

(b) *Definitions.* Unless otherwise defined in this section, the terms defined in § 600.1000 of Subpart L of this Part expressly apply to this section. The following terms have the following meanings for the purpose of this section:

Borrower means, individually and collectively, each post-reduction fishing permit holder and/or fishing vessel owner fishing in the reduction fishery, in any or all of the fee share fisheries, or in both the reduction fishery and any or all of the fee share fisheries.

Fee fish means all fish harvested from the reduction fishery during the period in which any portion of the reduction fishery's subamount is outstanding and all fish harvested from each of the fee share fisheries during the period in which any portion of each fee share fishery's subamount is outstanding.

Fee share fisheries means the California, Washington, and Oregon fisheries for coastal Dungeness crab and pink shrimp.

Reduction fishery means all species in, and that portion of, the limited entry trawl fishery under the Federal Pacific Coast Groundfish Fishery Management Plan that is conducted under permits, excluding those registered to whiting catcher-processors, which are endorsed for trawl gear operation.

Subamount means each portion of the reduction loan's original principal amount which is allocated to the reduction fishery and to each of the fee share fisheries.

(c) *Reduction loan amount.* The reduction loan's original principal amount is \$35,662,471.

(d) *Subamounts.* The subamounts are:
(1) Reduction fishery, \$28,428,719;
and

(2) Fee share fisheries:

(i) California Dungeness crab,

\$2,334,334,

(ii) California pink shrimp, \$674,202,

(iii) Oregon Dungeness crab,

\$1,367,545,

(iv) Oregon pink shrimp, \$2,228,845,

(v) Washington Dungeness crab,

\$369,426, and

(vi) Washington pink shrimp,

\$259,400.

(e) *Interest accrual inception.*

Reduction loan interest began accruing on March 1, 2004.

(f) *Interest rate.* The reduction loan's interest rate shall be 6.97%.

(g) *Repayment term.* For the purpose of determining fee rates, the reduction loan's repayment term shall be 30 years from March 1, 2004, but each fee shall continue for as long as necessary to fully repay each subamount.

(h) *Reduction loan repayment.*

(1) The borrower shall repay the reduction loan in accordance with § 600.1012 of Subpart L of this Part;

(2) Fish sellers in the reduction fishery and in each of the fee share fisheries shall pay the fee applicable to each such fishery's subamount in accordance with § 600.1013 of Subpart L of this Part;

(3) Fish buyers in the reduction fishery and in each of the fee share fisheries shall collect the fee applicable to each such fishery in accordance with § 600.1013 of Subpart L of this Part;

(4) Fish buyers in the reduction fishery and in each of the fee share fisheries shall deposit and disburse, as well as keep records for and submit reports about, the fees applicable to each such fishery in accordance with § 600.1004 of Subpart L of this Part; and

(5) The reduction loan is, in all other respects, subject to the provisions of § 600.1012 through § 600.1017 of subpart L of this part.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 041104307-4307-01; I.D. 102904B]

RIN 0648-AS56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands; Seasonal Closure of Grammanik Bank

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 implement interim measures recommended by the Caribbean Fishery Management Council (Council). This proposed rule would prohibit fishing for or possessing any species of fish, except highly migratory species, within the Grammanik Bank closed area from February 1, 2005, through April 30, 2005. The intended effect of this proposed rule is to protect a yellowfin grouper spawning aggregation and to reduce overfishing.

DATES: Comments must be received no later than 5 p.m., eastern time, on December 1, 2004.

ADDRESSES: You may submit comments on the proposed rule by any of the following methods:

- E-mail: 0648-AS56.Proposed@noaa.gov. Include in the subject line of the e-mail comment the following document identifier 0648-AS56.

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Michael Barnette, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

- Fax: 727-570-5583, Attention: Michael Barnette.

Copies of documents supporting this action may be obtained by contacting the NMFS Southeast Regional Office at the above address.

FOR FURTHER INFORMATION CONTACT:

Michael Barnette, 727-570-5794.

SUPPLEMENTARY INFORMATION: The reef fish fishery of Puerto Rico and of the U.S. Virgin Islands is managed under the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and of the U.S. Virgin Islands (FMP). The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Grammanik Bank lies on the shelf edge approximately 7 miles (11.3 km) south of Water Island, St. Thomas, U.S. Virgin Islands. The actual coral bank extends 1.05 miles (1.69 km) along the shelf edge and is approximately 328 ft (100 m) wide at its widest point. Researchers at the University of the Virgin Islands have documented that yellowfin grouper aggregate to spawn on Grammanik Bank from February through April each year, with peak spawning occurring around the full moon in March.

Yellowfin grouper are a long-lived, slow-growing species and, therefore, have a higher susceptibility to overfishing. Based on the preferred stock status criteria alternatives contained in the Council's Draft Amendment to the Fishery Management Plans (FMPs) of the U.S. Caribbean to Address Required Provisions of the Magnuson-Stevens Fishery Conservation and Management Act (SFA Amendment), yellowfin grouper would be considered to be undergoing overfishing, and the stock would be considered to be overfished.

Prior to 2000, the yellowfin grouper spawning aggregation appears to have been relatively unexploited. However, anecdotal information from fishermen indicates that significant quantities of

yellowfin grouper were harvested from Grammanik Bank during the spawning aggregations in recent years. Underwater visual censuses conducted by researchers at the University of the Virgin Islands in March 2002 and 2003 revealed only small numbers of yellowfin grouper (i.e., 50 to 60) present during the peak spawning period. Based on this apparent reduction in abundance, representatives of the University of the Virgin Islands and two environmental organizations recently expressed concern about the apparent increased fishing mortality on the yellowfin grouper spawning aggregation and recommended that emergency action be undertaken to protect yellowfin grouper during the peak spawning period. After considering all available information, including commercial landings data from the U.S. Virgin Islands that support the SFA Amendment's discussion of the overfished status of the yellowfin grouper stock, visual census data from researchers at the University of the Virgin Islands, and other relevant biological studies referenced in the supporting environmental assessment (EA), the Council, at its August 2004 meeting, requested NMFS to draft a rule that would implement interim measures to protect yellowfin grouper during the 2005 spawning season. Consistent with the Council's request, this proposed rule would implement interim measures to protect the yellowfin grouper spawning aggregation during the 2005 spawning season. Subsequent, long-term protection of the spawning aggregation would be addressed in measures contained in the SFA Amendment, which is currently under development and, if approved by NMFS, would be expected to be implemented in mid to late 2005.

Interim Measures to Protect Yellowfin Grouper

This proposed rule would prohibit fishing for or possession of any species of fish, other than a highly migratory species, within the Grammanik Bank closed area from February 1, 2005, through April 30, 2005. For the purposes of this rule, the term "highly migratory species" means bluefin, bigeye, yellowfin, albacore, and skipjack tunas; swordfish; sharks (listed in appendix A to 50 CFR part 635); white marlin, blue marlin, sailfish, and longbill spearfish. The Grammanik Bank closed area encompasses an area approximately 2.5 nm (4.6 km) by 2.75 nm (5.1 km) and is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	18°12.40'	64°59.00'
B	18°10.00'	64°59.00'
C	18°10.00'	64°56.10'
D	18°12.40'	64°56.10'
A	18°12.40'	64°59.00'

Classification

At this time, NMFS has not determined that the interim measures that this proposed rule would implement are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on this proposed rule.

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

NMFS prepared an EA for the interim measures that this proposed rule would implement. The EA discusses the impact on the environment as a result of this rule. A copy of the EA is available from NMFS (see **ADDRESSES**).

NMFS prepared an initial regulatory flexibility analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act. The IRFA, which is contained in the EA, describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the 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 summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The proposed rule is intended to protect an important spawning aggregation of yellowfin grouper, to help arrest the decline in the resource, and to support its recovery. The Magnuson-Stevens Act, as amended, provides the statutory basis for the rule.

The proposed rule is intended to implement, on an interim basis, an action currently included in the Draft SFA Amendment. The SFA Amendment is expected to be implemented prior to the 2006 fishing year. This proposed rule would be an interim action providing protection of an important yellowfin grouper spawning aggregation during the 2005 spawning season and would expire prior to the implementation of the SFA Amendment. No duplicate, overlapping or conflicting rules have been identified.

There are two general classes of small business entities that would be directly

affected by the rule: commercial fishing vessels and for-hire fishing vessels. The Small Business Administration defines a small business that engages in commercial fishing as a firm that is independently owned and operated, that is not dominant in its field of operation, and that has annual receipts up to \$3.5 million per year. The revenue benchmark for a small business that engages in charter fishing is a firm with receipts up to \$6.0 million.

There are an estimated 342 registered commercial fishing vessels in the U.S. Virgin Islands. The majority of participants are part-time fishermen. Total annual average dockside revenues from commercial fishing activity are estimated at \$1.72 million, or an average of \$5,000 per registered vessel. Given the average revenue estimates of the fleet, all commercial entities are determined to be small business entities. It cannot be precisely determined how many of the commercial vessels that operate in the U.S. Virgin Islands would be affected by the proposed rule, though the rule would apply to all commercial fishing vessels. NMFS assumes that indirect impacts would be incurred industry-wide, and that all the commercial fishing entities that would be affected by the rule are small entities.

An estimated 27 year-round charter fishing operations operate in the U.S. Virgin Islands, with an unknown number of seasonal operations. No information exists on the business profile of this fleet. However, the average gross revenue for charter vessels operating in Florida is estimated at \$68,000, and ranges from \$26,000 (South Carolina) to \$82,000 (Alabama) for other areas in the southeastern U.S. No information exists to suggest that the revenue profile of charter vessels that operate in the U.S. Virgin Islands is substantially different from these estimates, so NMFS concludes that all charter vessels operating in the U.S. Virgin Islands are small business entities. It cannot be determined how many of the charter vessels that operate in the U.S. Virgin Islands would be affected by the proposed rule, though the rule would apply to all charter vessels. NMFS assumes that indirect effects would be incurred industry-wide, and that all the charter fishing entities that would be affected by the rule are small entities.

The rule does not impose any reporting or record keeping requirements.

Since the proposed rule would apply to all commercial and charter fishing entities and all entities operating in the fishery are assumed to be small entities,

the criterion of a substantial number of the small business entities will be met.

The outcome of "significant economic impact" can be ascertained by examining two issues: disproportionality and profitability. The criterion for disproportionality is whether the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities. All entities affected by the proposed rule are considered small entities so that the issue of disproportionality does not arise. The criterion regarding profitability is whether the regulations significantly reduce profit for a substantial number of small entities. No precise estimates of the profits of either the commercial fishing vessels or the charter vessels that are expected to be affected by the proposed rule are available. However, even though it is recognized that not all water habitat is equally productive, the proposed rule would affect only approximately 3 percent of the available water area in the less than 100-fathom (183-m) depth range and close the area to fishing for only 25 percent of the year. Thus, less than 1 percent of available fishing area and time would be affected. Although it is likely that harvests from this area during this time period may exceed 1 percent by a negligible amount for certain species or fishing operations, the proposed restriction is expected to be sufficiently small so as to not substantially affect the profits of a substantial number of small entities.

Including the no-action alternative, five alternatives were considered in addition to the proposed rule. The no-action alternative would not impose any closure in the target area, thereby allowing all current fishing practices. This would eliminate all short-term adverse impacts expected to result from the closure. However, spawning protection of yellowfin grouper would not be provided, thereby forgoing the benefits of rebuilding the stock, and the action would, therefore, not be consistent with the Council's intent. The remaining four alternatives differ in the geographic size and time duration of the closure. Alternative 3 would establish closure over a larger geographic area than the proposed rule, 17.5 nm² (60 km²) vs. 6.88 nm² (28.60 km²), but would not encompass the entire period during which yellowfin grouper are known to spawn, thereby potentially negating the purpose and effectiveness of the closure. However, potential benefits to coral habitats, to the extent they occur within the proposed boundaries, could be greater than those in Alternative 2. Alternatives

4 and 6 would only establish closure in a 1 nm² (3.4 km²) area, an area insufficient to afford the necessary protection. Alternative 4 would additionally not encompass the full spawning period and may allow fishing pressure to significantly impact an aggregation that is still present in the latter half of April. Alternative 6 would encompass the entire spawning period, but would continue the closure longer than is believed necessary. Alternative 5 would encompass 5 nm² (17.2 km²), smaller than that in Alternative 2 but possibly affording sufficient geographic scope. However, Alternative 5 would also extend the closure for an additional month, which is longer than necessary and would, therefore, impose unnecessary adverse impacts. In addition, potential benefits to coral habitats, to the extent they occur within the proposed boundaries, could be slightly less than those in Alternative 2. Among the alternatives, only the proposed alternative meets the geographic and temporal scope necessary to meet the management objectives.

List of Subjects in 50 CFR Part 622

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

Dated: November 10, 2004.

Rebecca Lent,

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 § 622.33, paragraph (a)(4) is added to read as follows:

§ 622.33 Caribbean EEZ seasonal and/or area closures.

(a) * * *

(4) *Grammanik Bank closed area.* (i)

The Grammanik Bank closed area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	18°12.40'	64°59.00'
B	18°10.00'	64°59.00'
C	18°10.00'	64°56.10'

Point	North lat.	West long.
D	18°12.40'	64°56.10'
A	18°12.40'	64°59.00'

(ii) From February 1, 2005, through April 30, 2005, no person may fish for or possess any species of fish, except highly migratory species, within the Grammanik Bank closed area. For the purpose of paragraph (a)(4) of this section, fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds. Highly migratory species means bluefin, bigeye, yellowfin, albacore, and skipjack tunas; swordfish; sharks (listed in appendix A to 50 CFR part 635); white marlin, blue marlin, sailfish, and longbill spearfish.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 041105308-4308-01; I.D. 110304B]

RIN 0648-AS88

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Commercial Reef Fish Fishery of the Gulf of Mexico; Control Date

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

ACTION: Advance notice of proposed rulemaking; control date for Gulf of Mexico grouper landings.

SUMMARY: This notice announces that the Gulf of Mexico Fishery Management Council (GMFMC) is considering the establishment of an individual fishing quota (IFQ) to control participation or effort in the commercial grouper fishery of the Gulf of Mexico. If an IFQ is established, the GMFMC is considering October 15, 2004, as a possible control date regarding the eligibility of catch histories in the commercial grouper fishery.

DATES: Comments must be submitted by December 16, 2004.

ADDRESSES: You may submit comments on this notice of control date by any of the following methods: