

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 090225239-9311-01]

RIN 0648-AX73

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 30B Supplement

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to resolve an error contained in the proposed rule to implement Amendment 30B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council) that published in the **Federal Register** on November 18, 2008. The error would have implemented a restriction for the Edges seasonal-area closure that was not intended. This proposed rule would establish the Edges seasonal-area closure consistent with the intent of Amendment 30B.

DATES: Written comments must be received on or before May 4, 2009.

ADDRESSES: You may submit comments on the proposed rule, identified by "0648-AX73" by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>.
- Mail: Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2008-0203" in the keyword search, then select "Send a Comment or Submission." NMFS will accept anonymous comments (enter N/A in the

required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 30B, which includes an environmental impact statement, an initial regulatory flexibility analysis (IRFA), and a regulatory impact review may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813-348-1630; fax 813-348-1711; e-mail gulfcouncil@gulfcouncil.org; or may be downloaded from the Council's website at <http://www.gulfcouncil.org/>.

FOR FURTHER INFORMATION CONTACT: Peter Hood, 727-824-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

NMFS published a proposed rule to implement Amendment 30B on November 18, 2008, and requested public comment (73 FR 68390). That proposed rule contained an error that would have implemented a restriction applicable to the Edges seasonal-area closure that was not intended and was not supported by Amendment 30B. This proposed rule would correct that error and re-propose the provisions applicable to the Edges seasonal-area closure consistent with the intent of Amendment 30B. The Edges seasonal-area closure would prohibit fishing for any species under Council jurisdiction from January 1 through April 30 each year. This proposed closure would provide additional protection for grouper spawning aggregations, benefit other reef fish undergoing overfishing, reduce poaching, and facilitate enforcement. Additional rationale for the measures contained in Amendment 30B was correctly stated in the preamble to the original proposed rule and is not repeated here.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the AA has determined that this proposed rule is consistent with Amendment 30B, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a Draft Environmental Impact Statement (DEIS) for Amendment 30B. A notice of availability for the DEIS was published on August 8, 2008 (73 FR 46269). A notice of availability for the final environmental impact statement was published on October 24, 2008 (73 FR 63470).

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for the original proposed rule for Amendment 30B. Of the four alternatives considered for seasonal closure in the Edges, the proposed action provides the best balance between short-term adverse economic effects on small entities and adequate protection of gag. Two alternatives would create more adverse economic effects by imposing longer fishing closures than the proposed action while one alternative would result in less adverse economic effects but would open up the area to fishing during half of the peak spawning season for gag. A complete summary of the IRFA is provided in the proposed rule published on November 18, 2008 (73 FR 68390), and is not repeated here. A copy of the full analysis is available from the Council (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 13, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.34, the introductory heading of paragraph (k), paragraphs (k)(1)(iii), (k)(2), (k)(3), and the first sentence of paragraph (k)(5) are revised to read as follows:

* * * * *

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(k) *Closure provisions applicable to the Madison and Swanson sites, Steamboat Lumps, and the Edges.*

(1) * * *

(iii) The Edges is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°51'	85°16'
B	28°51'	85°04'
C	28°14'	84°42'
D	28°14'	84°54'
A	28°51'	85°16'

(2) Within the Madison and Swanson sites and Steamboat Lumps, possession of Gulf reef fish is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified in paragraph (k)(4) of this section.

(3) Within the Madison and Swanson sites and Steamboat Lumps during November through April, and within the Edges during January through April, all fishing is prohibited, and possession of any fish species is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as

specified in paragraph (k)(4) of this section. The provisions of this paragraph, (k)(3), do not apply to highly migratory species.

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(5) Within the Madison and Swanson sites and Steamboat Lumps, during May through October, surface trolling is the only allowable fishing activity. * * *

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[FR Doc. E9-8902 Filed 4-16-09; 8:45 am]

BILLING CODE 3510-22-S