

Energy Supply, Distribution, or Use
(Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule is not a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

■ In consideration of the foregoing, 50 CFR part 18, subpart A of chapter I, title 50 of the Code of Federal Regulations, is amended as follows:

PART 18—MARINE MAMMALS

■ 1. The authority citation for 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. In § 18.3, revise the definition for *Authentic native articles of handicrafts and clothing* as follows:

§ 18.3 Definitions.

* * * * *

Authentic native articles of handicrafts and clothing means items made by an Indian, Aleut, or Eskimo that (a) are composed wholly or in some significant respect of natural materials and (b) are significantly altered from their natural form and are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass-copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern techniques at a tannery registered pursuant to § 18.23(c) may be used so long as no large-scale mass-production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as cooperatives, is permitted so long as no large-scale mass production results.

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Dated: August 2, 2005.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 050209033-5033-01; I.D. 020405D]

RIN 0648-AS97

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Extension of Commercial Trip Limits for Gulf of Mexico Grouper Fishery

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

ACTION: Temporary rule; emergency action; extended.

SUMMARY: An emergency rule of February 17, 2005, that established trip limits for the commercial shallow-water and deep-water grouper fisheries in the exclusive economic zone of the Gulf of Mexico is in effect from March 3, 2005, through August 16, 2005. NMFS extends that emergency rule for an additional 180 days through February 12, 2006. The intended effects of that emergency rule are to moderate the rate of harvest of the available quotas, reduce the adverse social and economic effects of derby fishing, enable more effective quota monitoring, and reduce the probability of overfishing.

DATES: Effective from August 17, 2005, through February 12, 2006.

ADDRESSES: Copies of documents supporting this rule may be obtained from the Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Phil Steele, 727-551-5784; fax: 727-824-5308, e-mail: Phil.Steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for reef fish is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) that was prepared by the Gulf of Mexico Fishery Management Council (Council). This FMP was approved by NMFS and implemented under the authority of the Magnuson-Stevens Fishery Conservation and

Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

In response to a request from the Council, NMFS published an emergency rule (70 FR 8037, February 17, 2005) under section 305(c)(1) of the Magnuson-Stevens Act, that established trip limits for the commercial shallow-water and deep-water grouper fisheries in the exclusive economic zone of the Gulf of Mexico. The trip limits were, and remain, necessary to slow the rate of harvest of the available commercial grouper quotas, extend the fishing season, reduce the effects of derby fishing, and reduce the probability of overfishing.

The trips limits were originally proposed to the Council by representatives of the commercial reef fish fishery as follows: (1) On January 1, all vessels will be limited to a 10,000-lb (4,536-kg), gutted-weight (GW), trip limit for deep-water grouper and shallow-water grouper combined; (2) if on or before August 1 the fishery is estimated to have landed more than 50 percent of either the shallow-water grouper or the red grouper quota, then a 7,500-lb (3,402-kg) GW trip limit takes effect; and (3) if on or before October 1 the fishery is estimated to have landed more than 75 percent of either the shallow-water grouper or the red grouper quota, then a 5,500-lb (2,495-kg) GW trip limit takes effect. Because implementation of the original emergency rule occurred after January 1, NMFS revised item (1) above to reflect the appropriate implementation date, March 3. This extension of the emergency rule will include at § 622.44(h)(1)(i) the period beginning January 1; therefore, this emergency rule modifies item (1) to again reflect the January 1 date consistent with the intent of the original proposal. NMFS also adds one other minor clarification in this emergency rule to explain that, although the trip limits are for shallow-water grouper and deep-water grouper are combined, if either fishery has reached its quota and has been closed, no fish subject to the closure may be possessed under the applicable trip limit.

Under section 305(c)(3)(B) of the Magnuson-Stevens Act, NMFS may extend the effectiveness of an emergency rule for one additional period of 180 days, provided the public has had an opportunity to comment on the emergency rule and the Council is actively preparing proposed regulations to address the issue on a permanent basis.

NMFS solicited comments on the initial emergency rule through March 21, 2005, and received one comment in

support of the emergency rule. NMFS concurs that the emergency was, and remains, necessary to reduce adverse effects of derby fishing, extend the fishing season, and reduce the probability of overfishing.

The Council is preparing a regulatory amendment and associated proposed regulations which will address measures, including trip limits, to moderate the rate of harvest in the Gulf grouper commercial fishery. Those measures, if approved and implemented by NMFS, would replace this emergency rule. Action to address these issues via the proposed regulations associated with the regulatory amendment cannot be implemented before the current emergency rule expires on August 17, 2005. Extension of the emergency rule is necessary to avoid a regulatory lapse and to ensure that the rate of harvest remains under proper control so the season can be extended as much as possible and the risk of overfishing is minimized.

Additional details concerning the basis for these commercial trip limits are contained in the preamble to the initial emergency rule and are not repeated here.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this extension of the emergency rule is necessary to minimize adverse social and economic impacts, (i.e., derby fishing, market gluts, lower ex-vessel prices, potential safety-at-sea issues, and a shortened fishing season). The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued

without opportunity for prior notice and opportunity for public comment.

The AA finds good cause to waive the requirement to provide prior notice and opportunity for public comment, pursuant to authority set forth at U.S.C. 553(b)(B), as such procedures would be impracticable and contrary to the public interest. This emergency rule merely extends the commercial trip limits established by the initial emergency rule which was subject to public comment. The only comment received supported the implementation of the emergency rule. This extension of the emergency rule is necessary to continue the moderation of the rate of harvest of the available quotas, thereby helping to keep the fishery open for more of the fishing year and reducing the effects of derby fishing and the associated adverse social and economic impacts. As previously indicated, preliminary January data indicated a 23-percent increase in landings over the comparable time frame in 2004. An early and disruptive closure is highly likely if the trip limits were to lapse. For these same reasons, under 5 U.S.C. 553(d)(3), the AA finds good cause that a 30-day delay in the effective date of this emergency rule would be contrary to the public interest.

List of Subjects in 50 CFR Part 622

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

Dated: August 11, 2005.

James W. Balsiger,

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

■ For the reasons set out in the preamble, 50 CFR part 622 is 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 § 622.44, paragraph (g) is added to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(g) *Gulf deep-water and shallow-water grouper, combined.* (1) For vessels operating under the quotas in § 622.42(a)(1)(ii) or § 622.42(a)(1)(iii), the following trip limits apply to Gulf deep-water and shallow-water grouper combined. However, when the quotas in § 622.42(a)(1)(ii) or § 622.42(a)(1)(iii) are reached and the respective fishery is closed, the commercial trip limit for the species subject to the closure is zero. (See § 622.42(a)(1)(ii) and § 622.42(a)(1)(iii) for the species included in the deep-water and shallow-water grouper categories, respectively.)

(i) Beginning January 1—10,000 lb (4,536 kg), gutted weight.

(ii) If on or before August 1 more than 50 percent of either the shallow-water grouper quota or red grouper quota specified in § 622.42(a)(1)(iii) is reached or is projected to be reached—7,500 lb (3,402 kg), gutted weight.

(iii) If on or before October 1 more than 75 percent of either the shallow-water grouper quota or red grouper quota specified in § 622.42(a)(1)(iii) is reached or is projected to be reached--5,500 lb (2,495 kg), gutted weight.

(2) The Assistant Administrator, by filing a notification of trip limit change with the Office of the Federal Register, will effect the trip limit changes specified in paragraphs (h)(1)(ii) and (iii) of this section when the applicable conditions have been met.

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