

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:

• E-mail: 0648-AS88.Proposed@noaa.gov. Include in the subject line the following document identifier: 0648-AS88.Proposed.

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

• Mail: Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

• Fax: 727-570-5583, Attention: Steve Branstetter.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727-570-5305.

SUPPLEMENTARY INFORMATION: The commercial fishery for grouper in the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the GMFMC, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. A moratorium on the issuance of new commercial reef fish permits was established by Amendment 4 to the FMP in May 1992. The moratorium has been maintained since that time with the implementation of Amendments 9, 11, and 17, and is scheduled to expire on December 31, 2005. The GMFMC is currently finalizing Amendment 24 to the FMP that would again extend the moratorium.

The GMFMC anticipates that additional future action may be necessary to control effort in the Gulf of Mexico grouper fishery by further restricting the number of participants. The GMFMC has been advised by NMFS that the grouper resources of the Gulf EEZ are fully exploited, especially red grouper and the aggregate of deep-water groupers, and the fisheries currently operate under restrictive quotas. As such, the GMFMC is concerned that the current level of participation and effort in the grouper fishery of the Gulf of Mexico may not be maximizing the economic benefits that could be derived from the resource and that future increases in participation or effort could further reduce economic benefits. In anticipation of future action to establish an IFQ for the grouper fishery of the Gulf of Mexico, at its October 2004 meeting, the GMFMC approved a motion stating:

In order to discourage acceleration in the grouper fishery to develop a catch history, the Council records its intent to only use catch histories prior to October 15, 2004, when developing a grouper IFQ. The Council requests NOAA Fisheries to publish this as a control date.

Should the GMFMC take future action to further restrict participation in the fishery, it may use October 15, 2004, as

a possible control date regarding the eligibility of catch histories. Implementation of any program to restrict access in the grouper fishery would require preparation of an amendment to the FMP and publication of a notice of availability of the amendment with a comment period, publication of a proposed rule with a public comment period, approval of the amendment, and issuance of a final implementing rule.

Consideration of a control date does not commit the GMFMC or NMFS to any particular management regime or criteria for eligibility in the commercial grouper fishery. The GMFMC may or may not make use of this control date as part of the qualifying criteria for participation in any future IFQ or other management program for the Gulf of Mexico grouper fishery. Fishermen are not guaranteed future participation in a fishery regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. The GMFMC subsequently may choose a different control date or a management regime that does not make use of a control date. The GMFMC also may choose to take no further action to control entry or access to the fisheries, in which case the control date may be rescinded.

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

Dated: November 10, 2004.

Rebecca Lent,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 110904D]

RIN 0648-AS37

Fisheries of the Exclusive Economic Zone Off Alaska; Aleutian Islands Directed Pollock Fishery

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 82 to the Fishery Management Plan for Groundfish of the

Bering Sea and Aleutian Islands Management Area (FMP). Amendment 82, if approved, would establish a framework for management of the Aleutian Islands subarea (AI) directed pollock fishery. This action is necessary to implement provisions of the Consolidated Appropriations Act of 2004 that require the directed pollock fishery in the AI to be allocated to the Aleut Corporation for economic development of Adak, Alaska. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, Consolidated Appropriations Act of 2004, and other applicable laws. Comments from the public are welcome.

DATES: Comments on Amendment 82 must be received by close of business on January 18, 2005.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

• Mail: P.O. Box 21668, Juneau, AK 99802;

• Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK;

• Fax: 907-586-7557; or

• E-mail: BSA82NOA-0648-AS37@noaa.gov. Include in the subject line the following document identifier: AI pollock NOA. E-mail comments, with or without attachments, are limited to 5 megabytes.

Copies of Amendment 82, the Environmental Assessment/Regulatory Impact Review (EA/RIR) for the amendment, and the 2000 and 2001 Biological Opinions on the groundfish fisheries may be obtained from the same address or from the Alaska Region NMFS website at www.fakr.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907-586-7228 or melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each Regional Fishery Management Council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a FMP amendment, immediately publish a notice in the **Federal Register** that the amendment is available for public review and comment.

The Council adopted Amendment 82 in June 2004 and clarified it in October 2004. If approved by NMFS, this amendment would establish a framework for management of the AI