

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA-02-14043; Notice 1]

**Federal Motor Vehicle Safety Standards**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule, technical amendment.

**SUMMARY:** This document updates the outdated addresses in NHTSA's regulation regarding documents incorporated by reference into various Federal motor vehicle safety standards. In addition, this document properly identifies those organizations identified in the regulation that have been replaced by a successor organization.

**DATES:** *Effective Date:* This rule is effective December 17, 2002.

**FOR FURTHER INFORMATION CONTACT:** For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202-366-2992.

You may send mail to this official at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

**SUPPLEMENTARY INFORMATION:** The National Highway Traffic Safety Administration has adopted a regulation that provided a centralized location for documents incorporated by reference into various Federal motor vehicle safety standards. This regulation is located at 49 CFR 571.5, Matter incorporated by reference. Over the past several years, NHTSA has included its incorporations by reference in the safety standards as they are adopted or amended. Accordingly, the addresses contained in 49 CFR 571.5 have, in many instances, become outdated. Additionally, one of the documents incorporated by reference, Data from the National Health Survey, Public Health Publication No. 1000, series 11, no. 8, has been updated, and the information contained in that publication is now available from the Center for Disease Control, rather than the Department of Health, Education, and Welfare.

**List of Subjects in 49 CFR part 571**

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

**PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

1. The authority citation for part 571 of title 49 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, 30166 delegation of authority at 49 CFR 1.50.

2. Section 571.5 is amended by revising paragraphs (b)(2) through (b)(6) and (b)(8), as follows:

**§ 571.5 Matter incorporated by reference.**

\* \* \* \* \*

(b) \* \* \*

(2) *Standards of the American Society for Testing and Materials (ASTM)*. They are published by the American Society for Testing and Materials. Information and copies may be obtained by writing to: ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.

(3) *Standards of the American National Standards Institute (ANSI)*. They are published by the American National Standards Institute. Information and copies may be obtained by writing to: RESNA, 1700 North Moore St., Suite 1540, Arlington, VA 22209-1903.

(4) *Data on the Weight Height and Selected Body Dimensions of Adults*. They are published by the National Center for Health Statistics, Centers for Disease Control (CDC). Information and copies may be obtained on the CDC web site at <http://www.cdc.gov/nchs> or by writing to National Division for Health Statistics, Division of Data Services, Hyattsville, MD 20782-2003.

(5) *Test Methods of the American Association of Textile Chemists and Colorists (AATCC)*. They are published by the American Association of Textile Chemists and Colorists. Information and copies may be obtained by writing to: AATCC, 1 Davis Dr., P.O. Box 12215, Research Triangle Park, NC 27709.

(6) *Test methods of the Illuminating Engineering Society of North America (IES)*. They are published by the Illuminating Engineering Society of North America. Information and copies may be obtained by writing to: IES, 120 Wall St., 7th Floor, New York, NY 10005.

\* \* \* \* \*

(8) *Standards of the American Society of Mechanical Engineers (ASME)*. They are published by the American Society of Mechanical Engineers. Information and copies may be obtained by writing to: ASME, 22 Law Drive, P.O. Box 2900, Fairfield, NJ 07007-2900.

\* \* \* \* \*

Signed on: December 10, 2002.  
**Stephen R. Kratzke**,  
*Associate Administrator for Rulemaking.*  
 [FR Doc. 02-31598 Filed 12-16-02; 8:45 am]  
**BILLING CODE 4910-59-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 021209298-2298-01; I.D. 120402C]

RIN 0648-AQ59

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Revision of the Charter Vessel and Headboat Permit Moratorium in the Gulf of Mexico**

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

**ACTION:** Emergency rule with request for comments.

**SUMMARY:** NMFS issues this emergency rule to extend certain permit-related deadlines contained in the final rule implementing the charter vessel/headboat permit moratorium for reef fish and coastal migratory pelagic fish in the Gulf of Mexico and to make minor logistical adjustments consistent with those deadline extensions, e.g., extend effectiveness of some existing permits. Moratorium permit deadlines extended by this rule include the December 16, 2002, deadline for having a moratorium permit aboard vessels operating in these fisheries; and the deadline for a decision regarding appeals related to eligibility. These actions are necessary to ensure that participants with valid permits in these fisheries are able to continue to participate in these fisheries pending resolution of an eligibility criterion issue in the amendments and final rule implementing the permit moratorium. That eligibility criterion issue will be addressed subsequently through the normal rulemaking process that will include additional public comment. The intended effect is to maintain continuity in these fisheries until an issue regarding permit eligibility under the moratorium can be resolved.

**EFFECTIVE DATE:** This rule is effective December 17, 2002 through June 16, 2003. Comments must be received no

later than 5 p.m., eastern time, January 16, 2003.

**ADDRESSES:** Written comments on this emergency rule must be sent to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet.

Copies of an economic analysis supporting this emergency rule may be obtained from NMFS' Southeast Regional Office at the address above.

**FOR FURTHER INFORMATION CONTACT:** Phil Steele, 727-570-5305; fax: 727-570-5583, e-mail: [Phil.Steele@noaa.gov](mailto: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 (Reef Fish FMP) that was prepared by the Gulf of Mexico Fishery Management Council (Council). The fisheries for coastal migratory pelagic resources are managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Coastal Migratory Pelagics FMP) that was prepared jointly by the Council and the South Atlantic Fishery Management Council. These FMPs were 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.

The Council, in cooperation with the Gulf charter vessel/headboat industry, developed Amendment 14 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 14) and Amendment 20 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 20) to address issues of increased fishing mortality and fishing effort in the for-hire (charter vessel/headboat) sector of the recreational fishery in the Gulf of Mexico. NMFS approved Amendments 14 and 20 and promulgated the charter vessel/headboat moratorium regulations 67 FR 43558, June 28, 2002) to implement the amendments.

However, after a recent review of the administrative record, NMFS and the Council have determined that the amendments contained an error relating to the eligibility criteria and, therefore, did not correctly reflect the action taken by the Council. Thus, the regulations implementing the amendments also contained this error, and not all persons entitled to receive charter vessel/headboat permits under the moratorium

approved by the Council would be able to receive permits under the erroneous amendments and regulations. The regulations that implemented the moratorium require all charter operators in the Gulf of Mexico EEZ to have a valid "moratorium permit," as opposed to the prior open access charter permit, beginning December 26, 2002.

This emergency rule will minimize any potential adverse effects resulting from the error in the amendments and implementing regulations until the issue can be resolved through the normal rulemaking process. This rule defers the date that the "moratorium permit" is required until June 16, 2003. This rule also automatically extends the expiration date of valid or renewable "open access" permits for these fisheries through June 16, 2003, *i.e.*, no additional renewal application is required during this period. This emergency rule also extends the deadlines for issuance of "moratorium permits" and for resolution of appeals, consistent with the extension of the date the "moratorium permit" is required. However, those applicants who qualified under the existing regulations will be issued "moratorium permits" as soon as possible. NMFS intends to initiate the normal rulemaking process to correct the eligibility criterion error as soon as possible.

For the reasons stated above, this emergency rule meets NMFS policy guidelines for the use of emergency rules (62 FR 44421, August 21, 1997), because the emergency situation results from recently discovered circumstances; presents a serious management problem in the fishery; and the emergency rule realizes immediate benefits that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration expected under the normal rulemaking process.

NMFS prepared an economic evaluation of the regulatory impacts associated with this emergency rule, which is summarized as follows.

The major effect of the emergency rule is the avoidance of severe economic loss that would occur through the disruption of the business operation of 935 for-hire vessel businesses. Under the current final rule implementing a for-hire permit moratorium, 2,037 vessels would qualify for the limited access permit and be allowed continued operation in the Gulf of Mexico for-hire fishery. An additional 935 vessels would be disqualified for the permit and, therefore, excluded from the fishery due to the errors in the amendments and the implementing final rule. These vessels represent 30 percent of the Council-intended valid participants in the

fishery (3,071 vessels). Average receipts per for-hire vessel in the Gulf of Mexico are estimated at \$64,000–\$80,000 per year. Assuming a new amendment required less than 180 days for implementation, the emergency rule would eliminate the potential loss of \$30–\$37 million in receipts from these vessels. Additionally, approximately 112,000 for-hire angler trips would be allowed to be taken, supporting \$37.5 million in angler expenditures. Due to the avoidance of business cessation and subsequent loss of all associated receipts, the emergency rule is determined to have a significant positive economic impact on a substantial number of small business entities.

### Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this emergency rule is necessary to minimize significant adverse social and economic impacts, (*i.e.*, unintended exclusion of participation in these fisheries), that would otherwise occur as a result of an error in Amendments 14 and 20 and their implementing regulations. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

The emergency rule is determined to be not significant under Executive Order 12866. Copies of the economic evaluation are available (*see ADDRESSES*).

Because there is no requirement to provide for prior notice and opportunity for public comment on this rule the analytical requirements of the Regulatory Flexibility Act do not apply.

This emergency rule would defer permit-related deadlines established in the final rule implementing the charter vessel/headboat permit moratorium in the Gulf of Mexico (67 FR 43558, June 28, 2002) until an inconsistency in that rule's permit eligibility criteria can be resolved through normal rulemaking procedures, *i.e.*, proposed rule, public comment, and final rule. Specifically, the deadlines for issuance of a moratorium permit, for the requirement to have a moratorium permit aboard a vessel, and for the Regional Administrator's (RA) decision regarding appeals are deferred pending subsequent rulemaking to resolve the eligibility criterion. This action will allow those applicants who would have otherwise been denied initial access to the fishery to continue participating in the fishery. Currently, the open access permits are set to expire on December 26, 2002. For these reasons, the AA finds good cause to waive the

requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at U.S.C. 553(b)(B), as such procedures would be impracticable. This emergency rule relieves restrictions by deferring deadlines for obtaining required permits and by extending the effectiveness of certain existing permits to allow continued participation in these fisheries. Because this is a substantive rule that relieves a restriction, the 30-day delayed effectiveness provision of the Administrative Procedures Act does not apply.

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

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

Dated: December 10, 2002.

**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 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.*

**§ 622.4 Permits and fees.**

2. In § 622.4:

a. In paragraph (r) introductory text, a final sentence is added to read as follows:

\* \* \* \* \*

(r) \* \* \* Notwithstanding the other provisions of this paragraph (r), the expiration dates of all charter vessel/headboat permits for Gulf reef fish or Gulf coastal migratory pelagic fish that were not issued under the provision of this paragraph (r) and that are valid or renewable as of December 17, 2002, will be extended through June 16, 2003, provided that a permit has not been issued under this paragraph (r) for the applicable vessel.

\* \* \* \* \*

b. In paragraph (r)(1), the first sentence is suspended, and a new sentence is added in its place to read as follows:

(r) \* \* \*

(1) \* \* \* Beginning June 16, 2003, the only valid charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish are those that have been issued under the moratorium criteria in this paragraph (r).

\* \* \* \* \*

c. In paragraph (r)(6), the first sentence is suspended, and a new sentence is added in its place to read as follows:

\* \* \* \* \*

(r) \* \* \*

(6) \* \* \* If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in paragraph (r)(2) of this section are met, the RA will issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than June 6, 2003.

d. Paragraph (r)(8)(v) is suspended and paragraph (r)(8)(vi) is added to read as follows:

\* \* \* \* \*

(r) \* \* \*

(8) \* \* \*

(vi) The RA will notify the applicant of the decision regarding the appeal by February 18, 2003, or within 30 days after the conclusion of the oral hearing, if applicable. The RA's decision will constitute the final administrative action by NMFS.

\* \* \* \* \*

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