

**47 CFR Part 73****[MM Docket No. 96-147, RM-8832]****Radio Broadcasting Services; Prentiss, MS****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by O'Neal Broadcasting Corporation proposing the allotment of Channel 285A at Prentiss, Mississippi, as an additional FM service. Channel 285A can be allotted to Prentiss in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.1 kilometers (8.1 miles) southwest to avoid short-spacing conflicts with the licensed sites of Station WXHR(FM), Channel 283C1, Hattiesburg, Mississippi, and Station WBKJ(FM), Channel 286C1, Kosciusko, Mississippi. The coordinates for Channel 285A at Prentiss are 31-29-43 and 89-55-43.

**DATES:** Comments must be filed on or before September 3, 1996, and reply comments on or before September 18, 1996.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Rusty O'Neal, President, O'Neal Broadcasting Corporation, P.O. Box Q, Monticello, Mississippi, 39654 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-147, adopted July 12, 1996, and released July 19, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in

Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96-20711 Filed 8-14-96; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

**[Docket No. 960807218-6218-01; I.D. 072996D]**

**RIN 0648-AG89**

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

**SUMMARY:** NMFS issues this proposed rule to implement certain provisions of a regulatory amendment prepared by the Gulf of Mexico Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The regulatory amendment would increase the annual commercial quota for red snapper; reopen the commercial red snapper fishery on September 15, 1996, to allow harvest of the remainder of the 1996 quota; split the 1997 commercial quota between two seasons, the first beginning on February 1 with a quota of 3.06 million lb (m lb) (1.39 million kg (m kg)) and the second beginning on September 15, 1997, with a quota equal to the unharvested balance of the annual commercial quota; extend the rebuilding schedule for red snapper; and increase the total allowable catch (TAC) of red snapper. The intended effect of this proposed rule is to maximize the economic benefits from the red snapper resource

within the constraints of the rebuilding program for this overfished resource.

**DATES:** Written comments must be received on or before August 30, 1996.

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

Requests for copies of the framework regulatory amendment, which includes an addendum, environmental assessment, a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA), should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609-2486.

**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 by regulations at 50 CFR part 622 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Disapproval of Proposed Size Limit Reductions

The regulatory amendment submitted by the Council would have reduced the minimum size limit for red snapper taken under the commercial quota from 15 inches (38.1 cm) to 14 inches (35.6 cm), and eliminated the FMP's automatic size limit increase to 16 inches (40.6 cm) scheduled for January 1, 1998. Based on a preliminary evaluation of the regulatory amendment, NMFS concluded that these proposed measures are inconsistent with National Standard 1 of the Magnuson Act and the agency's policy of risk-averse decision-making. National Standard 1 requires that conservation and management measures prevent overfishing. The agency's risk-averse policy requires that NMFS give the benefit of the doubt to conservation of the fishery resource in situations involving scientific or other uncertainty about the effects of management actions on the resource. Recovery of the red snapper stock under the FMP's management program is contingent upon achieving a 50-percent reduction in shrimp trawl bycatch of juvenile red snapper beginning in 1997. In the absence of actually achieving the required level of reduction of shrimp trawl bycatch mortality, NMFS concluded that the proposed size limit measures could adversely affect rebuilding of the stock. In addition, NMFS believes that the proposed size limit measures may be inconsistent with

the Magnuson Act's National Standard 6, which states that conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. Accordingly, NMFS has disapproved these size limit provisions and has not included them in this proposed rule.

#### Extension of the Red Snapper Recovery Schedule

The 1995 red snapper stock assessment, prepared by NMFS' Southeast Fisheries Science Center, concluded that (1) the species lives longer than previously believed (estimated now at up to 53 years rather than 42 years), and (2) that the natural mortality rate is lower than previously estimated (0.10 rather than 0.20). As a result of the revised estimates of the natural life span and the natural mortality rate, the estimate of generation time increased from 13.6 to 19.6 years. Based on these new scientific findings, and on the FMP's specification of a recovery time period for the overfished red snapper resource that cannot exceed 1.5 times the unfished generation time, the Council has proposed to change the target date for recovery of the resource from 2009 to 2019.

#### Red Snapper TAC

Based on a revised target year of 2019 for rebuilding the red snapper stock and on other aspects of the 1995 red snapper stock assessment, the Council's Reef Fish Stock Assessment Panel recommended an allowable biological catch (ABC) range for red snapper of 6.00 to 10.00 m lb (2.63 to 4.38 m kg) assuming the shrimp trawl bycatch of juvenile red snapper is reduced by at least 50 percent beginning in 1997. Based on the current technology of bycatch reduction devices, the Council believes the required red snapper bycatch reductions can be achieved in the required time frame. Based on the FMP's framework procedure, the Council has selected a new red snapper TAC of 9.12 m lb (4.13 m kg), which is within the revised ABC range as required by the FMP.

NMFS has concerns regarding the proposed increase in the TAC since the acceptable impacts of this measure on stock recovery depend upon achieving the 50-percent red snapper bycatch reduction goal in 1997. Comments on this aspect of the proposed TAC are specifically invited.

#### Commercial Quota, Season, and Recreational Allocation for Red Snapper

Based on the FMP's 51:49 ratio for allocating between the commercial and recreational fisheries, a TAC of 9.12 m lb (4.13 m kg) would result in a commercial quota of 4.65 m lb (2.10 m kg) and a recreational allocation of 4.47 m lb (2.03 m kg). The commercial fishery is managed primarily based on a minimum size limit, an annual quota enforced by a fishery closure when the quota is attained, and specialized permitting provisions. The recreational fishery is managed primarily by a minimum size limit and a daily bag limit. The proposed recreational fishery allocation would not require any changes to the current recreational bag limit of five red snapper per person per day or the current minimum size limit of 15 inches (38.1 cm).

Without the regulatory amendment measures as proposed in this rule, the commercial fishery would remain closed until January 1, 1997, the start of the new fishing year. The Council proposes that NMFS reopen the commercial fishery on September 15, 1996, to allow harvest of the remainder of the increased 1996 quota (i.e., 1.59 m lb (0.72 m kg) to be adjusted based on actual catches during the 1996 spring season).

In a related action, Amendment 13 to the FMP, the Council proposed to extend the red snapper vessel permit endorsement and trip limit system and suspend implementation of the red snapper individual transferable quota (ITQ) system approved under Amendment 8. Without suspension of the ITQ system, the commercial fishery for red snapper would have to operate under the ITQ provisions that require issuance of ITQ coupons to authorize harvest or possession of red snapper. As explained in the proposed rule for Amendment 13 (61 FR 32422, June 24, 1996), NMFS is prohibited from implementing the ITQ system at this time. Accordingly, the opening of the commercial fishery on September 15, 1996, under the provisions of this proposed rule is contingent on implementation of Amendment 13 through final regulations effective on or before September 15. NMFS approved Amendment 13 on August 9, 1996, and expects to issue implementing final regulations shortly.

This rule also would split the 1997 commercial quota between two seasons, the first beginning on February 1 with a quota of 3.06 m lb (1.39 m kg) and the second beginning on September 15, 1997, to allow harvest of the remainder

of the total annual 4.65-m lb (2.11-m kg) quota. The split seasons are designed to provide for harvest when market demand for fresh fish is high. More stable prices are expected under the split seasons, which would provide net economic benefits to the fishery. The anticipated closed fishery period in 1997 is expected to prevent commercial harvest of red snapper in Federal waters during the May to September spawning season.

In the event of implementation of the ITQ system (or of any alternative controlled access system) for the 1997 fishing year, the Council intends that the split season for 1997 not be in effect. Therefore, the provisions for a split season in 1997, as contained in this rule, may be modified by future rulemaking in the event of implementation of a controlled access system for the red snapper commercial fishery.

#### Action on the Recommended Changes

The Council's recommended changes are within the scope of the management measures that may be adjusted by the framework procedure specified in the FMP. The Director, Southeast Region, NMFS, initially concurs that the Council's recommended measures, except for the size limit measures, are consistent with the objectives of the FMP, the National Standards, and other applicable law. Accordingly, the Council's recommended changes, except for the size limit measures, are published for comment. Final determinations will be made following review of all information and comments on the proposed rule.

#### Classification

This proposed rule has been determined to be not significant under E.O. 12866.

The Council prepared an IRFA, as part of the RIR, which describes the expected impacts of the proposed regulatory amendment measures on small entities, if adopted. A copy of the RIR/IRFA is available from the Council (see ADDRESSES). The IRFA is summarized as follows. The proposed management measures directly affect all of the estimated 1,532 small businesses engaged in the commercial harvesting of red snapper as well as the 838 charter vessels and 92 headboats in the for-hire business. A substantial number of small business entities, therefore, will be affected. The larger commercial fishery quota should result in increased gross commercial harvesting revenues in excess of 5 percent. The increased recreational fishery allocation should provide a sufficient allowable catch to

avoid reductions in the current level of recreational fishery participation, i.e., no changes should be necessary in the recreational fishery bag limit. Charter vessel and headboat operators may not experience increases in gross revenues with the increased recreational fishery allocation; without the increased allocation, additional recreational fishery restrictions would have been required. The extension of the red snapper recovery period will have indirect, but measurable, effects on fishing revenues or costs—such effects will be the proximate result of the revised TAC. The delayed season should slightly increase gross revenues for the commercial sector. While the split-season is expected to result in increased revenues to the fishery, the magnitude of such effects cannot be quantified at this time. Nevertheless, the best estimate is that such effects will not exceed 5 percent of gross revenues. Neither the commercial nor the recreational sectors should incur increases in production costs or in costs of complying with the regulations. Considering that the expected impacts involve increases in gross revenues without increases in operating or compliance costs, no existing businesses are expected to cease operation as a result of this rule. Overall, the proposed

actions would have a positive and significant economic effect on a substantial number of small business entities. This action does not revise existing or establish any new reporting, recordkeeping, or other compliance requirements. Disapproval of the proposed size limit measures does not change these findings of the IRFA.

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

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

Dated: August 9, 1996.

Gary Matlock,

*Program Management Officer, 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 § 622.34, paragraph (l) is added to read as follows:

#### **§ 622.34 Gulf EEZ seasonal and/or area closures.**

\* \* \* \* \*

(l) *1997 closure of the commercial fishery for red snapper.* From January 1 through 31, 1997, red snapper in or from the Gulf EEZ, and each vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), is subject to the bag and possession limits, as specified in § 622.39(b)(1)(iii) and (b)(2), respectively, and to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1).

3. In § 622.42, paragraph (a)(1) is revised to read as follows:

#### **§ 622.42 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(1) Red snapper—4.65 million lb (2.11 million kg), round weight, apportioned in 1996 and 1997 as follows:

(i) 3.06 million lb (1.39 million kg) available February 1, 1996, and February 1, 1997; and

(ii) The remainder available September 15, 1996, and September 15, 1997.

\* \* \* \* \*

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