

Facility	Address	Waste description
		(7) <i>Reopener</i>: (A) If, anytime after disposal of the delisted waste Bekaert possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within ten (10) days of first possessing or being made aware of that data. (B) If either the quarterly or annual testing of the waste does not meet the delisting requirements in paragraph (1), Bekaert must report the data, in writing, to the Regional Administrator or his delegate within ten (10) days of first possessing or being made aware of that data. (C) If Bekaert fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires the EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Regional Administrator or his delegate determines that the reported information requires action the EPA, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notification shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have ten (10) days from the date of the Regional Administrator or his delegate's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Regional Administrator or his delegate will issue a final written determination describing the EPA actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (8) <i>Notification Requirements</i>: Bekaert must do the following before transporting the delisted waste: (A) Provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, sixty (60) days before beginning such activities. (B) Update the one-time written notification if Bekaert ships the delisted waste into a different disposal facility. (C) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
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[FR Doc. 04-3600 Filed 2-19-04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7624-9]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Wheeler Pit Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region V is issuing a notice of intent to delete the Wheeler Pit Superfund Site (Site) located in Janesville, Wisconsin, from the National Priorities List (NPL) and requests public comments on this notice of intent to delete. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response,

Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Wisconsin, through the Wisconsin Department of Natural Resources, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund. In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Wheeler Pit Superfund Site without prior notice of intent to delete because we view this as a non-controversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final notice of deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive timely adverse comment(s), we will withdraw the

direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on adverse comments received on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by March 22, 2004.

ADDRESSES: Written comments should be addressed to: Zenny Sadlon, Community Involvement Coordinator, U.S. EPA (P-19J), 77 W. Jackson, Chicago, IL 60604, 312-886-6682 or 1-800-621-8431.

FOR FURTHER INFORMATION CONTACT: Darryl Owens, Remedial Project Manager at (312) 886-7089, or Gladys Beard, State NPL Deletion Process Manager at (312) 886-7253 or 1-800-621-8431, Superfund Division, U.S. EPA (SR-6J), 77 W. Jackson, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353-5821, Monday through Friday 8 a.m. to 4 p.m.; Hedberg Public Library, 316 S. Main Street, Janesville, Wisconsin 53545, Monday through Friday 9 a.m. to 9 p.m., Saturday 9 a.m. to 5 p.m. and Sunday 1 p.m. to 5 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: February 4, 2004.

Thomas V. Skinner,

Regional Administrator, Region V.

[FR Doc. 04-3598 Filed 2-19-04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043-4043-01; I.D. 122303G]

RIN 0648-AP95

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Rebuilding Plan

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 Secretarial Amendment 1 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Secretarial Amendment 1), which was prepared by the Secretary of Commerce and the Gulf of Mexico Fishery Management Council (Council)

pursuant to the rebuilding requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This proposed rule would establish a quota for red grouper, provide for closure of the entire shallow-water grouper fishery when either the shallow-water grouper quota or the red grouper quota is reached, establish a bag limit of two red grouper per person per day, reduce the shallow-water grouper quota, reduce the deep-water grouper quota, and establish a quota for tilefishes. In addition, for red grouper in the Gulf of Mexico, Secretarial Amendment 1 would establish a 10-year stock rebuilding plan, biological reference points, and stock status determination criteria consistent with the requirements of the Magnuson-Stevens Act. The intended effect of this proposed rule is to end overfishing and rebuild the red grouper resource.

DATES: Comments must be received no later than 5 p.m., eastern time, on April 20, 2004.

ADDRESSES: Written comments on the proposed rule must be sent to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments may also be sent via fax to 727-570-5583. Comments on this rule may be submitted by e-mail. The mailbox address for providing e-mail comments is 0648-AP95.Proposed@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: 0648-AP95.

Copies of documents supporting this proposed rule, which include an environmental assessment, a fishery impact statement, a social impact statement, a regulatory impact review (RIR), and an initial regulatory flexibility act analysis (IRFA) are available from the NMFS address above.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727-570-5305, fax: 727-570-5583, 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 Council. The FMP was approved by NMFS and implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

Background

In October 2000, NMFS declared the Gulf of Mexico stock of red grouper to be overfished and undergoing overfishing. This determination was based on the results of a 1999 red

grouper stock assessment and subsequent analysis by the NMFS Southeast Fisheries Science Center and the Council's Reef Fish Stock Assessment Panel. Subsequently, a 2002 stock assessment found that the stock, although still undergoing overfishing, is in an improved condition and is no longer overfished. However, the stock has not yet reached the biomass level that is capable of producing MSY on a continuing basis (B_{MSY}). Therefore, measures to end overfishing and a rebuilding plan to restore the stock to the B_{MSY} level in 10 years or less are still necessary.

Secretarial Amendment 1 and this proposed rule contain measures for red grouper that are designed to end overfishing, establish biological reference points and stock status determination criteria, and initiate implementation of the rebuilding plan in a manner that allocates the necessary restrictions fairly and equitably between the recreational and commercial sectors of the fishery, consistent with the requirements of the Magnuson-Stevens Act. Because the reef fish fishery is a multi-species fishery in which fishers can easily redirect fishing effort to other reef fish species, additional measures, applicable to other closely associated shallow-water and deep-water groupers and tilefishes, are provided to minimize any potential negative impacts on those stocks as a result of a possible shift of fishing effort from red grouper to those species.

Biological Reference Points and Stock Status Determination Criteria

Consistent with the requirements of the Magnuson-Stevens Act, Secretarial Amendment 1 would establish the following biological reference points and stock status determination criteria for Gulf of Mexico red grouper maximum sustainable yield (MSY); optimum yield (OY); maximum fishing mortality threshold (MFMT) (the fishing mortality rate which, if exceeded, constitutes overfishing); and minimum stock size threshold (MSST) (the stock size below which the stock would be considered overfished).

$MSY = 7.560$ million lb (3.429 million kg).

OY = The yield obtained from a fishing mortality rate equal to 75 percent of F_{MSY} . OY is currently estimated to be 7.385 million lb (3.350 million kg) gutted weight, based on an F_{MSY} of 0.306.

MFMT = F_{MSY} (currently estimated at 0.306), or the fishing mortality consistent with recovery to MSY in no more than 10 years.