

RED GROUPEL

Review & Discussion
Update No. 1 - September 19, 2005



Florida Fish and Wildlife Conservation Commission
Division of Marine Fisheries Management
Fish and Wildlife Research Institute

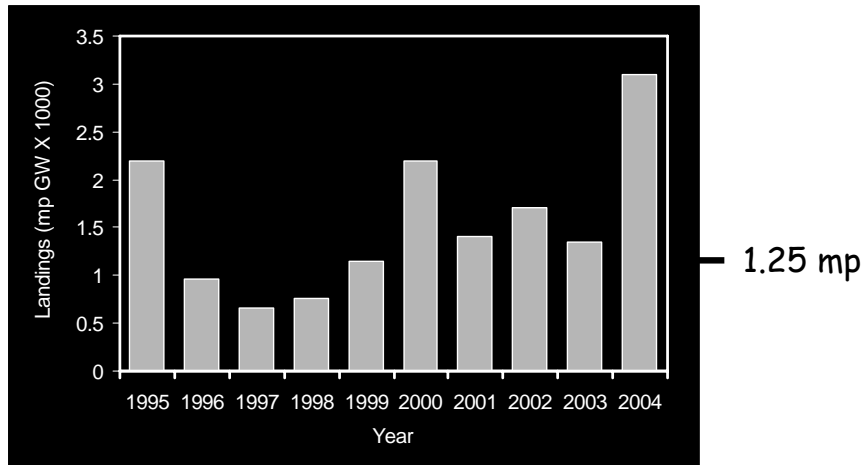
This document provides a review and discussion of the National Marine Fisheries Service (NMFS) interim rule to reduce the recreational harvest of red grouper and other shallow-water grouper species. This federal rule became effective on August 9th, 2005.

SECRETARIAL AMENDMENT 1

- Implemented July 2004
- Reduced red grouper recreational bag limit to two fish
- Established red grouper rebuilding plan
 - 6.56 mp TAC during 2003-2005
 - 5.31 mp commercial quota
 - 1.25 mp recreational target catch level
- Reduced commercial quotas for shallow- and deep-water grouper

Secretarial Amendment 1 to the federal Reef Fish Fishery Management Plan was implemented in July of 2004. The purpose of the Amendment is to establish biological reference points and stock status determination criteria for the red grouper stock in U.S. waters of the Gulf of Mexico pursuant with the requirements of the Magnuson-Stevens Act. This Amendment established a ten-year red grouper rebuilding plan with three-year intervals mile posts. During the first three-year interval, the annual biological catch (ABC) was set at 6.56 million lbs (MP) gutted weight (GW), and a landings allocation between the commercial and recreational fisheries based on historical landings (1999-2001) was established. The commercial sector's allocation was set at 5.31 MP GW and the recreational sector's at 1.25 MP GW. Additionally, the daily red grouper recreational bag limit was set at two fish out of a five-grouper aggregate bag limit. The commercial fishery is closed immediately upon reaching its landings allocation. However, because recreational landings cannot be determined as quickly or precisely as commercial landings, regulations imposed are designed to meet the target allocation. Any changes imposed on the recreational sector to ensure its landings remain within its prescribed allocation must be implemented after-the-fact. In 2004, the commercial shallow water grouper fishery was closed on November 15. The deepwater grouper quota had been closed in July 2004. The landings quotas for the commercial shallow-water and deep-water grouper fisheries were also reduced in 2004.

RECREATIONAL LANDINGS



2003 = 1.35 MP GW
2004 = 3.10 MP GW

Recreational grouper landings in 2004 were 3.10 MP GW, which is 1.85 MP GW over the assigned allocation (1.25 MP GW), or 159% over the recreational fishery's portion of the ABC. Recreational grouper landings are estimated by the Marine Recreational Fisheries Statistics Survey (MRFSS). Though the landings estimate for 2004 were much higher than previous years, state and federal scientists have reviewed the data and have found nothing in either the collection process or analysis that indicate this estimate is erroneous.

NMFS INTERIM RULE

Effective August 9, 2005

- Reduced red grouper bag limit to one fish
- Reduced aggregate bag limit to three grouper
- Closure of all grouper species to recreational harvest November 1 to December 31 (2005)
- NMFS requests FWC adopt consistent Rule

On August 9, 2005, NMFS implemented an interim rule to ensure the recreational red grouper fishery remained within its allocation during 2005 and the stock re-building schedule stayed on track. This rule reduced the red grouper bag limit in federal waters from two fish to one fish. As a precaution, so that this measure did not cause a shift in fishing effort toward other grouper species, particularly gags, the rule also reduced the aggregate grouper bag limit in federal waters from five fish to three fish. Finally, the rule prohibits the recreational harvest of all grouper species from November 1 through December 31. This interim rule will be in effect for 180 days and could be extended for an additional 180 days. NMFS has requested that the FWC adopt a consistent rule in the state waters off of Florida.

COMMERCIAL REGULATIONS?

- Commercial regulations not modified because landings were less than quota during 2003 and 2004
- Quota closures in 2004
 - Deep-water grouper: July 15
 - Shallow-water grouper: November 15
- Trip limits implemented in March 2005 through emergency rule

The interim rule did not address the commercial red grouper fishery because commercial landings did not exceed their quota in either 2003 or 2004. As discussed previously, the commercial fishery is under specified quotas in which fishing is prohibited for grouper once the quotas are met. For instance, in 2004 the commercial deep-water grouper fishery was closed on July 15th and the shallow-water grouper fishery (including red grouper) was closed on November 15th after the established quotas were met. These closures led to a NMFS emergency rule being implemented in March 2005, which established a commercial trip limit system for shallow-water grouper, which remains in effect for 180 days. The deep-water grouper commercial fishery was closed in 2005 on June 23rd. Long-term regulations for both the commercial and recreational fisheries are currently under review by the Gulf of Mexico Fishery Management Council (GMFMC).

FWC's ROLE IN SHALLOW-WATER GROUPER MANAGEMENT

- Majority of red and gag grouper landings are taken from waters off of Florida Gulf coast
 - Red grouper (93% recreational; 96% commercial)
 - 88% of recreational landings from federal waters
 - Gag grouper (74% recreational; 84% commercial)
 - 74% of recreational landings from federal waters
- FWC works closely with NMFS & Gulf Council
- Gulf of Mexico Fishery Management Council (17 seats):
 - Five state Directors (or designees)
 - Five obligatory members (one per state)
 - Six at-large members (Florida has two)
 - One NMFS Regional Director
 - Advisory Panels, Scientific and Statistical Committees, Stock Assessment Panels
 - Florida dominates Spiny Lobster and Stone Crab boards

The largest proportion of red and gag grouper landings are caught in waters off the gulf coast of Florida. Greater than 90% of all red grouper landed in the Gulf are harvested from state or federal waters off of Florida (93% of recreational and 96% of commercial landings). Eighty-eight percent of the recreationally-harvested red grouper are caught in federal waters off of west Florida. Similarly, 74% of gag grouper recreational landings and 84% of gag commercial landings are harvested from waters off of west Florida. As with red grouper, the largest majority of recreationally-landed gag grouper (74%) are caught in federal waters off west Florida.

For all federally-managed finfish and invertebrate species that occur in abundance in Florida, state fishery managers and research staff work closely with their federal counterparts at NMFS to establish regulations. For example, Fish and Wildlife Research Institute (FWRI) biologists serve lead roles in the federal stock assessment analysis and modeling for species such as spiny lobster, hogfish, and yellowtail snapper.

Florida holds four of the 17 seats on the GMFMC. There are other avenues for Florida to have representation and influence in federally-managed fisheries. Through participation on Advisory Panels, Scientific and Statistical Committees and Stock Assessment Panels, members of the public and state fishery experts have the ability and potential to affect Council decisions. The Advisory Panels are largely composed of fishing interest groups and several, such as the spiny lobster and stone crab advisory panels, are dominated by Florida fishers. The Scientific and Statistical Committees are comprised of Council members and the majority on the spiny lobster and stone crab committees are Florida representatives.

FWC'S POSITION ON THE NMFS INTERIM RULE

- Concur no technical errors evident in MRFSS data
- Commissioners initially favored size limit increase
- Closure would cause economic hardship
- Insufficient time to measure effectiveness of 2004 bag limit reduction
- Not clear that reduction is biologically necessary
- **Agreed to lower red grouper bag limit only if NMFS took the same action**
- **FWC may consider other options at September 2005 Meeting**

At the June 2005 meeting, the Commission entertained a lengthy discussion on short-term management of red grouper, which included a presentation by NMFS staff. FWC staff concurred with NMFS assessments that there are no apparent technical flaws in the MRFSS data which led to the conclusion that red grouper exceeded the established ABC in 2004. The Commission originally favored an increase in the size limit of red grouper to reduce harvest and overfishing, which was also the favored alternative by the angling community. However, at the recommendation of NMFS and FWC staff, that option was not enacted due to concerns about release mortality. The Commissioners and FWC staff did not support a closure of red grouper harvest of any length, citing concerns of undue economic hardship to the recreational and charter industry. Since the red grouper bag limit was lowered to two fish in July of 2004, the Commission believes insufficient time has elapsed to measure the effectiveness of that regulation. Furthermore, the Commission questioned the assessment that an increase in harvest implies a stressed or overfished grouper population, when it could imply that there is an increased abundance in the harvestable red grouper population.

The Commission agreed to lower the red grouper bag limit to one fish only if NMFS took similar action, and this would have been accomplished through the agency federal consistency process. However, since NMFS did not take this action, no action was taken by FWC.

Considerations of Inconsistent Rules in State & Federal Waters

- Law enforcement considerations
- Possible misreporting of fishery-dependent data
- May slow NMFS stock rebuilding schedule

There are several considerations regarding inconsistent red grouper regulations in state and federal waters. First, as is the case in all inconsistent fisheries regulations, there will be law enforcement considerations. This situation will also lead to possible misreporting of fishery-dependent data, e.g. MRFSS. Finally, different bag limits and season closure versus no closure will affect the red grouper stock-rebuilding targets established by NMFS.

LAW ENFORCEMENT CONSIDERATIONS

- FWC Law Enforcement enforces both state and federal regulations
- Inconsistent regulations complicate enforcement
 - Dock-side enforcement ineffective
- Anglers will have to know exactly where actively fishing
 - Possessing state-caught grouper in federal waters during closure would constitute violation

The Division of Law Enforcement (DLE) is authorized to enforce federal regulations. They are the primary enforcement agency at dock-side checks for all state and federal regulations. In addition, they play an integral role in at-sea enforcement in both state and federal waters, working cooperatively with the U.S. Coast Guard and NMFS enforcement agents. Effective enforcement of grouper regulations that differ between state and federal waters would be very difficult unless potential violations are observed at sea. In order to comply with differing state and federal grouper regulations, anglers, divers and charter boat captains will have to know exactly where they are fishing and what the regulations are for each jurisdictional waterway.

The complications of enforcing two sets of regulations can best be illustrated by specific examples. Anglers who catch the legal bag limit of grouper in state waters and then transit with those fish to federal waters to fish for another species would be in violation of federal rules if their catch exceeds either the one red grouper or three grouper aggregate bag limits. Also, the possession of any grouper in federal waters during the two-month closure would constitute a violation, but if checked at the dock Law Enforcement would be unable to verify if the grouper were landed in state or federal waters.

FWC ALTERNATIVES

➤ **OPTION 1 - Status Quo (No Action)**

- Grouper in Florida state waters will remain:
 - Two red grouper bag limit
 - Five grouper aggregate bag limit
 - No end-of-season closure

➤ **OPTION 2 - Modified Consistency Rule**

- Proceed with rule to reduce red grouper bag limit to one fish

There are essentially four alternatives for the Commission to consider at this time regarding short-term management strategies for red grouper, in response to the NMFS interim rule.

Option 1 – The Commission could take no action which will maintain state regulations for red grouper: two red grouper individual bag limit, five grouper aggregate bag limit, and no closed period for state waters. Through the first four months (two waves) of 2005, preliminary data for landings were down 50% from 2004 and 6.3% from the average of 2000-04.

Option 2 – The Commission could proceed with a rule to reduce the red grouper bag limit to one fish, providing partial consistency with the interim federal regulations. Anglers would still be allowed to keep up to five groupers and fish during November and December in state waters. The estimated reduction in harvest for this management strategy is 21.9% for the entire year and 14.8% for 2005 (July – December).

ALTERNATIVES cont'd

- **OPTION 3 - Conform with NMFS rule**
 - Implement federal consistency rule to be effective immediately or at specified date

- **OPTION 4 - Different FWC rule**
 - Proceed with rule-making considering all management strategies
 - Direct staff to formulate draft rule for November meeting

Option 3 – The Commission could conform with the NMFS interim rule for red grouper by adopting a federal consistency rule, which could be made effective in 20 days or at another specified date.

Option 4 – The Commission could proceed with the regular rule-making process with the intent to adopt regulations for red grouper that differ from the NMFS interim rule. Staff would be prepared to formulate a draft rule for the November meeting which would include input from the public and stakeholders.

Option 4 would allow the Commission to review and consider long-term regulations currently being considered by the Gulf of Mexico Fishery Management Council.



Gulf of Mexico Fishery Management Council

Recreational Red Grouper Harvest Limits
August 8-12, 2005 Meeting Results

- Alternative 1 - Status quo
- Alternative 2 - one/person/trip or three/vessel whichever is less
- Alternative 3 - 22 inches TL
- Alternative 4 - one/person/trip; closed August, or April-May
- Alternative 5 - one/person/trip; closed Feb 15-Mar 15
- Alternative 6 - one/person/trip; 21 inches TL
- Alternative 7 - one/person/trip or three/vessel whichever is less; except permitted for-hire vessels: one per two paying passengers

The following are the GMFMC's recreational red grouper harvest limits alternatives developed at the August 8-12, 2005 meeting:

Alternative 1. Status quo. The red grouper minimum size limit remains 20 inches TL and the recreational bag limit remains at two per person per trip and is included as part of the grouper aggregate bag limit.

Alternative 2. The red grouper recreational bag limit within the aggregate grouper bag limit is reduced to one per person per trip or three per vessel whichever is less.

Alternative 3. The red grouper recreational size limit is increased to 22 inches TL.

Alternative 4. The red grouper recreational bag limit within the aggregate grouper bag limit is reduced to one per person per trip and a closed season for all groupers is established during:

A. August, or B. April through May.

Preferred Alternative 5. The red grouper recreational bag limit within the aggregate grouper bag limit is reduced to one per person per trip and a closed season for red, gag and black grouper is established during February 15 through March 15 (selected by GMFMC as its preferred alternative).

Alternative 6. The red grouper recreational bag limit within the aggregate grouper bag limit is reduced to one per person per trip and the recreational size limit is increased to 21 inches TL.

Alternative 7. The red grouper recreational bag limit within the aggregate grouper bag limit is reduced to one per person per trip or three per vessel whichever is less except for Reef Fish permitted for-hire vessels with Coast Guard COI permits which will have a vessel limit of one red grouper per two paying passengers.



Gulf of Mexico Fishery Management Council

August 8-12, 2005 Meeting Results

Recreational For-Hire Captain and Crew Bag Limits

- Alternative 1 - Status quo, may retain same as passengers
- Alternative 2 - May not retain any grouper

Recreational For-Hire Captain and Crew Bag Limits

- Alternative 1 - Status quo, aggregate limit = five fish
- Alternative 2 - Aggregate limit = four fish
- Alternative 3 - Aggregate limit = three fish
- Alternative 4 - Aggregate limit = two fish

The following are further GMFMC recreational red grouper harvest limit alternatives developed at the GMFMC's August meeting:

Recreational For-Hire Captain and Crew Bag Limits

Alternative 1. Status quo. The captain and crew of a for-hire vessel may retain the same number of fish allowed for each passenger.

Alternative 2. The captain and crew of a for-hire vessel may not retain any grouper when under charter

(A preferred alternative was not selected)

And Recreational Aggregate Grouper Bag Limit

Alternative 1. Status quo. The grouper aggregate bag limit will be five fish.

Alternative 2. The grouper aggregate bag limit will be four fish.

Preferred Alternative 3. The grouper aggregate bag limit will be three fish (selected by GMFMC as its preferred alternative).

Alternative 4. The grouper aggregate bag limit will be two fish .

The GMFMC will hold a public workshop to receive testimony on these proposed alternatives on September 7, 2005, in Tampa. The GMFMC will meet again September 12-16, 2005, in New Orleans to vote on these alternatives.

STAFF RECOMMENDATION

- Staff recommends reducing the red grouper bag limit from two fish to one fish per person per day and proceed to final public hearing in December

