

mammal, and the lead MMO determines that the injury or death is not associated with or related to the activities authorized in the LOA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), the Corps shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. The Corps shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. If the observed marine mammal is dead, activities may continue while NMFS reviews the circumstances of the incident. If the observed marine mammal is injured, measures described in paragraph (e) must be implemented. In this case, NMFS will notify the Corps when activities may resume.

§ 217.236 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Corps must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the Corps may apply for and obtain a renewal of the Letter of Authorization.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the Corps must apply for and obtain a modification of the Letter of Authorization as described in § 217.237.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within thirty days of a determination.

§ 217.237 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 of this chapter and § 217.236 for the activity identified in § 217.230(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section; and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 217.247(c)(1)) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under § 216.106 of this chapter and § 217.236 for the activity identified in § 217.230(a) may be modified by NMFS under the following circumstances:

(1) *Adaptive management*—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Corps regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a LOA:

(A) Results from the Corps' monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies*—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the

species or stocks of marine mammals specified in § 217.232(b), an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within thirty days of the action.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BG19

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 45

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico (Gulf) Fishery Management Council (Council) has submitted Amendment 45 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Amendment 45 would extend the sunset date of the red snapper sector separation measures for an additional 5 years, through the end of the 2022 fishing year. The intent of Amendment 45 is to extend the sector separation measures to allow the Council more time to consider and possibly develop alternative management strategies within the Gulf red snapper recreational sector.

DATES: Written comments must be received on or before October 24, 2016.

ADDRESSES: You may submit comments on the amendment identified by “NOAA–NMFS–2016–0089” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0089, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of

the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 45, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: Peter.Hood@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to any plan to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or plan amendment, publish an announcement in the **Federal Register** notifying the public that the plan or plan amendment is available for review and comment.

The FMP being revised by Amendment 45 was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

Amendment 40 to the FMP separated the Federal recreational red snapper sector as a way to provide the basis for increased flexibility in future management as well as minimize the chance for recreational quota overruns, which could jeopardize the rebuilding of the red snapper stock (80 FR 22422, April 22, 2015). Amendment 40

established sector separation by defining distinct private angling and Federal for-hire (charter vessel and headboat) components within the recreational sector of those who fish for red snapper, allocated red snapper resources between the components, and established component-specific accountability measures through the use of component annual catch targets to project recreational fishing season lengths. Amendment 40 defined the Federal for-hire component as including operators of vessels with Federal charter vessel/headboat permits for Gulf reef fish and their angler clients. The private angling component was defined as including anglers fishing from private vessels and state-permitted for-hire vessels.

Amendment 40 also applied a 3-year sunset provision for the regulations implemented through its final rule. The sunset provision maintained the measures for sector separation through the end of the 2017 fishing year, on December 31, 2017. The 3-year sunset provision was included to provide an incentive for the Council to continue to evaluate alternative management measures or programs for the recreational sector. Unless modified, after the 2017 fishing year, on January 1, 2018, the management measures implemented through Amendment 40 will expire and the recreational sector will be managed as a single entity. The Council is currently working to develop and approve other amendments to address the management of the charter and headboat fishing within the Federal for-hire component (Amendments 41 and 42 to the FMP, respectively). The development of these amendments is taking longer than the Council anticipated, and if approved by NMFS, would likely not be effective until after the sector separation provisions expire on December 31, 2017. Therefore, the Council determined there was a need to extend the sunset provision for an additional 5 years past the original sunset date.

Management Measure Contained in Amendment 45

Amendment 45 would extend the 3-year sunset provision for the separation

of the Federal for-hire and private angling recreational components for Gulf red snapper and associated management measures for an additional 5 years. If implemented, this would extend Gulf recreational red snapper sector separation through the end of the 2022 fishing year, on December 31, 2022, rather than the current sunset date of December 31, 2017. Beginning on January 1, 2023, the red snapper recreational sector would be managed as a single entity without the separate Federal for-hire and private angling components. The Council would need to take further action for these recreational components and management measures to extend beyond the 5-year extension proposed in Amendment 45.

A proposed rule that would implement Amendment 45 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 45 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If the determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 45 for Secretarial review, approval, and implementation. Comments on Amendment 45 must be received by October 24, 2016. Comments received during the respective comment periods, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 45. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: August 22, 2016.

Emily H. Menashes,

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

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