

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R07-OAR-2010-0176; FRL-9248-5]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to Missouri's State Implementation Plan (SIP) and Operating Permits Program. EPA is proposing to approve the rescission of initial compliance dates in the Missouri SIP. These requirements were established more than thirty years ago and are obsolete. EPA is also proposing to approve revisions to the Operating Permits Program to change the reporting threshold for small sources and remove references to the requirement to annually set the emission fee. Approval of these revisions will ensure consistency between the State and the Federally-approved rules.

DATES: Comments on this proposed action must be received in writing by February 23, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2010-0176, by mail to Chrissy Wolfersberger, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chrissy Wolfersberger at (913) 551-7864 or by e-mail at Wolfersberger.chris@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the State's

SIP and Operating Permits Program revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: December 27, 2010.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2011-239 Filed 1-21-11; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110103005-1005-01]

RIN 0648-BA48

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Greater Amberjack Management Measures

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 that would implement a regulatory amendment 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). This proposed rule would establish a June through July seasonal closure of the recreational sector for greater amberjack in or from the Gulf of Mexico (Gulf) exclusive economic zone (EEZ). The intended effect of the proposed rule is to maintain the rebuilding plan targets for the overfished greater amberjack resource, reduce the likelihood of exceeding the recreational quota for greater amberjack, minimize in-season quota closures for greater amberjack during peak recreational fishing months, and increase social and economic benefits for Gulf recreational fishers by maximizing the number of fishing days available to the recreation sector. This rule also proposes revisions to the codified text to clarify the definition of a venting device used to deflate the abdominal cavity of a Gulf reef fish.

DATES: Written comments must be received on or before February 23, 2011.

ADDRESSES: You may submit comments on the proposed rule identified by 0648-BA48 by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Rich Malinowski, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: No comments will be posted for public viewing until after the comment period has closed. 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-2010-0281" in the keyword search, then check the box labeled "Select to find documents accepting comments or submissions", then select "Send a comment or submission". NMFS will accept anonymous comments (enter N/A in the required

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

Comments received through means not specified in this rule will not be considered.

Copies of the regulatory amendment, which includes an environmental assessment (EA), 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 Web site at <http://www.gulfcouncil.org/>.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, 727-824-5305; fax: 727-824-5308.

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

Greater amberjack is currently overfished and undergoing overfishing and has been under a rebuilding plan since 2003. In 2006, a new stock assessment was completed and determined the stock was not recovering at the rate previously projected. The Council initiated a stock assessment update in 2010 with the Scientific and Statistical Committee (SSC) review occurring in January 2011.

During the February 2010 Council meeting, the Council requested that the greater amberjack recreational fishing season be reviewed and analyzed by Council staff and NMFS to potentially establish a recreational season closure. Currently, the recreational sector is open to harvest all year while the commercial sector has a seasonal closure of March through May each year.

In 2008, Amendment 30A to the FMP was approved for greater amberjack. NMFS issued a final rule on July 3, 2008 (73 FR 38139), to implement Amendment 30A. Amendment 30A established recreational and commercial quotas of 1,368,000 lb (620,514 kg) and 503,000 lb (228,157 kg), respectively. In 2008, the recreational sector remained open throughout the year with an estimated harvest of 88,731 lb (40,248

kg) under the quota. In 2008, the commercial sector harvested an estimated 412,516 lb (187,114 kg) round weight, 82 percent of the available quota.

In 2009, the greater amberjack recreational sector was projected to reach its quota and closed on October 24, 2009, which resulted in an estimated harvest overage of 124,817 lb (56,616 kg) round weight. The 9 percent overage in 2009 by the recreational sector was achieved in 69 fewer fishing days than in 2008. Accountability measures established in Amendment 30A reduced the 2010 recreational quota to 1,243,184 lb (563,899 kg) round weight, which was projected to be met in late August 2010. However, these projections were completed prior to the fishery closures implemented as a result of the Deepwater Horizon MC252 oil spill in the Gulf. Recent projections, completed by NMFS in October of 2010, indicate the 2010 quota for Gulf recreational greater amberjack is unlikely to be exceeded, primarily because of the Deepwater Horizon MC252 oil spill fishery closures and the associated reductions in recreational fishing effort. Final 2010 recreational harvest data will be available in the spring of 2011.

The commercial sector was closed on November 7, 2009 after harvesting an estimated 632,928 lb (287,091 kg), which accounts for a 25.8-percent overage of the 503,000 lb (228,157 kg) commercial quota. The 129,928-lb (58,934-kg) overage was deducted from the 2010 commercial quota resulting in a quota of 373,072 lb (169,223 kg) round weight for the 2010 fishing year, as prescribed in the accountability measures of Amendment 30A.

The greater amberjack rebuilding plan is scheduled to increase the total allowable catch (TAC) or annual catch limit of 2,547,000 lb (1,155,300 kg) round weight for the recreational sector and 938,000 lb (425,470 kg) round weight for the commercial sector in the years 2011-2013. These increases would only take place if the 2010 stock assessment reveals the greater amberjack stock is on schedule to be rebuilt in 2012. Should the 2010 stock assessment reveal that greater amberjack is not rebuilding on target, the quotas would remain at the current levels.

Provisions of This Proposed Rule

This proposed rule would establish a 2-month seasonal closure of the recreational sector for greater amberjack within the Gulf reef fish fishery. Harvest and possession of recreational greater amberjack would be prohibited in or from the Gulf EEZ during the months of June and July each year. In 2009, the

recreational sector demonstrated it has the capacity to exceed the recreational quota, thus requiring an in-season quota closure and prompting the Council to review the recreational fishing season. At its October 2010 meeting, the Council voted to establish a 2-month seasonal closure, from June 1 through July 31, beginning in 2011. This seasonal closure is intended to minimize in-season quota closures for greater amberjack during peak economic fishing months and maximize social and economic benefits for Gulf recreational fishers by maximizing the number of fishing days available to the recreational sector.

This 2-month closure coincides with the open recreational seasons for other managed reef fish species, including red snapper. Dividing the recreational greater amberjack season into two portions of the year that bracket the red snapper season provides recreational fishers the opportunity to fish for at least one of the targeted species year round (provided the recreational quota for greater amberjack is not exceeded). A closed season for Gulf greater amberjack that overlaps with an open season for Gulf red snapper is intended to minimize the social and economic impacts to recreational fishers in the Gulf.

Additional Measure Contained in This Proposed Rule

NMFS implemented a "venting device" gear requirement for the Gulf reef fish fishery through Amendment 27 to the FMP. A final rule implementing this amendment published on January 29, 2008 (73 FR 5117). The venting device requirement became effective on June 1, 2008. The requirement states, "At least one venting tool is required and must be used to deflate the swim bladders of Gulf reef fish to release the fish with minimum damage." NMFS recently became aware that this requirement as well as the definition for "venting device" incorrectly specifies venting the "swim bladders" of fish. Instead, the regulation should require venting the "abdominal cavities" of fish. Venting the swim bladder of a fish could result in the mortality of the fish. However, venting the abdominal cavity of the fish allows the gases in the fish to escape, without causing harm to the fish. Therefore, through this rulemaking, NMFS proposes to revise the definition of "venting device" in § 622.2 and § 622.41 of the regulations, to more accurately characterize the part of the fish's anatomy where venting should occur. The venting tool should be used to vent the "abdominal cavity" of the fish, not the "swim bladder" of the fish.

This is a mere technical correction to appropriately identify the area on the fish to be vented. It in no other way alters the existing regulatory requirements.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the regulatory amendment, 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 an IRFA, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, for this proposed rule. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from the Council (*see ADDRESSES*). A summary of the IRFA follows.

The proposed rule would implement an annual seasonal closure for the recreational sector to the harvest of greater amberjack for the months of June through July in or from the Gulf EEZ. The purpose of this proposed rule is to maintain the rebuilding plan targets for the overfished greater amberjack resource, reduce the likelihood of exceeding the recreational quota for greater amberjack, minimize in-season quota closures for greater amberjack during peak recreational fishing months, and increase social and economic benefits for Gulf recreational fishers by maximizing the number of fishing days available to the recreational sector. The proposed rule also revises the definition of a venting device from one used to deflate the swim bladders of fish to one used to deflate the abdominal cavities of fish. This is a mere technical correction to align the definition of venting to its true intent of reducing mortality when releasing the fish.

The Magnuson-Stevens Act provides the statutory basis for the proposed rule.

This proposed rule would not establish any new reporting, record-keeping, or other compliance requirements. No duplicative, overlapping, or conflicting Federal rules have been identified for this proposed rule.

The proposed rule is expected to directly affect for-hire fishing vessels that harvest greater amberjack in the Gulf. The for-hire sector is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. For-hire vessels are required to have a Gulf reef fish for-hire permit to harvest greater amberjack in the Gulf. The Small Business Administration has established size criteria for all major industry sectors in the U.S. including fish harvesters. A for-hire business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$7.0 million (NAICS code 713990, recreational industries).

In 2009, there were 1,422 unique for-hire vessels that were permitted to operate in the Gulf reef fish fishery. These vessels were distributed as follows: 140 vessels in Alabama, 877 vessels in Florida, 101 vessels in Louisiana, 54 vessels in Mississippi, and 232 vessels in Texas. The for-hire permit does not distinguish between headboats and charter boats, but in 2009, the headboat survey program included 79 headboats. The majority of headboats were located in Florida (43), followed by Texas (22), Alabama (10), and Louisiana (4). It cannot be determined with available data how many of the 1,422 for-hire vessels permitted to operate in the Gulf reef fish fishery harvest greater amberjack, so all permitted for-hire vessels are assumed to comprise the universe of potentially affected vessels. The average charterboat is estimated to earn approximately \$88,000 (2008 dollars) in annual revenues, while the average headboat is estimated to earn approximately \$461,000 (2008 dollars).

Based on these revenue estimates, all for-hire vessels expected to be directly affected by this proposed rule are determined for the purpose of this analysis to be small business entities. Some fleet activity (*i.e.*, multiple vessels owned by a single entity) may exist in the for-hire sector but its extent is unknown, and all vessels are treated as independent entities in this analysis.

All entities expected to be directly affected by the proposed rule are determined for the purpose of this analysis to be small business entities, so no disproportionate effects on small entities relative to large entities are expected because of this action.

The proposed rule would establish a June 1 through July 31 seasonal closure of the recreational greater amberjack

sector of the Gulf reef fish fishery. On the other hand, the no action alternative would likely result in a recreational sector closure commencing on August 27, 2011, as a result of the quota being met or exceeded. Relative to the no action alternative, the proposed rule is expected, for the first year, to result in an increase in profits by \$52,526 for the charterboat sector as a whole, or by \$39 per charterboat. Conversely, the proposed rule is expected, in the first year, to result in a decrease in profits by \$59,832 for the headboat sector as a whole, or by \$757 per headboat. Relative to the average revenues of \$88,000 per charterboat and \$461,000 per headboat, the estimated effects of the proposed rule may be deemed relatively small. Considering the effects on charterboats and headboats as a whole, the proposed rule, in the first year is expected to result in a net decrease in overall for-hire vessel profits of \$7,306. This net amount is deemed small, particularly when spread over all 1,422 for-hire vessels. In addition, it is expected that net profits for both charterboats and headboats would not deteriorate as much as they would under an unplanned quota closure associated with the no action alternative. Based on the resulting net effects on profits, it is concluded that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Four alternatives, including the proposed action, were considered in this amendment. The first alternative to the proposed action is the no action alternative. This alternative resulted in quota closure and overages in 2009, prompting a reduction in the following year's (2010) quota. In April 2010, the recreational sector requested the Council to consider a seasonal closure to minimize the adverse effects of the quota closure. The second alternative to the proposed action would establish a March through May seasonal closure. This alternative is expected to result in larger overall adverse economic effects than the proposed action. While this alternative would result in less adverse economic effects on headboats, the adverse economic effects on charterboats would be substantially larger. The third alternative to the proposed action would establish a May through June seasonal closure. This third alternative has been estimated to result in larger adverse economic effects than the proposed action. Similar to the second alternative to the proposed action, this third alternative would result in less adverse economic effects on headboats but substantially larger

adverse economic effects on charterboats.

The proposed rule to correct the definition of venting device would have no additional economic effects on small entities because this tool is already required to be used, and this correction merely clarifies how it should be used.

List of Subjects in 50 CFR Part 622

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

Dated: January 19, 2011.

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 § 622.2, the definition for “venting device” is revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Venting device means a device intended to deflate the abdominal cavity of a fish to release the fish with minimum damage.

* * * * *

3. In § 622.34, paragraph (o) is added to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(o) *Seasonal closure of the recreational sector for greater amberjack.* The recreational sector for greater amberjack in or from the Gulf EEZ is closed from June 1 through July 31, each year. During the closure, the bag and possession limit for greater amberjack in or from the Gulf EEZ is zero.

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4. In § 622.41, the first sentence of paragraph (m)(3) is revised to read as follows:

622.41 Species Specific Limitations.

* * * * *

(m) * * *

(3) *Venting tool.* At least one venting tool is required and must be used to deflate the abdominal cavities of Gulf reef fish to release the fish with minimum damage. * * *

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[FR Doc. 2011–1370 Filed 1–21–11; 8:45 am]

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