

effective date of the rule changes requiring OMB approval. The amendments to 47 CFR 76.403 became effective July 1, 1999. This publication satisfies the statement that the Commission would publish a document announcing the effective date of the rule changes requiring OMB approval.

#### List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.  
Magalie Roman Salas,  
Secretary.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 990722200-9292-02; I.D. 060899D]

RIN 0648-AG88

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral Reef Resources of Puerto Rico and the U.S. Virgin Islands; Amendment 1

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 1 to the Fishery Management Plan for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the US Virgin Islands (FMP). The rule establishes a marine conservation district (MCD) in the exclusive economic zone in an area known as the Hind Bank, southwest of St. Thomas, U.S. Virgin Islands (USVI). Within the MCD, fishing for any species and anchoring by fishing vessels is prohibited. The intended effect is to protect important marine resources.

**DATES:** This final rule is effective December 6, 1999.

**ADDRESSES:** Copies of the final regulatory flexibility analysis (FRFA) for this final rule may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Copies of Amendment 1, which includes a regulatory impact review (RIR), a initial regulatory flexibility analysis (IRFA), and a final supplemental environmental impact statement (FSEIS), may be obtained from the Caribbean Fishery

Management Council (Council), 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918-2577; telephone 787-766-5926.

**FOR FURTHER INFORMATION CONTACT:** Michael Barnette, Southeast Regional Office, NMFS; telephone 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The fishery for coral reef resources off Puerto Rico and the US Virgin Islands is managed under the FMP prepared by the Caribbean Fishery Management Council (Council) and approved and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On June 21, 1999, NMFS announced the availability of Amendment 1 and requested comments on the amendment through August 20, 1999 (64 FR 33041). On August 3, 1999, NMFS published a proposed rule to implement the measures in Amendment 1 and requested comments on the rule through September 17, 1999 (64 FR 42068). The background and rationale for the measures in the amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here. On September 17, 1999, after considering the comments on the amendment and proposed rule received through August 20, 1999, NMFS approved Amendment 1.

#### Comments and Responses

NMFS received three comments supporting Amendment 1 and the proposed rule. One commenter stated in two separate comments that the Hind Bank MCD: Will provide valuable protection to spawning aggregations of depleted reef fish and offer protection to essential fish habitat from physical damage from fishing and anchoring gear; more than meets the FMP's conservation-related criteria for establishing marine conservation districts; will make the area involved off limits to fishing gear and to anchoring on coral so that further damage will be prevented and the habitat given a chance to recover; will protect depleted snappers and groupers and provide the only existing federal replenishment refuge off St. Thomas to help rebuild these stocks; and will offer full protection for red hind spawning aggregations with the eventual result of there being more red hind outside the no-take zone. The third commenter, the U.S. Fish and Wildlife Service, indicated that it supports Amendment 1 as necessary to achieve habitat management benefits to allow the Council and the Territory to meet

fishery population protection and recovery goals. NMFS concurs with these comments and has approved Amendment 1 and is implementing it by this rule.

#### Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Regional Administrator, Southeast Region, NMFS, with the concurrence of the Assistant Administrator for Fisheries, NOAA, determined that Amendment 1 is necessary for the conservation and management of the fisheries and coral resources of the USVI. Furthermore, Amendment 1 was determined to be consistent with the Magnuson-Stevens Act and other applicable law.

A FSEIS was prepared for Amendment 1 and filed with the Environmental Protection Agency. A notice of FSEIS availability was published on July 30, 1999 (64 FR 41420).

NMFS prepared an FRFA for this final rule implementing Amendment 1. The FRFA was based on the IRFA, which in turn was based on the Council's RIR supporting Amendment 1. No public comments on the IRFA were received. A summary of the FRFA follows.

The coral habitats in the US Caribbean are considered to be limited and have been seriously degraded, resulting in negative impacts on the fishery resources and the surrounding ecosystem. The MCD is established to protect the coral habitat and the ecosystem and to evaluate the effectiveness of a reserve in increasing the level of fish stocks surrounding the reserve. Relevant FMP conservation and management objectives are: (1) To conserve and protect the species in the fishery management unit; (2) To minimize adverse human impacts on the resources; and (3) To provide for special management of reef and sea grass habitats of particular concern through the establishment of reserves or other protected areas. There were no public comments on the IRFA, and no economic impact issues were raised by public comments. During 1995-96, 121 commercial fishermen reported harvests occurring in the general vicinity of the MCD, and an estimated 20 to 30 of these small entities are thought to have conducted fishing activities within the MCD. The IRFA defined the universe to be all 121 of the small entities because all will be affected either by displacement from the MCD or because of competition from other vessels displaced from the MCD. The 121 vessels landed about 390,000 lb

(176,901 kg) of fish valued at about \$1.7 million in aggregate; operated vessels in the 16-to 40-ft (4.9- to 12.2-m) range; and had 1 or 2 crew members. There are no additional reporting, recordkeeping, or other compliance requirements associated with this rule. In addition to the status quo, the Council originally considered six different geographical locations for an MCD, including the preferred alternative. The status quo alternative was rejected because it would not meet the stated objectives. After further consideration, the Council dropped three of the other alternatives, either because the location and size for these MCDs would not meet the objectives or because it was clear that the economic impacts on small business entities would exceed the benefits from establishing an MCD. A fourth MCD alternative was rejected because the objectives would have been met, but larger negative impacts would have been incurred than for the preferred alternative. The fifth MCD alternative was rejected because it was not clear if the objectives would have been met, yet the negative impacts were similar to those for the preferred alternative. The preferred alternative was chosen because it met the stated FMP objectives while minimizing negative economic impacts. The Council also considered a set of alternatives that would have applied to allowable activities within the MCD. The Council chose the most restrictive alternative, a pure no-take MCD, over three alternative proposals. The first of the rejected alternatives would have allowed the removal of organisms for restoration, educational, or scientific purposes; the second would have allowed the use of handlines within the MCD as long as the fishing vessel was not anchored; and the third would have prohibited all gear except trolling. The RIR examined all these scenarios in detail, and the Council determined that the short-term negative impacts associated with the pure no-take restriction (preferred alternative) would be exceeded by the long-term benefits of protecting all the resources in the MCD. The reasoning for rejecting the other alternatives was that allowing exemptions to a pure no-take regime, even for scientific or educational purposes, could provide loopholes that would present problems with compliance and enforcement. This could lead to a situation whereby the FMP objectives would not be met. Accordingly, the Council took the more restrictive approach even though the

short-term negative impacts were fully described and acknowledged. This final rule also prohibits anchoring by commercial or recreational fishing vessels within the boundaries of the MCD. The status quo of allowing anchoring was rejected to lessen the environmental impact of anchoring and to make it easier to enforce the ban on fishing in the MCD.

Copies of the FRFA are available (see ADDRESSES).

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

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

Dated: October 29, 1999.

Andrew A. Rosenberg,  
Deputy 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. Section 622.33 is revised to read as follows:

**§ 622.33 Caribbean EEZ seasonal and/or area closures.**

(a) *Seasonal closures.* (1) *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 lat.	West long.
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'

(2) *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.

(i) East of St. Croix.

Point	North lat.	West long.
A .....	17°50.2'	64°27.9'

Point	North lat.	West long.
B .....	17°50.1'	64°26.1'
C .....	17°49.2'	64°25.8'
D .....	17°48.6'	64°25.8'
E .....	17°48.1'	64°26.1'
F .....	17°47.5'	64°26.9'
A .....	17°50.2'	64°27.9'

(ii) *West of Puerto Rico—(A) Bajo de Cico.*

Point	North lat.	West long.
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'

(B) *Tourmaline Bank.*

Point	North lat.	West long.
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'

(C) *Abrir La Sierra Bank.*

Point	North lat.	West long.
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'

(3) *Queen conch closure.* From July 1 through September 30, each year, no person may fish for queen conch in the Caribbean EEZ and no person may possess on board a fishing vessel a queen conch in or from the Caribbean EEZ.

(b) *Year-round area closures.* (1) *Hind Bank Marine Conservation District (MCD).* The following activities are prohibited within the Hind Bank MCD: Fishing for any species, and anchoring by fishing vessels. The Hind Bank MCD is bounded by rhumb lines connecting, in order, the points listed.

Point	North lat.	West long.
A .....	18°13.2'	65°06.0'
B .....	18°13.2'	64°59.0'
C .....	18°11.8'	64°59.0'
D .....	18°10.7'	65°06.0'
A .....	18°13.2'	65°06.0'

(2) [Reserved]