

RED HIND

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 961008282-6332-02; I.D. 092796A]

RIN 0648-A197

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands; Red Hind Spawning Aggregations

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement a regulatory amendment prepared by the Caribbean Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). The regulatory amendment adjusts the boundary of the existing red hind spawning aggregation seasonal/area closure in the EEZ off western Puerto Rico and adds two additional red hind spawning aggregation seasonal/area closures. The intended effect is to protect red hind spawning aggregations by prohibiting fishing in these areas during the spawning season. This rule also contains a technical change to the regulations to alter minimally the

boundary of the mutton snapper spawning aggregation area off the southwest coast of St. Croix, U.S. Virgin Islands (USVI), to make it compatible with USVI regulations.

EFFECTIVE DATE: December 7, 1996.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of Puerto Rico and USVI is managed under the FMP. The FMP was prepared by the Council and is implemented by regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

The background and rationale for the measures in the regulatory amendment were included in the preamble to the proposed rule (61 FR 55127, October 24, 1996) and are not repeated here.

Comments and Responses

Comment: The Center for Marine Conservation (CMC) supports management measures to protect two additional spawning aggregations for red hind but is concerned about the reduction in the size of the existing spawning aggregation seasonal/area closure around Tourmaline Bank. CMC wants the Council to reconsider a rejected measure to prohibits the sale of red hind during the closed season. In addition, CMC notes the need for additional conservation measures, such as the establishment of marine reserves, to protect red hind critical habitat.

Response: NMFS agrees with CMC's assessment of the need for additional protective measures to address the continuing decline in red hind populations off Puerto Rico. Closed areas are one of the best ways to protect the spawning stocks and prevent overfishing. Puerto Rico is currently considering a series of marine reserves, including one in the Tourmaline Bank area, to protect reef fish, corals, and reef invertebrates in its waters (0 to 9 nautical miles offshore). The Council is working with the fishing industry to identify and establish closed areas in Federal waters throughout the U.S. Caribbean. The Council intends to reassess the need for a possible prohibition on the sale of red hind during the spawning season if the spawning area closures are unsuccessful in arresting population declines.

The decision to establish the original spawning aggregation closure off western Puerto Rico was based on the best information available at that time. New information now demonstrates that the area originally established includes habitat unsuitable for red hind, such as

hard sandy bottom. NMFS concurs with the Council's decision to reopen this area because it places an unfair burden on commercial fishermen with no specific benefit for conservation. NMFS and the Council continue to explore options for increased conservation of red hind and other reef fish in Puerto Rico, including additional gear restrictions and a proposed fish trap reduction program. NMFS welcomes CMC's advice and assistance in these efforts.

Classification

This final rule has been determined to be not significant under E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The reasons for this certification were published in the preamble to the proposed rule (61 FR 55127, October 24, 1996) and are not repeated here. No comments were received concerning this certification.

The spawning season for red hind off Puerto Rico begins by early December. Existing regulations make the red hind spawning aggregation seasonal/area closure effective December 1 of each year. To ensure as soon as possible the conservation benefits of the revised red hind spawning aggregation seasonal/area closures, these closures should be implemented as soon as possible. Accordingly, the Assistant Administrator for Fisheries, NOAA, finds good cause, namely that it would be contrary to the public interest to delay the effectiveness of this rule for 30 days, and under 5 U.S.C. 553 (d)(3), makes this rule effective as of December 7, 1996. While this will provide fishermen with only a few days notice of the closure, the fishermen have had considerable notice through the Council public hearing process and the public comment period on the notice of proposed rulemaking that an early December closing was imminent. Therefore, given the relatively small area of the closures, it will be easy for fishermen to leave the area by the effective date of this rule.

List of Subjects in 50 CFR Part 622

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

Dated: November 29, 1996.
 Gary Matlock,
 Acting Assistant Administrator for Fisheries,
 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), paragraph (b) introductory text, and paragraph (b)(3) are revised to read as follows:

§ 622.33 Caribbean EEZ seasonal and/or area closures.

(a) *Mutton snapper spawning aggregation area.* From March 1 through June 30, each year, fishing is prohibited in that part of the following area that is in the EEZ. The area is bounded by rhumb lines connecting, in order, the points listed:

Point	North latitude	West longitude
A	17°37.8'	64°53.0'
B	17°39.0'	64°53.0'
C	17°39.0'	64°50.5'
D	17°38.1'	64°50.5'
E	17°37.8'	64°52.5'
A	17°37.8'	64°53.0'

(b) *Red hind spawning aggregation areas.* From December 1 through February 28, each year, fishing is prohibited in those parts of the following areas that are in the EEZ. Each area is bounded by rhumb lines connecting, in order, the points listed:

* * * * *

(3) *West of Puerto Rico—(i) Bajo de Cico.*

Point	North latitude	West longitude
A	18°15.7'	67°26.4'
B	18°15.7'	67°23.2'
C	18°12.7'	67°23.4'
D	18°12.7'	67°26.4'
A	18°15.7'	67°26.4'

(ii) *Tourmaline Bank.*

Point	North latitude	West longitude
A	18°11.2'	67°22.4'
B	18°11.2'	67°19.2'
C	18°08.2'	67°19.2'
D	18°08.2'	67°22.4'
A	18°11.2'	67°22.4'

(iii) *Abrir La Sierra Bank.*

Point	North latitude	West longitude
A	18°06.5'	67°26.9'
B	18°06.5'	67°23.9'
C	18°03.5'	67°23.9'
D	18°03.5'	67°26.9'
A	18°06.5'	67°26.9'

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