



A Rule by the National Oceanic and Atmospheric Administration on February 6, 2020

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendments 50A-F, Final Rule, 85 Fed. Reg. 6819, 6822 (Response to Comment 5).

“Comment 5: It is unclear how NMFS will assess whether the state ACLs and the overfishing limit have been exceeded because each state’s ACL was calculated using MRIP-based landings, but each state is monitoring its landings using its own reporting system, and none of the state reporting systems are directly comparable to the ACL. Therefore, NMFS should implement state ACLs that are calibrated to each state’s data collection program or reduce the states’ ACLs by a buffer that accounts for uncertainty in the different programs. If NMFS fails to address this common currency issue before implementation of this final rule, then Amendments 50A–F and the final rule would be inconsistent with National Standard 1 regarding preventing overfishing while achieving optimum yield, and National Standard 2 regarding management measures being based upon the best scientific information available. Amendments 50A–F and final rule would also be inconsistent with several other provisions of the Magnuson-Stevens Act, such as the requirements to establish ACLs and AMs, have separate quotas for the commercial and recreational sectors, rebuild overfished stocks, and fairly and equitably allocate recovery benefits.

“Response: NMFS agrees that the state ACLs should be calibrated to each state’s reporting system. The NMFS Office of Science & Technology is working with the Gulf states to develop a peer-reviewed calibration that is expected to be available in the spring of 2020. When the calibration is available, NMFS intends to apply it to the established state ACLs and implement catch levels in the appropriate state currencies through appropriate rulemaking. When implemented, each state’s landings will be compared to its revised ACL to determine if there was an overage. As noted previously, this rule requires that each state payback any overage in a fishing year during the following fishing year. Because the rule adjusting the state ACLs may not be complete until late 2020, NMFS intends to inform each state of any anticipated change in its ACL as soon as possible to allow the states to set or modify their management measures, as appropriate. This will help ensure that the private angling ACL is not exceeded and overfishing of the red snapper stock does not occur in 2020. Implementing the calibrated ACLs in 2020 will also help ensure that this final rule is consistent the Magnuson-Stevens Act.”