

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R02-RCRA-2013-0144; FRL-9693-3]

#### New York: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** New York State has applied to EPA for final authorization of changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to New York for these changes, with limited exceptions. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the state's changes through a direct final action.

**DATES:** Comments must be received on or before April 10, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R02-RCRA-2013-0144, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Email:* [infurna.michael@epa.gov](mailto:infurna.michael@epa.gov).

- *Fax:* (212) 637-4437, to the

attention of Michael Infurna.

- *Mail:* Michael Infurna, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

- *Hand Delivery or Courier:* Deliver your comments to: Michael Infurna, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

For further information on how to submit comments, please see today's direct final rule published in the "Rules and Regulations" section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Michael Infurna, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007; telephone number (212) 637-4177; fax number: (212) 637-4437; email address: [infurna.michael@epa.gov](mailto:infurna.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" section of this **Federal Register** notice, EPA is

authorizing the changes by a direct final rule. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the direct final rule. Unless we receive adverse written comments which oppose this authorization during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will either withdraw the direct final rule or the portion of the direct final rule that is the subject of the comments. Only the remaining portion of the rule will take effect. We will then respond to those public comments opposing this authorization in a later final authorization notice based on this proposal. This final authorization notice may or may not include changes based on comments received during the public notice comment period. You may not have another opportunity for comment. If you want to comment on this action, you should do so at this time.

Dated: December 19, 2012.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2013-05479 Filed 3-8-13; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 120510052-3174-01]

RIN 0648-BC20

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands; Parrotfish Management Measures in St. Croix

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement management measures described in Regulatory Amendment 4 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP), as prepared by the Caribbean Fishery Management Council (Council). If implemented, this

rule would establish minimum size limits for parrotfish in the exclusive economic zone (EEZ) off St. Croix in the U.S. Virgin Islands (USVI). The intent of this proposed rule is to provide additional protection from harvest to maturing parrotfish and to assist the stock in achieving optimum yield (OY).

**DATES:** Written comments must be received on or before April 10, 2013.

**ADDRESSES:** You may submit comments on this document, identified by "NOAA-NMFS-2013-0009", by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) / #!docketDetail;D=NOAA-NMFS-2013-0009, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Britni Tokotch, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the regulatory amendment, which includes an environmental assessment and an initial regulatory flexibility analysis (IRFA), and a regulatory impact review may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/CaribbeanReefFish.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Britni Tokotch, Southeast Regional Office, NMFS, telephone 727-824-5305; email: [Britni.Tokotch@noaa.gov](mailto:Britni.Tokotch@noaa.gov).

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

## Background

In the 2011 Status of U.S. Fisheries Report to Congress, Caribbean parrotfish were classified as undergoing overfishing. Parrotfish perform an important ecological function on U.S. Caribbean coral reefs: They graze on algae, which competes for space with a variety of coral species. This ecological role has become more relevant in the past 30 years as the longspine sea urchin, another important coral reef grazer, has declined in population throughout the Caribbean. Additionally, parrotfish are considered a cultural component of the U.S. Caribbean diet, particularly in St. Croix, where they are a targeted species.

To maintain the viability of the parrotfish stock, an adequate number of juvenile parrotfish must achieve maturity and spawn prior to being harvested. In the absence of minimum size limits, substantial numbers of immature parrotfish will likely be harvested, eliminating the potential of those fish to reach maturity and spawn.

Within the Caribbean reef fish fishery, the parrotfish fishery management unit is composed of 10 species: blue, midnight, rainbow, princess, queen, redband, redtail, stoplight, striped, and redband parrotfish. Amendment 5 to the FMP (Amendment 5)(76 FR 82404, December 30, 2011), prohibited the harvest of midnight, blue, and rainbow parrotfish, and established recreational bag and possession limits for the other parrotfish species. Additionally, Amendment 5 set annual catch limits (ACLs) and accountability measures (AMs) for three island management areas: Puerto Rico, St. Thomas/St. John (USVI), and St. Croix (USVI).

## Management Measure Contained in this Proposed Rule

This proposed rule would establish minimum size limits for parrotfish species in the EEZ off St. Croix. These limits would apply to both the commercial and recreational sectors. This rule would establish a minimum size limit of 8 inches (20.3 cm), fork length, for redband parrotfish and 9 inches (22.9 cm), fork length, for all other parrotfish. The current harvest prohibition for midnight, blue, and rainbow parrotfish would remain in effect.

The Council and NMFS are proposing a minimum size limit of 9 inches (22.9 cm) for all but one of the parrotfish species for which harvest is allowed, because this size limit best captures the range of sizes at maturity for these species. The Council and NMFS are proposing a minimum size limit of 8

inches (20.3 cm) for redband parrotfish because they are relatively smaller fish and they reach maturity at a smaller size than the other managed parrotfish species. A minimum size limit would reduce mortality of smaller (generally female) parrotfish, thereby enhancing spawning biomass and the supply of gametes (especially eggs), and ultimately increasing yield-per-recruit from the stock (assuming discard mortality is low). Parrotfish discard mortality is assumed to be low because spears are the predominant gear used to harvest parrotfish and therefore the fish are individually targeted. In addition, discard mortality of parrotfish harvested by trap is expected to be low because parrotfish are harvested in relatively shallow waters, thus reducing the threat of barotrauma related mortality. A minimum size limit also reduces the likelihood of recruitment overfishing that might otherwise lead to a stock biomass level below maximum sustainable yield. Therefore, this proposed rule would set a size limit to increase the number of juvenile parrotfish that can reach sexual maturity and assist the stock in achieving OY.

The Council chose not to establish minimum size limits for Puerto Rico and St. Thomas/St. John island management areas in the U.S. Caribbean because parrotfish harvest in those areas is substantially lower than in St. Croix. St. Croix parrotfish harvest represents 36.4 percent of the total combined St. Croix commercial ACL (all St. Croix commercial ACLs), in pounds. The recreational harvest of parrotfish in St. Croix and in St. Thomas/St. John is unknown. In Puerto Rico, parrotfish comprise 3.5 percent and 2.3 percent total combined of the Puerto Rico recreational and commercial ACLs, in pounds, respectively. In St. Thomas/St. John, parrotfish comprise 7.2 percent of the total combined commercial ACL, in pounds.

## Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the FMP, the regulatory amendment, 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 rule. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities.

A description of the proposed rule, why it is being considered, the objectives of, and legal basis for the rule 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 NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The purpose of this rule is to provide protection from harvest to maturing parrotfish in the EEZ off St. Croix. The parrotfish management unit in the U.S. Caribbean is composed of multiple species. Together, these species represent an ecologically, culturally, and economically important group, particularly on the island of St. Croix where they support a targeted fishery for both the commercial and recreational sectors, in both the EEZ and territorial waters. The commercial and recreational minimum size limits are necessary for the St. Croix island management unit because without minimum size limits, substantial numbers of immature parrotfish may be harvested, thus eliminating individuals before they have a chance to reproduce.

The Magnuson-Stevens Act provides the statutory basis for the proposed action. No duplicative, overlapping, or conflicting Federal rules have been identified.

The rule would apply directly to licensed commercial fishermen in the Finfish Fishing Industry (NAICS 114111) and indirectly to for-hire operations in the Charter Fishing Industry (NAICS 487210) that harvest seven parrotfish species (princess, queen, redband, redtail, redband, stoplight, and striped) within the EEZ off St. Croix, USVI.

An estimated 142 of St. Croix's 177 small businesses in the Finfish Fishing Industry are expected to be affected by this proposed rule. None of the three small businesses in the Charter Fishing Industry are expected to be affected because for-hire fishing boats in the U.S. Caribbean tend to target pelagic species and other sport fish, not parrotfish.

This rule would not establish any new reporting or record-keeping requirements. This rule would require small businesses in the Finfish Fishing Industry to measure parrotfish and discard those that are under their respective minimum size limit. Three scenarios are presented to illustrate the range of adverse economic impacts on these small businesses.

In the first scenario, small businesses are assumed to be currently catching and landing larger parrotfish in reaction to the ACL established for parrotfish off St. Croix (76 FR 82404, December 30, 2011), and rarely, if at all, catching

parrotfish less than the proposed minimum size limits. If true, the establishment of an 8 inch (20.3 cm) minimum size limit for redband parrotfish and a 9 inch (22.9 cm) minimum size limit for all other allowable parrotfish would have little to no adverse economic impact beyond the estimated \$5 to \$10 cost of acquiring a measuring tool and an additional small amount of time (estimated 4–5 seconds) to measure a smaller sized parrotfish.

The second scenario assumes small businesses have not changed their catch patterns because of the St. Croix parrotfish ACL and cannot mitigate for losses of landings due to discarded and not speared undersized parrotfish. If true, the proposed implementation of parrotfish minimum size limits for St. Croix would result in an estimated annual loss of parrotfish landings between 960 lb (435 kg) and 13,920 lb (6,314 kg). If the average ex-vessel price of a parrotfish is estimated as high as \$5 per pound, then annual revenue losses to all small businesses would be between \$4,800 and \$69,600. Added to these revenue losses would be the additional time needed to measure every parrotfish that was caught in traps, nets or lines, which would increase trip time and trip-associated costs. Also, there would be the additional time for divers to visually measure every parrotfish that could be speared, which would increase trip time and trip-associated costs. These combined losses of revenue and added time and trip costs would not be distributed equally. Because pot-and-trap fishermen have landed the greatest percent of smaller parrotfish, small businesses that use pots and traps would experience the greatest percent losses of revenues and greatest increase in fishing time and trip costs.

A third and final scenario expects small businesses would act to mitigate for losses of commercial landings caused by the establishment of

parrotfish minimum size limits in St. Croix by increasing fishing time to catch enough legally sized parrotfish, or other species, to offset pounds discarded in undersized parrotfish. It is expected that the ability of small businesses to increase their time on, or in the water, and associated costs of that time varies significantly, depending on the commercial fisher's personal and family responsibilities, including if they are engaged in full-time or part-time wage labor or not. It is unknown if such a disproportionate adverse impact on pot-and-trap fishermen could also represent a disproportionate adverse impact on St. Croix's small businesses of a specific geographic area or business size or by the ethnicity, age, or race of the owner of the business.

The status quo alternative (no setting of a parrotfish minimum size limit) was considered but rejected by the Council because it would allow for continued harvest of juvenile parrotfish in St. Croix before they can reach sexual maturity, which increases the risk of an inferior (less productive) stock and reduced revenues from parrotfish landings in the long term.

In summary, the proposed rule, if implemented, would likely have a significantly larger adverse economic impact on St. Croix pot-and-trap and other non-diving fishermen because a larger percentage of their historical catches are composed of smaller parrotfish. The proposed action may drive pot-and-trap and other non-diving commercial fishermen out of the parrotfish component of the reef fish fishery. Moreover, the economic impact of this rule cannot be considered in isolation. It would add to the adverse economic impacts of the recently implemented St. Croix Parrotfish ACL (76 FR 82404, December 30, 2011), which is expected to reduce non-diving fishermen's historical shares of annual landings of parrotfish.

This proposed rule would not be expected to directly affect any other small entities.

#### List of Subjects in 50 CFR Part 622

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

Dated: March 5, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the 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 § 622.37, paragraph (a) is revised to read as follows:

#### § 622.37 Size limits.

\* \* \* \* \*

(a) *Caribbean reef fish:* (1) Yellowtail snapper—12 inches (30.5 cm), TL.

(2) Parrotfishes, except redband parrotfish, in the St. Croix Management Area only (as defined in Table 2 of Appendix E to Part 622)—9 inches (22.9 cm), fork length. See § 622.32(b)(1)(v) for the current prohibition on the harvest and possession of midnight parrotfish, blue parrotfish, or rainbow parrotfish.

(3) Redband parrotfish, in the St. Croix Management Area only (as defined in Table 2 of Appendix E to Part 622)—8 inches (20.3 cm), fork length.

\* \* \* \* \*

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