

make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to us at the time the finding is made. To the maximum extent practicable, we make this finding within 90 days of the date the petition was received, and notice of the finding must be published promptly in the **Federal Register**. If the finding is that substantial information was presented, we are also required to promptly commence a review of the status of the species involved if one has not already been initiated under our internal candidate assessment process.

We have made a 90-day finding on a petition to list the plant *Esenbeckia runyonii* (limoncillo). The petition, dated June 28, 1994, was submitted by Joe Ideker, Secretary of the Native Plant Project, and was received by the Service on July 5, 1994. The petitioner requested that we list *E. runyonii* as endangered. Action on this petition was delayed by a listing moratorium (Public Law 104-6, April 10, 1995) and rescission of listing program funding in Fiscal Year 1996. This moratorium was subsequently lifted and listing program funding restored on April 26, 1996. On May 16, 1996 (61 FR 24722) the Service issued guidance for priorities in restarting the listing program. This 90-day finding was precluded by the Service's listing priority guidance for Fiscal Year 1997, finalized December 5, 1996 (61 FR 64475). With the publication of listing priority guidance for Fiscal Years 1998 and 1999 on May 8, 1998 (63 FR 25502) the Service returned to a more balanced listing program. The processing of petition findings to add species to the list of threatened and endangered species have significant conservation benefit and these actions are now placed in Tier 2.

The petitioner states that all but one of the four (perhaps five) historically known U.S. populations of this small tree have been lost due to habitat destruction and that the remaining U.S. population consists of 15 plants occurring on less than 0.4 hectare (ha) (1 acre (ac)) of a Lower Rio Grande Valley National Wildlife Refuge (LRGV-NWR) tract. The petitioner states that this population is vulnerable to destruction from catastrophic events such as hurricanes, freezes, or fires. The petitioner mentions two unverified groups of *E. runyonii* plants in a Brownsville, Texas, park that are threatened by construction of a road to the Los Tomates Bridge. We investigated these plants and found them to be

*Crescentia alata*, a trifoliolate-leaved species in the bignonia family. The petitioner notes that other *E. runyonii* populations occur in Mexico, but provides no information on these populations.

Cameron County, Texas, on the U.S./Mexico border, is the northern range limit of *E. runyonii*. Populations in Mexico are known from the states of Tamaulipas, Nuevo Leon, San Luis Potosi, Queretaro, and Hidalgo (F. Gonzalez-Medrano, Instituto de Biologia, Mexico City, Mexico, *in litt.* 1994; Kaastra 1982; A.M. Olivo, Instituto de Ecologia y Alimentos, Ciudad Victoria, Tamaulipas, Mexico, *in litt.* 1994; J.M. Poole, Texas Parks and Wildlife Department, Austin, Texas, *in litt.* 1994). Information from herbarium specimens at the Missouri Botanical Garden (J.M. Poole, *in litt.* 1994), Universidad Autonoma de Tamaulipas (A.M. Olivo, *in litt.* 1994), Universidad Nacional Autonoma de Mexico, Mexico, D.F. (F. Gonzalez-Medrano, *in litt.* 1994), and Kaastra (1982) indicate at least 45 collection sites in Mexico. Chiang (1989) notes a collection by Pringle in Nuevo Leon that may represent an additional site. The species is also known from the canyons of the Sierra de Picachos (Nuevo Leon) and the El Cielo (Tamaulipas) bioserve (C. Best, LRGV-NWR, Alamo, Texas, pers. comm. 1994).

*Esenbeckia runyonii* populations in Mexico occur primarily in moist canyons on rocky talus slopes (C. Best, pers. comm. 1994; F. Gonzalez-Medrano, *in litt.* 1994). This habitat is vastly different from the floodplain delta of the Rio Grande where the species occurs in the United States.

The petition indicates a willingness to list only the Texas population of this plant until further studies are done on the populations in Mexico. The Act allows the listing of distinct population segments of vertebrate fish or wildlife species, but does not extend the same option to plants or invertebrate animals. The listing of any plant or invertebrate animal must include all populations within the species' historical range.

We have reviewed the petition and appended data, and other literature and information available in our files. On the basis of the best scientific and commercial information available, we find that the petition does not present substantial information that listing this species may be warranted. The petition includes no information regarding distribution, population sizes, or threats to *E. runyonii* in Mexico, which constitutes most of the species' documented range (Kaastra, 1982). Information readily available to us

indicates that while the U.S. populations have been reduced from four to one, the populations in Mexico appear to be relatively abundant and under no immediate threat that would justify listing the species as endangered or threatened.

#### References Cited

Chiang, F. 1989. *Casimiroa greggii*, formerly in *Sargentia* (Rutaceae) Taxon 38:116-119.

Kaastra, R.C. 1982. Flora Neotropica, Monograph Number 33, Pilocarpaceae (Rutaceae). New York Botanical Garden, Bronx, New York.

Author: The primary author of this document is Angela Brooks, formerly of the Corpus Christi Ecological Services Field Office (See ADDRESSES).

#### Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: June 3, 1999.

**Jamie Rappaport Clark,**

Director, Fish and Wildlife Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 990506119-9119-01; I.D. 040799B]

RIN 0648-AM66

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 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 proposed regulations 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). These proposed regulations would set the opening date of the recreational red snapper fishing season at March 1, beginning with the

2000 fishing year; establish a 4-fish recreational red snapper bag limit with a 0-fish bag limit for captain or crew of a charter vessel or headboat; and change the openings of the fall red snapper commercial season from the first 15 days of each month to the first 10 days of each month, beginning September 1 each year. The intended effect of these proposed regulations 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 July 14, 1999.

**ADDRESSES:** Comments on the proposed rule must be sent to Dr. Roy E. Crabtree, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the framework regulatory amendment, which includes an environmental assessment, and a regulatory impact review (RIR), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619-2266; Phone: 813-228-2815; Fax: 813-225-7015; E-mail: gulf.council@noaa.gov.

**FOR FURTHER INFORMATION CONTACT:** Dr. Roy E. Crabtree, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery in the EEZ of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the 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.

The Council has proposed adjusted management measures (regulatory amendment) for the Gulf red snapper fishery for NMFS' review, approval, and implementation. These measures were developed and submitted to NMFS under the terms of the FMP's framework procedure for annual adjustments in total allowable catch and related measures for the red snapper fishery (framework procedure). The proposed regulations would implement the measures contained in the Council's regulatory amendment except for a proposed measure to reduce the minimum size limit for red snapper from 15 to 14 inches. NMFS previously disapproved this measure (see below).

### Background

The Council requested that NMFS implement the measures in its proposed regulatory amendment through emergency action because the proposed recreational season, size limit, and bag limit measures could not be

implemented by proposed and final regulations before the automatic opening of the recreational fishery on January 1, 1999. NMFS implemented the 4-fish bag limit via emergency interim rule (63 FR 72200, December 31, 1998), as requested, to slow the rate of harvest, avoid angler confusion, and address emergency conditions in the fishery. NMFS did not implement the requested 0-fish bag limit for captain and crew, size limit change, or seasonal delay via emergency interim rule. NMFS analyses showed that benefits from emergency implementation of these measures were not sufficient to justify the associated loss of opportunity for prior notice and public comment.

The Council submitted a proposed regulatory amendment that would reduce the minimum size limit (size limit) for red snapper from 15 inches to 14 inches (38 cm to 36 cm) (total length) for persons fishing under the recreational or commercial quotas. NMFS has disapproved this measure based on national standard 2 of the Magnuson-Stevens Act and has returned this measure to the Council, as provided for by the Reef Fish FMP framework procedure. The proposed minimum size limit reduction provides no clear economic or biological benefits. NMFS analyses suggest that reducing the minimum size limit from 15 inches to 14 inches would shorten the recreational season by about 7 days, with little or no corresponding benefit to the stock.

Seven Council members signed a minority report opposing the 14-inch (36-cm) size limit and the 0-fish bag limit for captain and crew. One Council member signed a second minority report opposing the 0-fish bag limit for captain and crew.

### Recreational Season Delay

The Council proposes to delay the opening date of the recreational season from January 1 to March 1. The Council recommends this change based on the preponderance of public testimony that this closure period would be the least disruptive to the fishery. The purpose of this change is to extend the fishing season further into the fall; however, NMFS analyses suggest that the 2-month delay would only extend the season an additional 15 days. The proposed delay would close the fishery in January and February, resulting in an estimated net loss of 12,000 angler trips, including 3,600 trips in the for-hire sector. The number of lost trips is expected to be greatest in the western Gulf off Texas. At its January 1999 meeting, the Council reviewed the NMFS economic analyses. Charter vessel and headboat operators

from the northern and eastern Gulf reiterated their belief that the benefits of the extended fall season resulting from the March 1 opening outweigh the adverse effects of decreasing the total number of fishing trips per year. This testimony may not be representative of the affected Gulf-wide recreational sector; public comment on this aspect of the proposed rule is needed to better evaluate this issue.

### Proposed Bag Limit Measures

To prolong the recreational season, the Council recommends a 0-fish bag limit for captain and crew of for-hire vessels and a continuation of the 4-fish limit for all other persons subject to the bag limit provision (currently in effect for all such persons through June 29, 1999, via emergency interim rule (63 FR 72200, December 31, 1998)). NMFS analyses suggest that the 4-fish bag limit will extend the duration of the recreational season beyond that achieved with a 5-fish bag limit. Industry participants have suggested that four fish is the minimum bag limit that would continue to attract for-hire customers. Analyses of the 0-fish bag limit for captain and crew suggest that the extension of the season resulting from this measure would be only 5 days or less. The Council considered this measure in combination with other proposed changes and concluded this measure would significantly extend the recreational season. Two Council minority reports question the fairness and equity of this measure and its disproportionate effect on for-hire vessels that carry few customers. These minority reports state that the Council approved the measure without any scientific analysis; however, the Council was provided the Socioeconomic Panel's analyses of the effect of the 0-fish bag limit for captain and crew. Additional public comment on these issues is needed.

### Commercial Fall Season Adjustment

The regulations implementing FMP Amendment 15 restricted the red snapper commercial harvest to the first 15 days of the month for each of the annual fishing seasons beginning February 1 and September 1. These monthly harvest periods were intended to benefit the fishery by extending the length of the commercial fishing season and stabilizing market prices. Based on more recent public testimony, the Council concluded that the industry would benefit from a reduction in the duration of the monthly open periods from 15 days to 10 days in the fall season. The intent of this action is to stabilize ex-vessel prices.

## Classification

This proposed rule has been determined to be significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The Council prepared an RIR that describes the economic outcomes of the measures in the proposed rule. The proposed measure to reduce the recreational bag limit from 5 to 4 fish, plus a 0-fish bag limit for captain and crew of for-hire vessels, is expected to reduce the projected rate of recreational harvest, potentially reduce the angler's economic value per trip, and reduce the benefits of captain and crew. Such reductions would be compensated for by extending the season by about 4 weeks later in the year. Given certain assumptions, this measure would increase the benefits to both anglers and for-hire vessels, but the available data do not allow the appropriate calculations to be made. Postponing the opening of the recreational fishery from January 1 to March 1 would allow the fishery to remain open for 15 days more in the fall. Even though the extension of the season is viewed as a desirable result, this extension will be accompanied by a small reduction in the expected total number of angler trips because more trips will be foregone during January and February than will be gained later in the season. Hence, the overall economic effect of postponing the season is expected to be negative by a small but unknown amount. The proposed reduction in fishing time from 15 days to 10 days for each open month in the fall commercial red snapper season is expected to achieve minimal but positive revenue effects. This result is expected because the shorter open periods each month will lessen the probability of supply gluts when red snapper markets are relatively weak in the fall season. The RIR found that the proposed regulations will not be significant under E.O. 12866. The RIR also estimated that the government costs of developing the rule were \$40,500, and there are no expected increased costs of monitoring, enforcement or reporting.

The Council also determined, and NMFS concurs, that there will not be a significant impact on the estimated 1,626 reef fish permit holders who can legally engage in the commercial harvest of red snapper or operate for-hire businesses and can legally catch red snapper under the recreational bag limit. These permit holders are all classified as small entities. This determination was based on a finding that none of the measures are expected to directly reduce gross revenues of commercial or for-hire vessels, that no production cost increases are expected, that no differential small versus large firm impacts are expected, that there are no expected changes in capital costs of complying with the proposed rule, and that no small entities would be expected to cease business if the proposed rule is implemented.

Based on the findings summarized above, the Council concluded that the proposed rule would not have a significant impact on a substantial number of small business entities, and a regulatory flexibility analysis was not prepared.

## List of Subjects in 50 CFR Part 622

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

Dated: June 23, 1999.

**Andrew A. Rosenberg,**

*Deputy Asst. Administrator for Fisheries, 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), currently suspended through June 29, 1999, is revised to read as follows:

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

\* \* \* \* \*

(l) *Closures of the commercial fishery for red snapper.* The commercial fishery for red snapper in or from the Gulf EEZ is closed from January 1 to noon on February 1 and thereafter from noon on the 15th of each month to noon on the first of each succeeding month until the quota specified in § 622.42(a)(1)(i)(A) is reached or until noon on September 1, whichever occurs first. Starting in September, the commercial fishery for red snapper in or from the Gulf EEZ is closed from noon on the 10th of each month to noon on the first of each succeeding month until the quota specified in § 622.42(a)(1)(i)(B) is reached or until the end of the fishing year, whichever occurs first. All times are local times. During these closed periods, the possession of red snapper in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested, is limited to the bag and possession limits, as specified in § 622.39(b)(1)(iii) and (b)(2), respectively, and such red snapper are subject to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1). However, when the recreational quota for red

snapper has been reached and the bag and possession limit has been reduced to zero, the limit for such possession during a closed period is zero.

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3. In § 622.39, paragraph (b)(1)(iii), currently suspended through June 29, 1999, is revised to read as follows:

### § 622.39 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) Red snapper—4, except that for an operator or member of the crew of a charter vessel or headboat, the bag limit is 0.

\* \* \* \* \*

4. In § 622.42, paragraph (a)(2) is revised to read as follows:

### § 622.42 Quotas.

\* \* \* \* \*

(a) \* \* \*

(2) *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)(i) of this section—4.47 million lb (2.03 million kg), round weight. Beginning January 1, 2000, this quota becomes available on March 1 each year.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

[I.D. 050399A]

RIN 0648-AL27

### Fisheries of the Northeastern United States; Amendment 12 to the Northeast Multispecies Fishery Management Plan; Measures to Address the Sustainable Fisheries Act Requirements; Correction

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

**ACTION:** Correction to a notice of availability.

**SUMMARY:** NMFS corrects a notice of availability for Amendment 12 to the Northeast Multispecies Fishery Management Plan that was published at 64 FR 29257, June 1, 1999, containing a possession limit that was incorrect.