

In consideration of the foregoing, this document amends the CFR by changing the metric value of tire speed restriction threshold in S6.5(e) and Table III from 88 km/h to 90 km/h.

This technical amendment will not impose or relax any substantive requirements or burdens on manufacturers. Therefore, NHTSA finds for good cause that any notice and opportunity for comment on these correcting amendments are not necessary.

#### List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ 49 CFR part 571 is amended by making the following technical amendment:

#### PART 571—[CORRECTED]

■ 1. The authority citation continues to read as follows:

**Authority:** 49 U.S.C. 322, 2011, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.119 is amended by revising paragraph S6.5(e) to read as follows; and amending Table III, under the column "Description", by revising "88 km/h" to read "90 km/h".

#### § 571.119 New pneumatic tires for vehicles other than passenger cars.

\* \* \* \* \*

(e) The speed restriction of the tire, if 90 km/h (55 mph) or less, shown as follows:

Max speed \_\_ km/h (\_\_ mph).

\* \* \* \* \*

Issued: December 20, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 041104307-4356-02; 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:** Temporary final rule.

**SUMMARY:** NMFS issues this temporary final rule to implement interim measures recommended by the Caribbean Fishery Management Council (Council). This rule prohibits fishing for or possessing any species of fish, except highly migratory species, within the Grammanik Bank closed area on a temporary basis (see **DATES**). The intended effect of this rule is to protect a yellowfin grouper spawning aggregation and to reduce overfishing.

**DATES:** This temporary final rule is effective February 1, 2005, through April 30, 2005.

**ADDRESSES:** Copies of documents supporting this action may be obtained from NMFS, Southeast Regional Office, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

**FOR FURTHER INFORMATION CONTACT:** Joe Kimmel, 727-570-5752.

**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.

On November 16, 2004, NMFS published a proposed rule (69 FR 67104) to implement the interim measures specified in this temporary final rule as requested by the Caribbean Fishery Management Council for Grammanik Bank and to request comments on the proposed actions. The rationale for the interim measures is provided in the preamble to the proposed rule and is not repeated here. No public comments were received during the comment period on the proposed rule. Therefore, the proposed rule is adopted as final.

#### Classification

The Administrator, Southeast Region, NMFS, determined that the interim measures that this temporary final rule implements are necessary for the conservation and management of the yellowfin grouper fishery in the Caribbean and that they are consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA). The FRFA incorporates the initial regulatory

flexibility analysis (IRFA) and a summary of the analyses completed to support the action. No public comments were received on the economic impacts of this rule. A summary of the analysis follows.

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

No issues were raised by public comments in response to the IRFA. Therefore, no changes were made in the FRFA.

There are two general classes of small business entities that will 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 rule, though the rule will apply to all commercial fishing vessels. NMFS assumes that indirect impacts would be incurred industry-wide, and that all the commercial fishing entities that will 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 United States. No information exists to suggest the revenue profile of charter vessels operating 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 will be affected by the rule, though the rule will apply to all charter vessels. NMFS assumes that indirect effects will be incurred industry-wide, and that all the charter fishing entities that will be affected by the rule are small entities.

The rule does not impose any reporting or recordkeeping requirements.

No precise estimates of the profits of either the commercial fishing vessels or the charter vessels that are expected to be affected by the rule are available. However, even though not all water habitat is equally productive, the rule will 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 will be affected. Although harvests from this area during this time period will likely exceed 1 percent because it is a spawning site, the restriction is expected to be sufficiently small so as to not significantly affect the profits of a substantial number of small entities.

Including the no-action alternative (Alternative 1), five alternatives were considered in addition to the rule (that is, the preferred Alternative 2). The no-action alternative and Alternatives 3 through 6 provided insufficient spawning protection or failed to minimize the significant economic impacts on small entities. 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 rule, 17.5 nm<sup>2</sup> (60 km<sup>2</sup>) vs. 6.88 nm<sup>2</sup> (28.60 km<sup>2</sup>), 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. Alternatives 4 and 6 would only establish closure in a 1 nm<sup>2</sup> (3.4 km<sup>2</sup>) 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 nm<sup>2</sup> (17.2 km<sup>2</sup>), an area 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.

Among the alternatives, only the preferred action (i.e., this rule) meets the geographic and temporal scope necessary to meet the management objectives. The fishing restriction described in the preferred action will affect less than 1 percent of available fishing area and time and therefore is expected to be sufficiently small so as to not significantly affect the profits of a substantial number of small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Southeast Regional Office (see **ADDRESSES**), and the guide, i.e., permit holder letter, will be sent to all holders of permits for the reef fish fishery. The guide and this final rule will be available upon request.

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

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

Dated: December 28, 2004.

**John Oliver,**

*Deputy Assistant Administrator for Operations, 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 § 622.33, 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'
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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