

duties under section 101(a)(2) of the MMPA (16 U.S.C. 1371(a)(2)), to “ban the importation of commercial fish or products from fish” sourced in a manner that “results in the incidental kill or incidental serious injury” of vaquita “in excess of United States standards.” The petition requested that the relevant Secretary ban all fish and fish products originating from the vaquita’s range in the northern Gulf of California that were obtained using any kind of gillnet—the fishing gear solely responsible for the current decline of the vaquita.

As support for the need for this action, the petition cites reports from the Comité Internacional para la Recuperación de la Vaquita (CIRVA) documenting a 95 percent decline in the vaquita population over the last two decades. The petitioners also assert that for the vaquita, gillnet bycatch has driven the species from a population of more than 700 in 1990 to currently fewer than 30 vaquita.

The petitioners maintain that any fishery using gillnets in the Upper Gulf of California violates U.S. standards under the MMPA. The petitioners provide a list of more than 30 fish species potentially harvested by gillnets including corvina and Pacific sierra, which are currently exempt from the Mexican regulations banning the use of gillnets.

On June 30, 2017, Mexico adopted a permanent ban on the use of gillnets throughout the range of vaquita, with the exception of gillnet fisheries for corvina and Pacific sierra. The regulations also prohibit night fishing, establish sites for disembarkation, and require the use of vessel monitoring systems [http://diariooficial.gob.mx/DOFmobile/nota\\_detalle.php?codigo=5488674&fecha=30/06/2017](http://diariooficial.gob.mx/DOFmobile/nota_detalle.php?codigo=5488674&fecha=30/06/2017).

NMFS will consider public comments in evaluating the request by the petitioners for an import ban. In addition to general comments on the petition, NMFS specifically requests comments on:

- The adequacy of existing measures regulating commercial fishing throughout the range of the vaquita;
- Whether such measures can be considered comparable in effectiveness to the U.S. regulatory program;
- Whether the apparent decline in the vaquita population attributed to interaction with commercial fishing meets the standard of “immediate and significant adverse impact on a marine mammal stock” within the MMPA; and
- Which specific fisheries are, or may be, directly associated with potential mortality of vaquita and therefore fall

within the scope of the petition for emergency action.

Dated: August 16, 2017.

**John Henderschedt,**

*Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

**RIN 0648–BG82**

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 17B

**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 17B to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico U.S. Waters (FMP), for review, approval, and implementation by NMFS. Amendment 17B includes actions to define the aggregate maximum sustainable yield (MSY) and aggregate optimum yield (OY) for the Gulf shrimp fishery, determine a minimum number of Federal commercial vessel moratorium permits in the fishery, would allow for the creation of a Federal Gulf shrimp reserve pool permit when certain conditions are met, and would allow for non-federally permitted shrimping vessels to transit through the Gulf exclusive economic zone (EEZ) with shrimp on board the vessel. The purpose of Amendment 17B is to protect federally managed Gulf shrimp stocks while maintaining catch efficiency, economic efficiency, and stability in the fishery.

**DATES:** Written comments must be received on or before October 23, 2017.

**ADDRESSES:** You may submit comments on Amendment 17B, identified by “NOAA–NMFS–2017–0040” 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-2017-](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0040)

0040, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Frank Helies, 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](http://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 17B, which includes an environmental assessment, 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/sustainable\\_fisheries/gulf\\_fisheries/shrimp/2017/am17b/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/shrimp/2017/am17b/index.html).

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, telephone: 727–824–5305, or email: [Frank.Helies@noaa.gov](mailto:Frank.Helies@noaa.gov).

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

The FMP being revised by Amendment 17B was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

### Background

From 2003 to 2006, the Gulf shrimp fishery experienced significant economic losses, primarily as a result of high fuel costs and reduced prices caused by competition with imports. These economic losses contributed to a reduction in the number of vessels in the fishery, and consequently, a reduction of commercial effort. During that time, commercial vessels in the Gulf shrimp fishery were required to

have an open-access permit. In 2006, to prevent overcapitalizing the fishery when it became profitable again, the Council established a 10-year freeze on the issuance of new shrimp permits and created a limited access Federal Gulf shrimp moratorium permit (moratorium permit)(71 FR 56039, September 26, 2006). In 2016, the Council extended the duration of the Gulf shrimp moratorium permit program for another 10 years in Amendment 17A to the FMP (81 FR 47733, July 22, 2016).

During the development of Amendment 17A, the Council identified several other issues with the Gulf shrimp fishery that it wanted to address. First, MSY and OY (equal to MSY), are defined individually for the three penaeid shrimp species and for royal red shrimp. Second, the number of moratorium permits has continued to decline, and the Council is concerned that the decline in total permits will continue indefinitely. Finally, transit through Federal waters (Gulf EEZ) shrimp on board currently requires a moratorium permit, which limits the ability of a state-registered vessel to navigate in certain areas of the Gulf while engaged in shrimping. Amendment 17B addresses these issues through revisions to management reference points and the Gulf shrimp permit program.

#### **Actions Contained in Amendment 17B**

Amendment 17B includes actions to define the aggregate MSY and aggregate OY for Gulf shrimp, determine a minimum number of Federal commercial vessel moratorium permits in the fishery, allow for the creation of a Federal Gulf shrimp reserve pool permit when certain conditions are met, and allow non-federally permitted shrimping vessels to transit through the Gulf EEZ.

#### *Aggregate MSY and OY*

After extending the duration of the Gulf shrimp moratorium permit program for another 10 years, and recognizing that the moratorium results in a passive loss of permits from the fishery, the Council decided to determine an appropriate minimum number of moratorium permits. To facilitate this determination, the Council decided to establish an aggregate MSY and OY for the federal Gulf shrimp fishery. In Amendment 15 to the FMP, the Council established species specific MSYs and OYs for penaeid shrimp. MSY and OY were established for royal red shrimp in the original FMP (46 FR 27489, May 20, 1981). Additionally, Amendment 13 to the FMP revised the MSY and OY for royal red shrimp (71

FR 56039, September 26, 2006).

However, the shrimp permit is not species specific and an aggregate MSY and OY for all federally managed shrimp species (penaeid and royal red) can be used as reference points for the shrimp fishery as whole.

In March 2016, the Council convened a working group to determine the appropriate aggregate MSY and aggregate OY for the Gulf shrimp fishery in Federal waters. To determine the aggregate MSY, the working group used the same general approach established by a 2006 working group but included the most recent years of catch and effort data (1990–2014). The working group also determined that there were four important factors to consider when establishing aggregate OY: Landings, catch per unit effort (CPUE), sea turtle bycatch threshold, and juvenile red snapper bycatch. The working group concluded that the predicted effort and associated landings in 2009, balanced all of these criteria relative to observed levels in other years.

Amendment 17B would establish an aggregate MSY for the Federal Gulf shrimp fishery using the method developed by the working group at 112,531,374 lb (51,043,373 kg), tail weight. Amendment 17B would also establish an aggregate OY for the Gulf shrimp fishery equal to 85,761,596 lb (38,900,806 kg), tail weight, which is the aggregate MSY reduced by the ecological, social, and economic factors described above.

#### *Minimum Threshold Number of Gulf Shrimp Moratorium Permits and Federal Gulf Shrimp Reserve Pool Permit*

Currently, moratorium permits are valid for 1 year and are required to be renewed annually. If the permit is not renewed within 1 year of its expiration date, the permit is no longer renewable and is terminated. A terminated permit cannot be reissued by NMFS and is lost to the fishery. As of December 31, 2016, there were 1,441 moratorium permits that were valid or renewable. Since the start of the permit moratorium, a total of 493 moratorium permits have been terminated because they were not renewed within the required renewal period.

When the number of moratorium permits reaches 1,175 valid or renewable permits, the Council would form a panel to review details of a Gulf shrimp reserve permit pool and consider options regarding the reserve pool permits. The panel would consist of the Council's Shrimp Advisory Panel members, Science and Statistical Committee members, NMFS, and

Council staff. This panel could make recommendations about how to utilize a Gulf shrimp vessel permit reserve pool.

As described in Amendment 17B, when the number of valid or renewable moratorium permits reaches 1,072, then any moratorium permits that are not renewed within 1 year of expiration would be converted to a Gulf shrimp reserve pool permit. This number is based on the predicted number of active permitted vessels needed to attain aggregate OY in the offshore fishery. As explained above, the aggregate OY accounts for relatively high CPUE and landings while reducing the risk of exceeding sea turtle and juvenile red snapper bycatch. As described in Amendment 17B, it is estimated that it could take up to 24 years to reach the threshold value of 1,072 valid or renewable moratorium permits. Therefore, any Gulf shrimp reserve pool permit that is created would not be issued until eligibility requirements are developed by the Council and implemented through subsequent rulemaking. Based on future Council action, Gulf shrimp reserve pool permits could be used as a method to allow new entrants into the fishery or allow persons who previously held a moratorium permit to re-enter the fishery.

Amendment 17B does not actively remove any Gulf shrimp moratorium permits. The minimum threshold is only for purposes of monitoring changes in fishery participation and determining if additional management measures should be established.

#### *Transit Provisions for Shrimp Vessels Without a Federal Permit*

Currently, to possess Gulf shrimp in the Gulf EEZ, a vessel must have been issued a moratorium permit. In the Gulf, there are some areas where state-only licensed shrimpers would like to transit with shrimp on board from state waters through Federal waters to return to state waters and port. However, because these state-licensed shrimping vessels do not possess a moratorium permit, they cannot legally transit through the Gulf EEZ while possessing shrimp. This results in some of these vessels spending increased time at sea and incurring additional fuel costs because of longer transit times.

Amendment 17B would allow a vessel possessing Gulf shrimp to transit the Gulf EEZ without a valid moratorium permit if fishing gear is appropriately stowed. Transit would be defined as non-stop progression through the area; fishing gear appropriately stowed would mean trawl doors and nets must be out of the water and the bag straps must be

removed from the net. This transit exemption is expected to reduce the time at sea required for some shrimpers while still allowing enforcement to verify that they have not been fishing in the EEZ.

A proposed rule that would implement measures outlined in Amendment 17B has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that 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 17B for Secretarial review, approval, and implementation. Comments on Amendment 17B must be received by October 23, 2017. 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, disapprove, or partially approve the amendment and will be addressed in the final rule.

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 16, 2017.

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 170605543-7737-01]

RIN 0648-XF486

### Atlantic Highly Migratory Species; 2018 Atlantic Shark Commercial Fishing Season

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

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

**SUMMARY:** This proposed rule would establish quotas, opening dates, and retention limits for the 2018 fishing season for the Atlantic commercial shark fisheries. Quotas would be adjusted as required or allowable based on any over- and/or underharvests experienced during 2017 and previous fishing seasons. In addition, NMFS proposes season opening dates and commercial retention limits based on adaptive management measures to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. The proposed measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

**DATES:** Written comments must be received by September 21, 2017.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2017-0069, by any 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-2017-0069](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0069), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Margo Schulze-Haugen, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

*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](http://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).

Copies of this proposed rule and supporting documents are available from the HMS Management Division Web site at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/) or by contacting Guý DuBeck by phone at 301-427-8503.

**FOR FURTHER INFORMATION CONTACT:** Guý DuBeck or Karyl Brewster-Geisz at 301-427-8503.

**SUPPLEMENTARY INFORMATION:**

### Background

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. For the Atlantic commercial shark fisheries, the 2006 Consolidated HMS FMP and its amendments established, among other things, commercial shark retention limits, commercial quotas for species and management groups, accounting measures for under- and overharvests for the shark fisheries, and adaptive management measures such as flexible opening dates for the fishing season and inseason adjustments to shark trip limits, which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

#### 2018 Proposed Quotas

This proposed rule would adjust the quota levels for the different shark stocks and management groups for the 2018 Atlantic commercial shark fishing season based on over- and underharvests that occurred during 2017 and previous fishing seasons, consistent with existing regulations at 50 CFR 635.27(b). Over- and underharvests are accounted for in the same region, sub-region, and/or fishery in which they occurred the following year, except that large overharvests may be spread over a number of subsequent fishing years up to a maximum of 5 years. Shark stocks or management groups that contain one or more stocks that are overfished, have overfishing occurring, or have an unknown status, will not have underharvest carried over in the following year. Stocks that are not overfished and have no overfishing occurring may have any underharvest carried over in the following year, up to 50 percent of the base quota.

The quotas in this proposed rule are based on dealer reports received as of July 14, 2017. In the final rule, NMFS will adjust the quotas as needed based on dealer reports received as of a date in mid-October 2017. Thus, all of the 2018 proposed quotas for the respective stocks and management groups will be subject to further adjustment after NMFS considers the dealer reports through mid-October. All dealer reports that are received after the October date will be used to adjust the 2019 quotas, as appropriate.