operations for a seafood processor and 100 or fewer persons for a seafood dealer.

Currently, 136 entities hold Class 1 licenses that allow a commercial vessel trip limit of up to 2,000 lb (907 kg) of red snapper and 628 entities hold Class 2 licenses that allow a trip limit of up to 200 lb (91 kg) of red snapper. Between 2002 and 2004, the top 50 red snapper vessels harvested a total of 2.77 million lbs (1.26 million kg) of red snapper, on average, or 64 percent of the industry total. Vessels ranked 51 to 131 harvested 1.29 million lbs (0.58 million kg), on average, or 30 percent of the industry total for the same period. In total, the top 131 vessels accounted for approximately 94 percent of the total red snapper commercial landings. Red snapper are mainly harvested by vertical line fishermen, who accounted for approximately 90 percent of commercial red snapper Gulf harvests, on average, between 2002 and 2004.

Reported average annual gross receipts (2004 dollars) of commercial reef fish vessels in the GOM range from \$24,095 for low-volume vertical line vessels to \$116,989 for high-volume longline vessels. Annual net incomes range from \$4,479 for low-volume vertical line vessels to \$28,466 for high-volume vertical line vessels. Some fleet activity is known to exist in the commercial red snapper fishery, but the extent of such activity is unknown. The maximum number of reef fish permits reported owned by the same person/entity is six permits. Additional permits (and the revenues associated with those permits) may be linked to an entity through affiliation rules, but such affiliation links cannot be made using existing data. A definitive determination of whether any commercial entities would be considered large entities cannot be made using average income information. However, based on the size and value of the commercial red snapper fishery (an average of 4.336 million lb (1.967 million kg) and \$11.652 million ex-vessel revenue per year, 2002–2004), the number of participants in the fishery (136 Class 1 licenses and 628 Class 2 licenses), the summary statistics provided above, and maximum number of permits owned by a single entity, it is determined, for the purpose of this assessment, that all commercial reef fish harvest entities that would be affected by this action are small entities.

Currently, 1,625 vessels are estimated to be permitted to operate in the Gulf reef fish fishery in the for-hire sector. Fleet behavior also exists in this sector, with at least one entity reported to hold 12 permits. The bulk of the fishery,

however, consists of single-permit operations.

The for-hire fleet is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. The average charterboat is estimated to generate \$76,960 in annual revenues and \$36,758 in annual profits, whereas the appropriate values for the average headboat are \$404,172 and \$338,209, respectively. The calculation of costs does not include fixed and other non-operating expenses, which tend to be higher for headboats.

Based on the average revenue figures, it is determined, for the purpose of this assessment, that all for-hire operations that would be affected by this action are small entities.

The measures in this action would also be expected to affect fish dealers, particularly those that receive red snapper from harvesting vessels. Two hundred and twenty-seven dealers currently have the required Federal permit to buy and sell commercial reef fish species. All processors would be included in this total since all processors must be dealers. From 1997–2002, an average of 154 dealers purchased red snapper from commercial vessels. Average employment information per reef fish dealer is unknown. Although dealers and processors are not synonymous entities, reported total employment for reef fish processors in the Southeast is estimated to be approximately 700 individuals, both part and full time. While all processors must be dealers, a dealer need not be a processor. Further, processing is a much more labor-intensive exercise than dealing. Therefore, given the total employment estimate for the processing sector (700 persons) and the total number of dealers operating in the red snapper fishery (154), and the total number of permitted reef fish dealers, it is assumed that the average number of employees per dealer and the average number of employees per processor would be unlikely to surpass the SBA employment benchmark and, for the purpose of this analysis, it is determined that all red snapper dealers and processors that would be affected by this action are small entities.

Although it is unknown how many eligible shrimp permit holders will apply for moratorium permits, and thus be eligible to fish for shrimp in the GOM, 2,666 vessels would qualify for the shrimp permit and are assumed to constitute the potential affected universe of shrimp vessels. The average annual gross revenue (all harvest species) per qualifying vessel in 2005

was approximately \$116,000, while the comparable figure for active qualifying vessels (vessels that recorded shrimp harvests) is approximately \$152,000. In the same year, the maximum annual gross revenue from shrimp by a vessel was approximately \$757,000 for both all qualifying and active qualifying vessels, whereas the maximum annual gross revenue from all harvest species was approximately \$1.89 million by an inactive qualifier and \$757,000 for an active qualifier. This indicates that the inactive qualifier found activity in other fisheries more lucrative than participation in the shrimp fishery, and the most active qualifier operated exclusively in the shrimp fishery. Fleet activity is also known to exist in the commercial shrimp fishery, but the magnitude of such activity cannot be determined with available data. Given these findings, for the purpose of this analysis, it is determined that all shrimp vessels that would be affected by this action are small entities.

In 2005, 609 dealers were identified operating in the commercial shrimp fishery. Employment information for this sector is not available. In 2004, 61 processors in the shrimp fishery were identified, employing approximately 3,700 persons, or an average of 61 employees per entity. Similar to the finfish sector, shrimp processing is more labor intensive than dealing, so average employment in the shrimp dealer sector is assumed to be less than that in the processing sector. Since the average employment per entity does not exceed the SBA threshold, it is determined, for this analysis, that all shrimp dealers and processors that could be affected by this action are small entities.

This proposed rule would not change current reporting, recordkeeping, or other compliance requirements (other than the proposed measures described herein) under either the Reef Fish or Shrimp FMPs. Preexisting requirements include qualification criteria for for-hire vessel permits and participation in additional data collection programs if selected by NMFS. All of the information elements required for these processes are standard elements essential to the successful operation of a fishing business and should, therefore, already be collected and maintained as standard operating practice by the business. The requirements do not require professional skills.

This proposed rule would be expected to affect all vessels that operate in the commercial red snapper fishery, all vessels that have a Federal reef fish for-hire permit, and all vessels that qualify for a commercial shrimp fishery moratorium permit. The proposed

action would also be expected to affect all reef fish and shrimp dealers and processors that handle product from these fisheries. All such entities have been determined, for the purpose of this analysis, to be small entities. Therefore, it is determined that the proposed action will affect a substantial number of small entities.

Commercial red snapper fishing vessels, for-hire operations, and red snapper dealers would be expected to bear the primary burden of the proposed actions, though spill-over impacts would be expected in associated industries, such as marinas and fishery suppliers. The net result of the combined proposed TAC reduction and commercial minimum size limit decrease for the commercial red snapper fishery would be expected to be an approximate 28-percent decline in net revenues, or approximately \$7.0 million. Although over 750 entities are currently permitted to operate in the commercial red snapper fishery (136 entities with Class 1 licenses and 628 entities with Class 2 licenses), 131 vessels accounted for approximately 94 percent of the red snapper harvests from 2002–2005, which had an average ex-vessel value of approximately \$11.18 million out of total average annual ex-vessel revenues for all fishing activity by these entities of approximately \$17.34 million. Since most commercial red snapper fishing entities operate in multiple fisheries, the projected \$7.0 million reduction in net revenues captures lost revenue for all species.

During 2002–2005, the top 50 harvesters in the commercial red snapper fishery averaged approximately \$144,000 in ex-vessel revenue per year out of total finfish revenues of approximately \$211,000, indicating approximately 68 percent of the total revenues came from red snapper. The second tier vessels averaged approximately \$40,000 in red snapper revenues and approximately \$84,000 total revenues, or 48 percent of total revenues coming from red snapper. Combined, the top 131 vessels averaged approximately \$80,000 per year from red snapper, \$132,000 total revenues, and 60 percent of total revenues coming from red snapper. The remaining vessels that landed red snapper accounted for only approximately \$700 per vessel per year from red snapper, out of total average revenues of \$14,000, or approximately 5 percent from red snapper. Red snapper most likely constitutes a bycatch species for this third-tier group.

A TAC reduction would most likely be expected to impact operations that target red snapper rather than those that

incidentally harvest red snapper. If the entire quota reduction is assumed borne by the top 50 and 131 vessels, respectively, the reduction in net revenues would equate to approximately \$140,000 and \$53,000 for the two groups, respectively. Relating these figures to the averages provided in the previous paragraph is difficult because the annual averages represent gross ex-vessel values, whereas the losses represent net values, and the expected losses incorporate an expected increase of approximately \$1.14 in the price per pound of red snapper expected to develop as a result of the IFQ program. This price increase equates to a 47.5-percent increase in the average price per pound over 2002–2005 ($\$11.65 \text{ million per year} / 4.66 \text{ million lb} (2.11 \text{ million kg}) = \2.40 per pound ; $\$1.14 / \$2.40 = 47.5 \text{ percent}$). If the annual average red snapper revenues presented above are inflated by this 47.5-percent factor, the resultant values per vessel are \$212,400 in red snapper revenues and \$279,400 total revenues for the top 50 vessels, and \$118,000 and \$170,000 in red snapper and total revenues, respectively, for the top 131 vessels. Because the projected losses are across all species, the projected losses (\$140,000 and \$53,000) equate to approximately 50 percent of total net revenues (\$140,000/\$279,400) for the top 50 vessels and approximately 31 percent of total net revenues (\$53,000/\$170,000) for the top 131 vessels.

An alternative perspective is to consider the number of vessels projected to operate under the IFQ program. Under the IFQ program, the commercial red snapper fleet is expected to consolidate to 39–95 vessels, the range determined by whether the fleet gravitates to exclusively larger vessels (65-foot vessels) or small vessels (35-foot vessels). The period of time required to achieve this consolidation is not known, but a reduced TAC may accelerate the consolidation. Of course any IFQ-related consolidation is voluntary, vessels are compensated for their exit (through sale of their quota shares), and exiting vessels may continue to operate in other fisheries. Under the proposed TAC reduction, the resultant fleet is projected to be 28–68 vessels, or 11–27 fewer vessels than the status quo, with the range again determined by whether the fleet is primarily large vessels (28 vessels), or small vessels (68 vessels). Average performance of the fleet under the status quo (39–95 vessels) is estimated at approximately \$274,000 (\$26.0 million over 95 vessels) to \$667,000 (\$26.0 million over 39 vessels)

in net revenues. The projected loss of \$7.0 million in net revenues under the proposed TAC reduction would be expected to reduce these values to approximately \$200,000 and \$487,000, respectively, or reductions of 27 percent.

The for-hire sector would be expected to lose approximately 2,000 trips in the charter vessel sector, 643 angler days in the headboat sector, and \$43,000 overall in producer surplus as a result of the proposed action. These reductions would not be expected to occur uniformly across all operations because some vessels are more active in the red snapper fishery than others. If averaged over the 1,625 vessels active in the for-hire fleet, these reductions amount to fewer than 2 trips and \$30 per permitted vessel.

The expenditures to related businesses associated with the expected trip losses in the for-hire and private angler sectors would also be expected to be lost as a result of the proposed action. These trips, however, represent less than 1 percent of the total effort directed at the species encompassed in the assessment (red snapper, grouper, dolphin, and king mackerel).

The proposed target bycatch reduction goal that would apply to the commercial shrimp fishery is administrative in nature and would not be expected to have any direct economic impact on any entities in the directed or associated sectors.

Five alternatives, including the status quo, were considered for the action to set TAC in the red snapper fishery. Three of the alternatives contained multiple options and sub-options to manage the recreational fishery under the respective TAC. The first alternative, the status quo, would not have achieved progress towards eliminating overfishing, and would increase the necessary reduction in subsequent years to allow the resource to continue on the designated recovery path, thereby increasing short-term adverse economic impacts relative to the proposed action, and would not meet NMFS objectives.

The second alternative to the proposed TAC would have reduced the red snapper TAC to 7.0 million lb (3.2 million kg). Although this alternative has the potential of generating, depending upon the sub-option selected, lower first-year adverse economic impacts than the proposed 6.5 million lb (3.0 million kg), this TAC would require greater TAC reduction in subsequent years, with greater adverse economic impacts than the proposed action.

The third alternative to the proposed TAC would have reduced the red

snapper TAC to 6.0 million lb (2.7 million kg). This alternative would have reduced the TAC greater than necessary to end overfishing consistent with the current rebuilding plan and would be expected to result in greater adverse economic impacts, ranging from losses in economic value (consumer and producer surplus) in the recreational sector of approximately \$16.0 million to \$27.0 million and a loss of approximately \$8.5 million in net revenues in the commercial sector, than the proposed action, which is expected to result in a reduction of consumer and producer surplus of approximately \$15.0 million in the recreational sector and a reduction in net revenues of \$7.0 million in the commercial sector.

The fourth alternative to the proposed TAC would have reduced the red snapper TAC to 5.0 million lbs (2.3 million kg). This alternative would have reduced the TAC greater than necessary to end overfishing consistent with the current rebuilding plan and would be expected to result in greater adverse economic impacts, ranging from losses in economic value in the recreational sector of approximately \$23.0 million to \$25.0 million and a loss of approximately \$11.5 million in net revenues in the commercial sector, than the proposed action.

Two alternatives, the proposed alternative and the status quo, were considered for the action to set the captain and crew red snapper bag limit. The status quo, would be expected to decrease the ability of meeting harvest reduction targets and would have required more restrictive measures on recreational anglers, resulting in increased adverse economic impacts relative to the proposed action.

Three alternatives, including the status quo, were considered for the commercial red snapper minimum size limit. The first alternative to the proposed action, the status quo alternative, would be expected to result in continued unnecessary bycatch mortality and would not, therefore, meet NMFS objectives.

The second alternative to the proposed action would eliminate the commercial minimum size limit entirely. Because no commercial market is known to exist for red snapper smaller than 12 inches (30 cm), the expected economic impacts for this alternative relative to those of the proposed action are virtually identical. However, maintaining some minimum size limit in the commercial sector, as would be accomplished by the proposed action, would be expected to generate unquantifiable economic benefits accruing to a perception of greater sector

equity and avoidance of user conflict since the proposed action would decrease the incentive for commercial operations to move their fishing location to areas where smaller fish congregate.

Four alternatives, including the proposed status quo alternative, were considered for the gear requirements. The proposed action would not impose any new gear requirements on fishermen and would not result in any direct adverse economic impacts on these entities. Each of the three alternatives to the proposed action would be expected to result in greater adverse economic impacts than the proposed action through either increased gear costs or lowered operating efficiency. Given the short-term nature of the action, these adverse impacts would not be expected to be balanced by the economic benefits of improved stock conditions. Thus, each alternative would be expected to increase costs without demonstrable benefits and, thus, would not meet NMFS objectives.

Three alternatives, including the status quo, were considered for the red snapper bycatch mortality reduction target in the commercial shrimp fishery. The status quo would not have established a bycatch reduction target, would not ensure consistent reductions in bycatch fishing mortality of juvenile red snapper in the shrimp fishery, and would not meet NMFS objectives. The second alternative to the proposed bycatch reduction target would establish a higher reduction target than the proposed action. Although this would be an administrative action with no expected direct adverse economic effects, the higher target exceeds the level of bycatch reduction the fishery has demonstrated to date and would, therefore, be expected to require further effort reductions, resulting in greater adverse economic impacts than the proposed action.

Four alternatives, including the proposed status quo alternative, were considered for effort reduction in the commercial shrimp fishery. The proposed status quo would not impose any effort controls on the fishery and would not be expected to result in any adverse economic impacts. Each of the other alternatives would have imposed effort limitations in the shrimp fishery and would, therefore, be expected to result in greater adverse economic impacts than the proposed action, ranging from \$7.8 million to \$14.8 million in lost ex-vessel revenues, fishery-wide. These impacts would be expected to be borne by 394–863 vessels. Although some behavioral changes would be expected to mitigate

these losses, the nature of these changes and their net impact cannot be determined.

List of Subjects in 50 CFR Part 622

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

Dated: December 8, 2006.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.37, paragraph (d)(1)(iv) is suspended and paragraph (d)(1)(vi) is added to read as follows:

§ 622.37 Size limits.

* * * * *

(d) * * *

(1) * * *

(vi) Red snapper—16 inches (40.6 cm), TL, for a fish taken by a person subject to the bag limit specified in § 622.39(b)(1)(iii) and 13 inches (38.1 cm), TL, for a fish taken by a person not subject to the bag limit.

* * * * *

3. In § 622.39, paragraphs (b)(1)(iii) and (b)(1)(v) are suspended and paragraphs (b)(1)(viii) and (b)(1)(ix) are added to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

(viii) Red snapper—2. However, no red snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat—their bag limit is zero.

(ix) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i), (ii), (iv), (vi), (vii), and (viii) of this section and excluding dwarf sand perch and sand perch—20, but not to exceed 10 vermilion snapper.

* * * * *

4. In § 622.42, paragraphs (a)(1)(i) and (a)(2) are suspended and paragraphs (a)(1)(v) and (a)(3) are added to read as follows:

§ 622.42 Quotas.

* * * * *

(a) * * *

(1) * * *

(v) Red snapper—3.315 million lb (1.504 million kg), round weight.

* * * * *

(3) *Recreational quota for red snapper.* The following quota applies to persons who harvest red snapper other than under commercial vessel permits for Gulf reef fish and the commercial quota specified in paragraph (a)(1)(v) of this section—3.185 million lb (1.445 million kg), round weight.

* * * * *

[FR Doc. 06–9676 Filed 12–11–06; 10:01 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 120606A]

Mid-Atlantic Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearing meetings; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council is developing Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass FMP to implement a rebuilding plan to rebuild the scup stock to the stock level associated with maximum sustainable yield (B_{MSY}) and make the scup Gear Restricted Areas (GRAs) currently addressed and modified through the annual specification setting process modifiable through frameworks to the FMP.

DATES: Written comments will be accepted until January 26, 2007. All public hearings will begin at 7 p.m. The dates and locations of the meetings are as follows:

- Monday, January 22, 2007: Hilton Garden Inn Providence Airport/Warwick, One Thuber Street, Warwick, RI 02886.

- Tuesday, January 23, 2007: Best Western East End, 1830 Route 25, Riverhead, NY 11901.

- Wednesday, January 24, 2007: Holiday Inn, 290 State Highway 37 East, Toms River, NJ 08753.

ADDRESSES: Comments may be submitted through any of the following methods:

- Mail: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904

- Fax: 302–674–5399

- Email: info@mafmc.org

FOR FURTHER INFORMATION CONTACT:

Daniel T. Furlong, Executive Director of the Mid-Atlantic Fishery Management, 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION:

Background

The purpose of these public meetings is to allow stakeholder groups and interested parties to comment on actions proposed in Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass FMP. In August 2005, NMFS notified the Council that the scup stock has officially been designated as overfished. Therefore, the purpose of this amendment is to develop a rebuilding plan for the scup stock, thereby preventing overfishing and rebuilding the scup stock to the level associated with maximum sustainable yield (B_{MSY}). In addition, the scup Gear Restricted Areas (GRAs) currently addressed and modified through the annual specification setting process would be made modifiable through frameworks to the FMP. This action is needed to improve the timing of implementation of modifications to the GRAs and allow those actions to be expedited through framework documents as opposed to annual specifications. The Amendment document that will be used at the meetings will be mailed to all entities on the Council's mailing list. Additional copies are readily available from the above address or via the Internet at <http://www.mafmc.org/mid-atlantic/comments/comments.htm>.

Special Accommodations

The hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jan Bryan (302–674–2331 ext. 18) at the Mid-Atlantic Council office at least 5 days prior to the hearing date.

Dated: December 6, 2006.

James P. Burgess,

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

[FR Doc. E6–21235 Filed 12–13–06; 8:45 am]

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