

permitted on designated areas of the refuge subject to the following condition: Hunting is by permit only.

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Toppenish National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. Hunters shall possess and use, while in the field, only nontoxic shot.

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25. Section 32.69 *Wisconsin* is amended by revising paragraphs B.1., B.2., C.4. and D., of Necedah National Wildlife Refuge; and adding Upper Mississippi River National Wildlife and Fish Refuge alphabetically to read as follows:

§ 32.69 Wisconsin.

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Necedah National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. During State waterfowl hunting season, guns must be unloaded or cased in the retrieval zone of Refuge Area 7.

2. During the spring turkey hunting season only, persons having an unexpired State spring turkey permit in possession may enter and hunt wild turkeys in all open refuge areas.

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C. Big Game Hunting. * * *

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4. Refuge Areas 1,2,4,5,6 and 7 are open to deer hunting.

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D. Sport Fishing. Fishing is permitted on designated areas of the refuge at designated times subject to the following conditions.

1. Non-motorized boats are permitted in Sprague-Goose Pools only when these pools are open to fishing. Motorized boats are permitted in Suk Cerney Pool.

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Upper Mississippi River National Wildlife and Fish Refuge

A. Hunting of Migratory Game Birds.

Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting of all migratory birds is prohibited on refuge closed areas posted "Area Closed", on the Goose Island "No Hunting" zone in Pool 8, and on the Upper Halfway Creek Marsh "No Hunting" zone in Pool 7.

2. Permits are required for Potters Marsh in Pool 13 except during the early teal season.

B. Upland Game Hunting. Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting or possession of firearms are prohibited between March 15 and the opening of the State fall hunting seasons except that hunting of wild turkey is permitted during the State spring turkey season.

2. Hunting is permitted on refuge areas posted "Area Closed" beginning the day after the close of the applicable State duck hunting season until season closure or March 15, whichever occurs first, except that hunting of wild turkey is permitted during the State spring wild turkey season.

3. Hunting is prohibited at all times on the Goose Island "No Hunting" zone in Pool 8, and Upper Halfway Creek Marsh "No Hunting" zone in Pool 7.

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting is permitted until season closure or March 15, whichever date occurs first.

2. Hunting is permitted on refuge areas posted "Area Closed" beginning the day after the close of the applicable State duck hunting season until season closure or March 15, whichever date occurs first.

3. Hunting is prohibited at all times on the Goose Island "No Hunting" zone in Pool 8 and Upper Halfway Creek Marsh "No Hunting" zone in Pool 7.

4. Construction or use of permanent blinds, platforms or ladders is not permitted.

5. All stands must be removed from the refuge at the end of each day's hunt.

D. Sport Fishing. Fishing is permitted on designated areas of the refuge subject to the following conditions:

1. Fishing on the Spring Lake Closed Area, Carroll County, Illinois, is not permitted from October 1 through the last day of the Illinois waterfowl season.

2. Only hand powered boats or boats with electric motors are permitted on Mertes' Slough in Buffalo County, Wisconsin.

26. Section 32.71 *Pacific Islands Territory* is amended by revising paragraphs D.1., D.3., D.4., removing paragraph D.5., and redesignating paragraph D.6 as paragraph D.5. of Johnson Atoll National Wildlife Refuge to read as follows:

§ 32.71 Pacific Islands Territory.

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Johnson Atoll National Wildlife Refuge

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D. Sport Fishing. * * *

1. Lobsters of 3 1/4 inch carapace length or more may be taken from the lagoon area from September 1 through May 31, but not by spearing, traps, or the use of pry bars or related methods destructive to coral; no female lobsters bearing eggs may be taken at any time.

* * * * *

3. Taking of fish by the use of spear "guns" is prohibited. Hand-propelled spears or "Hawaiian Slings" consisting of a single shaft propelled by a rubber tube are permitted for underwater taking of fish. Above water use of spears is prohibited.

4. The collecting or taking of all forms of live or dead coral is prohibited; the export of coral by any means is prohibited.

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Dated: June 3, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 960613174-6174-01; I.D. 050996C]

RIN 0648-AI71

Reef Fish Fishery of the Gulf of Mexico; Amendment 13

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 13 to this Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Amendment 13 would extend the red snapper vessel permit endorsement and trip limit system until implementation of: The individual transferable quota (ITQ) system approved under Amendment 8 to the FMP, or an alternate program to restrict access to the commercial red snapper fishery, such as a limited license system. If neither option is possible, the trip limit and endorsement provisions would terminate on December 31, 1997. The intent effects of this rule are to stabilize the fishery and to provide for controlled harvest until a more comprehensive controlled access plan can be implemented.

ADDRESSES: Comments on the proposed rule must be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 13, which includes an environmental assessment and a regulatory impact review (RIR), should be sent to the Gulf of Mexico Fishery Management Council (Council), 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609. Related RIRs for Amendments 6 and 9 may also be obtained from the Council.

DATES: Written comments must be received on or before August 8, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Background

An ATQ system was proposed by the Council in Amendment 8 to the FMP to address excessive effort capacity in the commercial red snapper fishery in the Gulf of Mexico. Amendment 8 was approved by NMFS, and the final rule to implement it was published November 29, 1995 (60 FR 61200). Starting April 1, 1996, participation in the commercial fishery for red snapper was to be controlled by ITQs based on percentage shares of the commercial quota. However, because of the furlough of NMFS personnel and budget limitations under the continuing resolutions that provide operating funds for Commerce from December 1995 through March 1996, NMFS was unable to issue ITQ shares and coupons and implement the ITQ system on April 1. Accordingly, NMFS implemented an emergency interim rule on February 29, 1996 (61 FR 7751), to suspend implementation of the ITQ system and to continue the red snapper endorsement and trip limit provisions, then in effect under another emergency interim rule (61 FR 17, January 2, 1996), as long as the 1996 commercial fishery was open. The 1996 commercial red snapper season opened on February 1, 1996, the annual commercial quota was reached on April 4, 1996, and the commercial red snapper fishery was closed on April 5, 1996.

Amendment 13

Amendment 13 was developed by the Council because of concerns that implementation of the ITQ system would be further delayed by Congressional action. In fact, section 210 of the Department of Commerce and Related Agencies Appropriations Act for 1996 (Public Law 104-134) prohibits NMFS from using funds appropriated under that act, or any other act, to implement regulations for any ITQ system that was approved by the Secretary of Commerce (Secretary) after January 4, 1995, until offsetting fees to pay for the cost of administering such regulations are expressly authorized under the Magnuson Act. The commercial red snapper ITQ system is affected by section 210, because NMFS, for the Secretary, approved Amendment 8 on October 13, 1995.

The problems in the fishery that led to implementation of the red snapper endorsement system, and approval of the ITQ system under Amendment 8, are expected to continue until a comprehensive program to control access to red snapper can be implemented. Until then, controlled harvest rates (i.e., the trip limit and endorsement system) are needed to stabilize the fishery. The Council, after review of various alternatives, determined that continuation of the red snapper endorsement system and its associated trip limits is appropriate to allow an open fishery until a permanent controlled access system can be implemented. Permit endorsements for red snapper would continue to be transferable only to other vessels owned by the same entity, or in the event of death or disability of the permit holder.

Because of the legislative prohibition on expenditure of funds to implement the red snapper ITQ system, NMFS proposes to suspend indefinitely implementation of the ITQ system concomitant with implementation of Amendment 13. If the commercial red snapper ITQ system cannot be implemented by the end of 1997, the Council intends to review the red snapper management regime before the regulations implementing Amendment 13 expire and to initiate appropriate action for the 1998 season.

Availability of Amendment 13

Additional background and rationale for the measures discussed above are contained in Amendment 13, the availability of which was announced in the Federal Register (61 FR 24267, May 14, 1996).

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of an amendment and regulations. At this time NMFS has not determined that Amendment 13 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation (AGC) has certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that Amendment 13 and its implementing rule will not have significant impact on a substantial

number of small entities. Amendment 13 would continue in effect the vessel permit endorsement and trip limit provisions that were first approved and implemented under emergency action (57 FR 66237, December 30, 1992), and continued under Amendment 6 (58 FR 33025, June 15, 1993), Amendment 9 (59 FR 39301, August 2, 1994), and emergency action (61 FR 7751, February 29, 1996) through May 29, 1996. Act certified that the rules implementing Amendments 6 and 9 would not have a significant economic impact on a substantial number of small entities. For details about those certifications, refer to the Federal Register publications cited above.

Amendment 13 would continue the permit endorsement provisions of the status quo management regime which were certified twice previously under 5 U.S.C. § 605(b) by Commerce to the Chief Counsel for Advocacy, SBA, as not having a significant economic effect on a substantial number of small entities. For these reasons, an initial regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 18, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

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

§ 641.4 [Amended]

2. On § 641.4, paragraph (o) is suspended indefinitely.

3. In § 641.7, paragraph (ff) through (kk) are suspended and paragraphs (nn), through (pp) are added to read as follows:

§ 641.7 Prohibitions.

* * * * *

(nn) Exceed the vessel trip or landing limits for red snapper, as specified in § 641.31 (a) and (b).

(oo) Transfer a red snapper at sea, as specified in § 641.31 (c).

(pp) Purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a red snapper possessed or landed in excess of a trip or landing limit, as specified in § 641.31 (d).

§ 641.10 [Amended]

4. Section 641.10 is suspended indefinitely.

5. Sections 641.31 through 641.33 are added to read as follows:

§ 641.31 Red snapper trip limits.

The provisions of this section are effective through December 31, 1997.

(a) Except as provided in paragraph (b) of this section, a vessel that has on board a valid commercial reef fish permit may not possess on any trip or land in any day red snapper in excess of 200 lb (91 kg), whole or eviscerated.

(b) a vessel that on board a valid commercial reef fish permit and a valid red snapper endorsement may not possess on any trip or land in any day red snapper in excess of 2,000 lb (907 kg), whole or eviscerated.

(c) A red snapper may not be transferred at sea from one vessel to another.

(d) No person may purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a red snapper possessed or landed in excess of the trip or landing limits specified in paragraphs (a) and (b) of this section.

§ 641.32 Red snapper endorsement.

The provisions of this section are effective through December 31, 1997.

(a) As a prerequisite for exemption from the trip limit for red snapper specified in § 641.31(a), a vessel for which a commercial reef fish permit has been issued under § 641.4 must have a

red snapper endorsement on such permit, and such permit and endorsement must be on board the vessel.

(b) A red snapper endorsement is invalid upon sale of the vessel; however, an owner of a vessel with a commercial reef fish permit may transfer the red snapper endorsement to another vessel with a commercial reef fish permit owned by the same entity by returning the existing endorsement with an application for an endorsement for the replacement vessel.

(c) The provisions of paragraph (b) of this section notwithstanding—

(1) In the event that a vessel with a red snapper endorsement has a change of ownership that is directly related to the disability or death of the owner, the Regional Director may issue a red snapper endorsement, temporarily or permanently, with the commercial reef fish permit that is issued for the vessel under the new owner. Such new owner will be the person specified by the owner or his/her legal guardian, in the case of a disabled owner, or by the will or executor/administrator of the estate, in the case of a deceased owner.

(Change of ownership of a vessel with a commercial reef fish permit upon disability or death of an owner is considered a purchase of a permitted vessel and § 641.4 (m)(3) applies regarding a commercial reef fish permit for the vessel under the new owner.)

(2) In the event of the disability or death of an operator whose presence aboard a vessel is a condition for the validity of a red snapper endorsement, the Regional Director may revise and reissue an endorsement, temporarily or permanently, to the permitted vessel. Such revised endorsement will contain the name of a substitute operator specified by the operator or his/her legal guardian, in the case of a disabled operator, or by the will or executor/administrator of the estate, in the case of a deceased operator. As was the case with the replaced endorsement, the presence of the substitute operator aboard and in charge of the vessel is a condition for the validity of the revised endorsement. Such revised endorsement will be reissued only with the concurrence of the vessel owner.

§ 641.33 Condition of a permit.

The provisions of this section are effective through December 31, 1997. As a condition of a commercial reef fish permit issued under § 641.4, without regard to where red snapper are harvested or possessed, a vessel with such permit—

(a) May not exceed the appropriate vessel trip or landing limit for red snapper, as specified in § 641.31 (a) and (b).

(b) May not transfer a red snapper at sea, as specified in § 641.31(c).

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