

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

[I.D. 022599A]

RIN 0648-AL84

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Essential Fish Habitat (EFH) for Species in the South Atlantic; Comprehensive Amendment to the Fishery Management Plans of the South Atlantic Region**

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

**ACTION:** Notice of availability of a comprehensive amendment to fishery management plans for the South Atlantic Region; request for comments.

**SUMMARY:** NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted a Comprehensive Amendment to the Fishery Management Plans (FMPs) of the South Atlantic (Comprehensive Amendment) for review, approval, and implementation by NMFS. This Comprehensive Amendment would identify and describe Essential Fish Habitat (EFH) and habitat areas of particular concern (HAPC) for species under management by the Council, and would establish management measures designed to protect and conserve EFH. The Council also prepared a Habitat Plan for the South Atlantic Region (Habitat Plan), which serves as a source document for describing EFH. Written comments are requested from the public.

**DATES:** Written comments must be received on or before May 4, 1999.

**ADDRESSES:** Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the Habitat Plan and the Comprehensive Amendment, which includes a final Environmental Assessment/Supplemental Environmental Impact Statement, a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Assessment, should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; Phone: 843-571-4366; fax: 843-769-4520.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Barnette, NMFS, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act, requires each Regional Fishery Management Council (Regional Council) to submit a FMP or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Section 303 of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*), as amended, requires that the Regional Councils submit, by October 11, 1998, amendments to their FMPs that identify and describe EFH, including identification of adverse impacts from both fishing and non-fishing activities on EFH and identification of actions required to conserve and enhance EFH for managed species.

NMFS published guidelines to assist the Regional Councils in the description and identification of EFH in FMPs, including identification of adverse impacts from both fishing and non-fishing activities on EFH, and identification of actions required to conserve and enhance EFH (62 FR 66531, December 19, 1997). The NMFS guidelines encourage ecosystem approaches to protecting and conserving EFH. Identification of ecological roles (i.e., prey, competitors, trophic links within foodwebs, and nutrient transfer between ecosystems) should be incorporated into EFH recommendations. The guidelines also specify that sufficient EFH be protected and conserved to support sustainable fisheries and managed species' contribution to a healthy ecosystem.

The guidelines also encourage the identification of EFH that is judged to be particularly important to the long-term productivity of populations of one or more managed species or that is particularly vulnerable to degradation, as a HAPC. A HAPC may be identified based on the following criteria: (1) The importance of the ecological function provided by the habitat; (2) the extent to which the habitat is sensitive to human-induced environmental degradation; (3) whether and to what extent development activities are, or will be, stressing the habitat type; and (4) the rarity of the habitat type.

The Comprehensive Amendment, using the Habitat Plan as a source document, addresses EFH for all species or species assemblages that are managed in all seven of the Council's FMPs and identifies HAPCs for all managed

species or species assemblages except golden crab. A summary of the Comprehensive Amendment follows:

1. EFH is identified and described based on areas important to each life stage of all managed species, including penaeid and rock shrimp (6 species); red drum; snapper-grouper complex (73 species); coastal migratory pelagics (6 species); golden crab; spiny lobster; and coral, coral reefs and live/hard bottom habitat (8 species complexes).

2. EFH is defined in the Magnuson-Stevens Act as "those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity." Based on the ecological relationships of species and the relationships between species and their habitat, the Council has taken an ecosystem approach in identifying EFH for managed species and species assemblages. The general distribution and geographic limits of EFH are divided into estuarine inshore habitat and marine offshore habitat. EFH for the estuarine inshore component is subdivided to include estuarine emergent, estuarine shrub/scrub (mangroves), seagrass, oyster reef and shell banks, intertidal flats, palustrine emergent and forested, aquatic beds, and the estuarine water column. EFH for the marine offshore habitat is subdivided to include live/hard bottom habitat, coral and coral reefs, artificial/manmade reefs, sargassum, and the water column.

3. Threats to EFH from fishing and nonfishing activities are identified. Threats from non-fishing activities include agriculture; silviculture; urban development; commercial and industrial development; navigation and other hydrological alterations; recreational boating; mineral exploration, development, extraction, and transportation; ocean dumping; and natural events. Threats from fishing activities include physical alterations and damage to habitat from gear use and lost gear.

4. Options to conserve and enhance EFH are provided, and research needs are identified, primarily focusing on the development of a better understanding of the biological and physical processes associated with EFH and the impacts that alterations of EFH have on the fauna and flora of the EFH.

5. HAPCs are identified and defined for all managed species or species assemblages, except golden crab.

The Comprehensive Amendment contains Amendment 3 to the Shrimp FMP, Amendment 1 to the Red Drum FMP, Amendment 10 to the Coastal Migratory Pelagics FMP, Amendment 1 to the Golden Crab FMP, Amendment 5

to the Spiny Lobster FMP, and Amendment 4 to the Coral, Coral Reefs, and Live/Hard Bottom Habitat FMP.

Amendment 4 contains a proposed measure to expand the boundaries of the current Oculina Bank HAPC and to create two satellite Oculina Bank HAPCs. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule for this measure to determine whether it is consistent with the EFH Amendment, the Coral FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish it in the **Federal Register** for public review and comment.

Comments received by May 4, 1999, whether specifically directed to the Comprehensive Amendment or to the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the Comprehensive Amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the Comprehensive Amendment or on the proposed rule during their respective comment periods will be summarized and addressed in the preamble of the final rule.

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

Dated: March 1, 1999.

**Gary C. Matlock,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 981229328-8328-01; I.D. 120998C]

RIN 0648-AK31

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 16A

**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 16A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This proposed rule

would prohibit the use of fish traps in the exclusive economic zone (EEZ) of the Gulf of Mexico south of 25°03' N. lat. after February 7, 2001; prohibit possession of reef fish exhibiting trap rash on board a vessel that does not have a valid fish trap endorsement; and require fish trap vessel owners or operators to provide trip initiation and trip termination reports and comply with an annual vessel/gear inspection requirement. In addition, Amendment 16A proposes that NMFS develop a system design, protocol, and implementation schedule for a fish trap vessel monitoring system (VMS). The intended effects of this rule are to enhance enforceability of fish trap measures and conserve and manage the reef fish resources of the Gulf of Mexico.

**DATES:** Written comments must be received on or before April 19, 1999.

**ADDRESSES:** Comments on the proposed rule or on the initial regulatory flexibility analysis (IRFA) must be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule must be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of Amendment 16A, which includes an environmental assessment, a regulatory impact review (RIR), and an IRFA, and requests for copies of a minority report submitted by two Council members should be sent to the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL, 33619; Phone: 813-228-2815; Fax: 813-225-7015.

**FOR FURTHER INFORMATION CONTACT:** Robert Sadler, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

#### Accelerated Area Phaseout of Fish Traps

A 10-year phaseout of the fish trap fishery ending February 7, 2007, was implemented under Amendment 14 (62 FR 13983, March 25, 1997). Amendment 16A proposes a shorter phaseout period

(ending February 7, 2001) for an area in Federal waters south of Cape Sable, FL (25.05° N. lat.) at the southernmost point of the Florida peninsula. This measure is based on Council concerns about increased trap fishing pressure, continuing fish trap violations, and ineffective fish trap vessel monitoring. Opponents of fish traps report user group conflicts and problems with excessive trap fishing pressure in an area south of 25.05° N. lat. Law enforcement agencies reported continued difficulties in detecting and monitoring fish trap use and requested additional fish trap vessel monitoring, reporting, and inspection requirements for the entire fish trap fishery.

Testimony to the Council at its March 1998 meeting included allegations of continuing problems with fish trap gear in the Florida Keys area since implementation of the 10-year phaseout. Several commenters in favor of an accelerated fish trap phaseout stated that the continued use of the gear in the Gulf EEZ of the Florida Keys will contribute to bycatch problems, user group conflicts, and illegal trap use in adjacent state waters. Public testimony also indicated that deployment of fish traps in the Gulf EEZ adjacent to the Florida Keys during the 10-year period will continue to cause physical habitat damage to the coral reef community. Following public testimony, the Council proposed accelerating the phaseout, from 10 years to 4 years (ending February 7, 2001), in the Florida Keys. Fish trap use would be prohibited in the designated area after February 7, 2001.

In the area off the Florida Keys, the accelerated phaseout will negatively impact those fish trap fishermen who had anticipated a 10-year phaseout period and invested in fish trap gear or endorsements. It would also negatively impact fish trap fishermen in the Florida Keys by requiring them to travel to a point north of 25.05° N. lat. to deploy their traps. However, the Council anticipates that an accelerated fish trap phaseout may reduce fishing pressure on reef fish in the area south of 25.05° N. lat.

#### Proposed Restrictions on the Possession of Reef Fish

The Council is proposing to prohibit the possession of reef fish exhibiting the condition of trap rash (i.e., physical damage to fish caused by the fish rubbing or scraping against, running into, butting, or biting the wire mesh used to construct wire fish traps) on vessels without valid fish trap endorsements. This trap rash management measure is based on information that some vessels that land