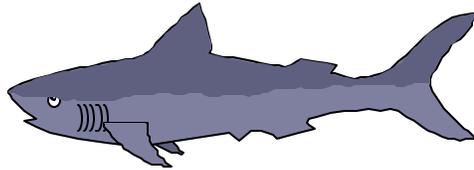


# FISH



# TALES

## Consideration of Red Grouper Rebuilding Plan Delayed Again

In a continuing saga, action to establish a rebuilding plan for red grouper has been delayed from March to July 2002. Red grouper, identified as overfished in October 2000, has still not received any protection from the federal government. The Gulf of Mexico Fishery Management Council (Gulf Council) missed a legally required one year deadline to submit a rebuilding plan for this spe-

cies which now places responsibility for this plan under the purview of the National Marine Fisheries Service (NMFS) with a required completion date of July 2002. Based on concerns over compliance with the National Environmental Policy Act (NEPA), the NMFS does not believe the plan can be completed any earlier than the legal deadline of July.

Red grouper was initially

identified as overfished in the fall of 1999 by the NMFS and the Gulf Council's Reef Fish Stock Assessment Panel (RFSAP), a group of scientists from around the Gulf that advises the Gulf Council on scientific matters. This identification was challenged by the Gulf Council's Scientific and Statistical Committee (SSC), a review panel composed of biologists, economists,

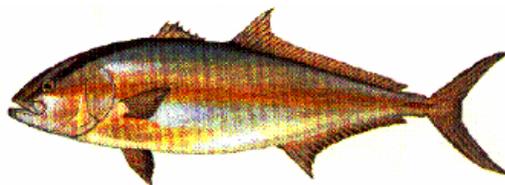
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Inside this issue:	
Action to Assess by-catch in the Gulf way behind schedule, runs afoul of recent legal decisions	2
Gulf Council Wont Recognize Vermilion Snapper, gray triggerfish as overfished	3

## Gulf Council Misses Deadline to Submit Plan to Rebuild Overfished Greater Amberjack

For the second time in less than six months, the Gulf of Mexico Fishery Management Council (Gulf Council) missed a legally required deadline to submit a rebuilding plan for an overexploited fish population in the Gulf of Mexico. Greater amberjack, was identified as "overfished", meaning below a level scientists consider healthy, on Feb-

ruary 9, 2001. Under the Sustainable Fisheries Act of 1996, any species identified as overfished trig-



*Greater Amberjack. Courtesy of the FWCC.*

gers a one year deadline for the Gulf Council to submit a rebuilding plan

to the National Marine Fisheries Service (NMFS). If that deadline is missed, the NMFS has nine months to complete a rebuilding plan.

Greater amberjack, a member of the Gulf of Mexico reef fish fishery, are found gulf wide swimming above reefs and other hard bottom structures. Catches of greater amberjack aver-

Special points of interest:	
<ul style="list-style-type: none"> <li>• Red Grouper Must Wait Until July 2002 for a rebuilding Plan</li> <li>• Gulf Council misses rebuilding plan deadlines for red grouper, greater amberjack</li> <li>• Recent legal decisions in New England and the Pacific illustrate lack of compliance with bycatch assessment in the Gulf region</li> <li>• Gulf Council rejects findings of its scientist, will not take action to protect and restore vermilion snapper and gray triggerfish in the Gulf</li> </ul>	

## Recent Legal Rulings Highlight Failure of the Gulf Council to Assess Bycatch in Our Region

Two recent court cases involving fisheries management in the Pacific and New England highlight a national problem with local implications. The problem is “bycatch”, the inadvertent killing of marine life in the process of catching a target species. Recognizing bycatch as a problem plaguing our fisheries and the marine ecosystem, Congress spelled out specific requirements for assessing and minimizing this waste across the nation. Unfortunately, adherence to this law is almost nonexistence as the courts have found in the Pacific and New England cases.

The Sustainable Fisheries Act of 1996 (SFA), amendments made to the Magnuson Stevens Fishery Conservation and Management Act, spelled out new obligations for federal fishery managers with regards to bycatch. Under the SFA the National Marine Fisheries Service (NMFS) and the Gulf of Mexico Fishery Management Council (Gulf Council) must (1) develop and implement a standardized bycatch reporting methodology to assess the amount and type of bycatch in each fishery and (2) minimize that bycatch to the extent practicable. If bycatch could not be minimized than the mortality of such bycatch must be minimized. Thus, Congress established a two tier system to first, collect information on bycatch if it is not available and then reduce it to the extent practicable. These provisions were to be completed by October 1998.

Five years later, little to no work has been done nationwide to collect the bycatch information envisioned by the SFA. Two recent cases found that the NMFS failed to assess bycatch properly in both the Pacific and New England areas. First, in August 2001, the U.S. District Court in Northern California found that despite SFA obliga-

<b>What We Know About “Bycatch” in the Gulf of Mexico</b>		
<i>Target Species</i>	<i>Primary Fishing Gears</i>	<i>Bycatch Problems</i>
Red Snapper	Rod and reel, longline	50% of fish caught by the recreational sector are discarded; other species of reef fish also captured
Red Grouper	Rod and reel, longline, fish traps	Over 80% of fish caught by recreational sector are discarded; 35% of longline catch is bycatch, 18% of this thrown back dead
Gag Grouper	Rod and reel, longline	50% of fish caught by the recreational sector are discarded
Shrimp	Otter trawl, skimmers	Shrimp trawls take roughly 4 pounds of marine life for every 1 pound of shrimp; juvenile overfished red snapper taken

tions on the NMFS to establish a standardized reporting methodology to assess bycatch, the NMFS had done nothing to acquire accurate bycatch data on an overfished species, thereby jeopardizing its recovery.

The second case decided in December 2001 in the U.S. District Court in Washington, D.C. found that the NMFS did not (1) review and critique existing bycatch data collection methods, (2) improve these data collection measures if necessary, and (3) adopt any new data collection measures to address known deficiencies. Accordingly, the court found that the NMFS violated this provision of the law.

The same problems found in these two cases exist in the Gulf of Mexico, perhaps to an even larger degree. The Gulf Council and the NMFS have taken no serious steps to assess bycatch in our region. Those steps that have been taken were found to be insufficient according to the case in New England.

Considering the bycatch problems in the Gulf and their impact on rebuilding

fish populations, its clear that bycatch must be assessed for all Gulf fisheries. The red snapper and shrimp fishery provide perfect examples of why bycatch reporting is so important. The Gulf shrimp fishery takes about four pounds of bycatch for every pound of shrimp caught. Some of these species taken as bycatch are the subject of federally mandated rebuilding plans. Despite this, fishery managers best estimate of shrimp boats fishing in Gulf waters is between 3,000 and 7,000 vessels, making it extremely difficult to quantify bycatch. Furthermore, the recreational red snapper fishery discards about one fish for every fish kept. Considering that twenty percent of these discarded fish are assumed to be dead, bycatch is a major problem.

The table above provides a very brief look at what we do know about bycatch. Unfortunately, for the majority of Gulf fisheries little concrete data exists on bycatch, making compliance with the SFA critical if we are to manage the Gulf’s fish species properly.

## Gulf Council Passes on Needed Conservation Measures for Vermilion Snapper, Grey Triggerfish

Ignoring advice from its scientists, the Gulf of Mexico Fishery Management Council voted to take no action on recently identified overfished vermilion snapper and gray triggerfish. This latest inaction sets the stage for a final ruling from the National Marine Fisheries Service (NMFS) as to whether they will formally recognize these two species as overfished, triggering the requirement for a rebuilding plan to return these species to a healthy level.

Identified as “approaching an overfished” over the past three years (meaning that vermilion snapper will become overfished within two years if no corrective management action is taken), vermilion snapper have been the subject of Gulf Council mismanagement for almost a decade. Based on a historical review of the reports of the Gulf Council’s Reef Fish Stock Assessment Panel (RFSAP), a group of scientists who advises the Gulf Council on the health of fish species, the Gulf Council has consistently ignored the advice of its scientists since 1991. The only action taken by the Gulf Council in all of these years was the implementation of a minimum size limit and inclusion in an aggregate reef fish

bag limit in 1997.

From 1998-2000, despite the requirements of federal law and explicit instruction by the NMFS, the Gulf Council took no action to address the “approaching and overfished condition” declared by the NMFS in its annual report to Congress on the status of our fisheries. Now, three years later, the Gulf Council does not believe that vermilion snapper is overfished and will not formulate any regulations to rectify this situation.

The GRN and a number of member groups recently requested that the NMFS officially designate vermilion snapper as overfished in the Gulf. This designation will require the Gulf Council to begin immediate work on a plan to return this species to a healthy level. We hope to have a final ruling from the NMFS in the near future.

Gray triggerfish is in a similar

situation as vermilion snapper. The Gulf Council decided that, even though the best scientific information available shows that this species is overfished, it would take no action to formulate a rebuilding plan. The Gulf Council believes that the data available is not complete enough to be considered reliable.

While the GRN recognizes that the current assessment of the health of gray triggerfish is the first ever attempt, it was the Gulf Council that requested that this assessment be completed based on concerns about this species primarily in the eastern Gulf of Mexico. Accordingly, the results of the assessment that this species is overfished, is not out of line with available information. The GRN will be working with our member groups to determine next steps on this important issue.



*Vermilion snapper. Courtesy of the SAFMC.*

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## Greater Amberjack....

*(Continued from page 1)*

aged roughly 6 million pounds per year from 1987-1994 but dropped dramatically to an average of 2 million pounds per year from 1995-2000. Landings occur primarily along the west coast of Florida to about the Mississippi river.

A scientific assessment of the health of this species found population size

fifty percent below a level scientists consider healthy. Accordingly, pursuant to the Sustainable Fisheries Act of 1996 (SFA), the NMFS officially declared the species “overfished” on February 9, 2001, triggering the one year deadline for the Gulf Council to submit a rebuilding plan. Since this date was missed the NMFS is now responsible for development of the plan. This issued will be discussed

at the upcoming Gulf Council hearing in March to determine next steps.

The GRN will be monitoring this situation to ensure the law is followed properly and that meaningful action is taken to rebuild the greater amberjack population in the Gulf of Mexico. Stay tuned for details on how you can help.



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"Working to Protect and Preserve the Gulf of Mexico"

## Red Grouper.....

*(Continued from page 1)*  
attorneys, etc., based on questions over the use of a new method to determine the health of red grouper. Based on their concerns, the Gulf Council requested that the NMFS address the SSC's contentions and report back to the RFSAP. The NMFS completed this task and had the assessment peer reviewed by independent experts. After the independent experts agreed with the NMFS about the status of red grouper, the GRN and our member groups the Ocean Conservancy, Environmental Defense, and Reefkeeper International requested an immediate finding of an "overfished" status for this species to prevent any further delays in formulating a rebuilding plan. Accordingly, red grouper was formally declared overfished by the NMFS in October of 2000.

After recognizing the shortcomings

of single species management and the condition of groupers in the Gulf, the Gulf Council moved to begin preparation of an amendment to the Reef Fish Fishery Management Plan to comprehensively manage all groupers in the Gulf of Mexico in the summer of 1999. When red grouper was declared "overfished", the Gulf Council decided to utilize this plan amendment to also prepare a red grouper rebuilding plan. In addition based on a lawsuit filed by several GRN member groups challenging compliance with the NEPA, the Gulf Council decided to utilize this plan amendment to complete a comprehensive environmental impact assessment for reef fish habitat in the Gulf of Mexico. Recognizing that this habitat assessment would require much longer than the time necessary to submit the red grouper rebuilding plan, the Gulf Council jettisoned the assessment and many other provisions of the reef fish amendment, including protection for deepwater groupers (see last issue of *Fish Tales* for more details).

By November of 2001, the Gulf Council had missed the one year SFA deadline for submission of a rebuilding plan, placing responsibility for its completion on the NMFS. The NMFS determined that an environmental impact statement (EIS) is required under NEPA for the red grouper rebuilding plan. The NMFS feels the EIS cannot be completed before July 2002, which is the end of the nine month time period they have under the law to complete a rebuilding plan.

Accordingly, over two years after it was initially identified as overfished, red grouper has not received any in the water protection. In fact, catches in the last three years have been much higher than the RFSAP recommended to help rebuild this species. Fortunately, the end of this saga is nearing. Our goal now is to ensure a good plan is produced. Stay tuned this summer on how you can help protect red groupers.