

Note: This report represents an unofficial compilation of regulatory activities of the NOAA Fisheries Service, Southeast Regional Office, Sustainable Fisheries Division.

**Status Report of Southeast Regional Office
Sustainable Fisheries Division Activities
(February 17, 2011)**

Gulf Council

1. Deepwater Horizon/BP Oil Spill Rulemaking and Framework Procedure: On May 2, 2010, NOAA Fisheries Service responded to the April 20, 2010, Deepwater Horizon/BP oil spill by closing federal waters in the Gulf of Mexico affected by the oil spill. At its maximum, the closed area covered 88,522 square miles; approximately 37 percent of the federal waters in the Gulf of Mexico. NOAA Fisheries Service, in cooperation with the Food and Drug Administration, the Environmental Protection Agency, and the Gulf States continues to sample the fish in and around the fishery closed area to determine if the seafood is safe for consumption so the area can be re-opened to fishing. A substantial amount of this closed area has been re-opened. Currently, 1,041 square miles (0.4 percent of the Gulf of Mexico federal waters) are still closed in the area immediately surrounding the well head. On November 24, 2010, NOAA closed a 4,213-square mile area to royal red shrimp fishing because a fisherman caught tar balls while trawling for royal red shrimp in that area. The area reopened on February 2, 2011, after extensive sampling showed shrimp and finfish from the area are safe to eat.
2. Greater Amberjack Recreational Closed Season Regulatory Amendment: Because of the impacts of early-season fishery closures in 2009 for both the recreational and commercial sectors, the Gulf Council developed a framework action to close recreational harvest during June and July of each year. The Gulf Council approved this regulatory amendment for review by the Secretary of Commerce at its October 2010 meeting. NOAA Fisheries Service published a proposed rule on January 24, 2011 (76 FR 4084); the comment period ends February 23, 2011.
3. Recreational Red Snapper Emergency Rule: For 2010, the recreational red snapper fishing season was June 1 through July 23. The majority of the recreational fishing effort is centered in the north-central Gulf of Mexico, and this area was closed to all fishing because of the Deepwater Horizon/BP oil spill for the majority of that fishing season. NOAA Fisheries Service determined that 2.3 million pounds (mp) of the 3.4-mp recreational quota was not harvested during the open season. The Gulf Council requested that NOAA Fisheries Service publish an emergency rule that would give the Regional Administrator authority to re-open the recreational red snapper fishing season after the September 30, 2010, end of the fishing season, and to re-open the season for eight consecutive weekends (Friday through Sunday) beginning October 1. That rule became effective September 24, 2010. Landings data, to date, suggest the recreational quota was not met during this extended opening, thus total allowable catch (TAC) can be increased in 2011 (see #7).
4. Gag Interim Rule and Red Grouper Regulatory Amendment: Because of issues surrounding the 2009 gag stock assessment update, the Council requested NOAA Fisheries Service develop an interim rule to address overfishing of gag. NOAA Fisheries Service published an interim rule on December 1, 2010 (effective January 1, 2011), that released 100,000 pounds of the gag quota

for the commercial sector, and temporarily prohibits the recreational harvest of gag until an open recreational season can be established through Amendment 32 (see #5 below) or through an additional interim rule. The rule also prohibits the use of red grouper multi-use allocation in the grouper-tilefish Individual Fishing Quota program. For red grouper, NOAA Fisheries Service published a final rule from a regulatory amendment on December 1, 2010 (effective January 1, 2011) that reduced the red grouper TAC from 7.57 mp to 5.68 mp; i.e., a 4.32 mp commercial quota and a 1.36 mp recreational allocation. In recent years, neither sector has landed these allocations.

5. Reef Fish Amendment 32: Initially intended to adjust TACs for gag and red grouper, this amendment will now primarily address a rebuilding plan for gag. Gag has been determined to be overfished and continues to undergo overfishing. The assessment updates indicated at least a 75 percent reduction in TAC is needed for gag; however, this has been revised due to a rerun of the assessment update to address concerns about how recreational and commercial discards were treated. Current gag TAC is 3.55 mp; based on an update to the assessment, the Gulf Council's Scientific and Statistical Committee (SSC) recommended an allowable biological catch (ABC) for gag of 1.58 mp gutted weight for 2011. The Council reviewed possible recreational harvest scenarios at their February 2011 meeting so that a public hearing draft of the amendment will be available for approval in April. Scoping meetings were held in January 2010. NOAA Fisheries Service published a notice of intent to prepare a draft environmental impact statement (DEIS) on February 2, 2010. The amendment is still under development with a planned implementation in late-2011.

6. Annual Catch Limits (ACL) Amendments (Generic, Coastal Migratory Pelagic 18, Spiny Lobster 10): At its August 2009 meeting the Gulf Council reviewed scoping documents for three amendments under development to establish ACLs for fish stocks that are not undergoing overfishing. Scoping meetings were conducted in September 2009. These amendments are scheduled for implementation in 2011. For the two Fishery Management Plans (FMPs) managed jointly by the Gulf Council and the South Atlantic Fishery Management Council (South Atlantic Council), NOAA Fisheries Service staff is working with staffs from both Councils to develop Amendment 18 to the Coastal Migratory Pelagics (CMP) FMP (Environmental Assessment) and Amendment 10 to the Spiny Lobster FMP (Environmental Impact Statement). Both amendments were approved for public hearings by the South Atlantic Council at their December meeting, and are expected to be submitted for review by the Secretary of Commerce at their June 2011 meeting. The Spiny Lobster amendment was approved for public hearings by the Gulf Council at its February 2011 meeting and the CMP amendment is expected to be approved for public hearings at the April 2011 meeting. The Notice of Intent (NOI) to prepare a DEIS for the Spiny Lobster amendment was published on March 12, 2010. All other Gulf Council-managed species in need of ACLs will be included in a generic amendment for the remaining Gulf Council FMPs. A notice to prepare a DEIS for the generic amendment was published on September 15, 2009. The Gulf Council continues to develop these amendments for submission and implementation by NOAA Fisheries Service in 2011. The DEIS/public hearing draft for the Generic Amendment is expected to be made available for public comment in April 2011. The Stone Crab FMP, originally included in the generic ACL amendment, will be repealed through separate action.

7. Regulatory Amendment to Increase Red Snapper TAC for 2011: A 2009 stock assessment update projected that overfishing has ended for Gulf of Mexico red snapper, and that TAC could be increased. The Gulf Council's SSC recommended allowable biological catches for 2010 through 2012. TAC was raised in 2010. This regulatory amendment would again increase TAC from the existing 6.945 mp to 7.185 mp. The proposed rule would adjust the commercial and recreational quotas to 3.66 mp and 3.525 mp, respectively. This action would only occur if TAC for 2010 was not exceeded. Final 2010 recreational landings will be available in February 2011. NOAA Fisheries Service is currently reviewing the proposed rule; it is expected to publish in mid-February.

8. Generic Plan Amendment addressing Crew Size and Income Requirements: At the October 2010 meeting, the Gulf Council requested the development of a generic amendment to address the income requirement for commercial fisheries and the crew size for dually-permitted vessels. A scoping document was provided for the February 2011 Gulf Council meeting. In this generic amendment, issues relative to income qualification requirements could potentially be addressed by two management measures. The first action would address issues surrounding the temporary suspension of the income qualification requirements. The second action would evaluate potential modifications to existing qualification criteria and assess the elimination of income qualification as a condition for the renewal of commercial permits. The third action would address issues relative to the maximum crew size regulations for dual-permitted vessels, specifically concerning vessels conducting spearfishing activities by modifying the crew size by possibly increasing the maximum crew size or eliminating the requirement.

9. Upcoming Actions: (a) NOAA Fisheries Service has determined that the commercial greater amberjack quota was exceeded in 2010, and projects that the recreational quota was also exceeded. When final 2010 landings are available, in accordance with established accountability measures (AMs), NOAA Fisheries Service will publish a rule adjusting the quotas for 2011 to account for any overages; (b) at its February 2011 meeting, the Gulf Council began consideration of a regulatory amendment to adjust the fishing season for red snapper for the recreational sector; (c) at its February 2011 meeting, the Gulf Council considered joining the South Atlantic Council in an action to require fishermen harvesting CMP species in the Atlantic to possess a valid federal commercial permit to sell fish harvested under the bag limits; this will be CMP Amendment 19; and (d) NOAA Fisheries Service will publish rules certifying two new bycatch reduction devices for the southeastern shrimp fishery, and in accordance with actions established in joint Reef Fish Amendment 27/Shrimp Amendment 14, will adjust the effort reduction threshold from 74 percent to 67 percent.

South Atlantic Council

1. Red Snapper Interim Rule: A red snapper interim rule went into effect on January 4, 2010, prohibiting all recreational and commercial harvest of red snapper in the South Atlantic exclusive economic zone (EEZ) through June 2, 2010. It was extended for an additional 186 days and expired on December 5, 2010.

2. Snapper-Grouper Amendment 17A: Amendment 17A, which includes measures to end overfishing of red snapper, was approved by NOAA Fisheries Service in October 2010. Effective December 3, 2010, Amendment 17A continued the closure of red snapper in the South

Atlantic that was established through an interim rule. Also approved in Amendment 17A is a snapper-grouper area closure off Georgia and northern Florida intended to reduce bycatch mortality of red snapper. After Amendment 17A was approved, results of a new assessment became available indicating a harvest prohibition alone was sufficient to end overfishing of red snapper. An emergency rule published on December 20, 2011, delayed the effective date of the snapper-grouper area closure for 180 days to provide the Council time to respond to new information through a regulatory amendment.

3. Regulatory Amendment 10: Regulatory Amendment 10, which would eliminate the area closure for snapper-grouper species approved in Amendment 17A, was developed in response to the new assessment findings and approved for Secretarial review at the December 2010 South Atlantic Fishery Management Council (South Atlantic Council) meeting. It is anticipated that Regulatory Amendment 10 will be approved by NOAA Fisheries Service before June 1, 2011.

4. Snapper-Grouper Amendment 17B: Amendment 17B, which has been approved by NOAA Fisheries Service and will be implemented on January 31, 2011. Actions in Amendment 17B include: Establishment of ACLs, annual catch targets and AMs for 8 species experiencing overfishing; modifying management measures to limit total mortality to the ACL; and updating the framework procedure for specification of TAC. Amendment 17B also includes ACLs for black grouper, which has been recently assessed and is no longer undergoing overfishing. One of the management measures being considered would prohibit the harvest and possession of deepwater snapper-grouper species (snowy grouper, blueline tilefish, yellowedge grouper, misty grouper, queen snapper, and silk snapper) at depths greater than 240 feet. The intent of the action is to reduce bycatch of speckled hind and warsaw grouper.

5. Regulatory Amendment 11: Regulatory Amendment 11 was requested by the South Atlantic Council in December 2010 in response to the deepwater snapper-grouper closure approved in Amendment 17B. The request was made in response to industry input suggesting the closed area could be further reduced in size to minimize the negative economic and social effects on fishery entities without compromising conservation objectives for speckled hind and warsaw grouper.

6. Snapper-Grouper Amendment 18A: Amendment 18A is being developed to: Change the golden tilefish fishing year; limit effort in the black sea bass pot and golden tilefish fisheries; and improve data reporting. The South Atlantic Council approved Amendment 18A for public hearings at their September 2010 meeting. The South Atlantic Council could approve Amendment 18A for review by the Secretary of Commerce at their June 2011 meeting.

7. Snapper-Grouper Amendment 18B: Amendment 18B is being developed to: Extend the management range of snapper-grouper north of the South Atlantic Council's current jurisdiction and designate essential fish habitat for snapper-grouper species in the extended management range (New England and Mid-Atlantic). The South Atlantic Council has decided not to proceed on further development of Amendment 18B until actions in the Comprehensive ACL Amendment have been implemented.

8. Comprehensive ACL Amendment: The Comprehensive ACL Amendment is being developed to specify ACLs and AMs for species in the FMPs for Snapper-Grouper, Dolphin-

Wahoo, Sargassum, and Golden Crab that are not undergoing overfishing. The Comprehensive ACL Amendment would also remove some species from South Atlantic snapper-grouper fishery management unit, consider multi-species groupings, establish ABC control rules, consider designating some snapper-grouper species as ecosystem component species, specify allocations among the commercial, recreational, and for-hire sectors for species not undergoing overfishing, and modify management measures to limit total mortality to the ACL. The document will go out for public hearings in January and February 2011. The South Atlantic Council is scheduled to approve the Comprehensive ACL Amendment for review by the Secretary of Commerce in June 2011 and it is expected regulations will be implemented before the end of 2011.

9. Comprehensive Ecosystem-Based Amendment 2 (CE-BA 2): CE-BA 2 contains actions to establish ACLs and AMs for octocorals, transfer management of octocorals to the state of Florida, modify regulations in special management zones, and amend FMPs to designate new essential fish habitat-habitat areas of particular concern. The document will go out for public hearings in January and February 2011. The South Atlantic Council is scheduled to approve CE-BA 2 for review by the Secretary of Commerce at their June 2011 meeting.

10. Regulatory Amendment 9: Regulatory Amendment 9 considers trip limits for black sea bass, vermilion snapper, gag, and greater amberjack. Regulatory Amendment 9 also includes alternatives that could change the fishing year and establish a spawning season closure for black sea bass. The document will go out for public hearings in January and February 2011. The South Atlantic Council could approve Regulatory Amendment 9 for review by the Secretary of Commerce at their March 2011 meeting.

11. Other Amendments:

Other amendments in early stages of development include: Snapper-Grouper Amendment 20 (update the wreckfish Individual Transferable Quota program); Snapper-Grouper Amendment 21 (catch shares for vermilion snapper, black sea bass, and golden tilefish); Snapper-Grouper Amendment 22 (long-term management measures for red snapper); Snapper-Grouper Amendment 24 (rebuilding plan for red grouper); and Golden Crab Amendment 5 (catch share program for golden crab). These documents will be taken out for scoping in January and February 2011.

Caribbean Council

1. Bajo de Sico Regulatory Amendment: At the August 2007 meeting, the Caribbean Council began discussion of modifying the seasonal closure of Bajo de Sico, an area off the west coast of Puerto Rico. Bajo de Sico has been identified as critically important habitat for commercially exploited snappers and groupers. This area is part of the red hind spawning aggregation area and is closed under current regulations from December 1 to the end of February each year. The Caribbean Council reviewed a scoping document at its August 2008 meeting and reviewed, revised, and approved for public hearing, a public hearing draft at its March 2009 meeting. Five public hearings were held from April 22-29, 2009, beginning in the U.S. Virgin Islands (U.S.V.I.) and ending in Puerto Rico. At the June 2009 meeting, the Caribbean Council approved the proposed rule and moved to submit the regulatory amendment for Secretarial review. Due to further development of the regulatory amendment, the Caribbean Council reviewed and discussed the document and the rule at their September 2009 meeting. The Bajo de

Sico Environmental Assessment (EA) was reviewed and approved by NOAA's Office of Program Planning and Integration (PPI). Protected Resources Division conducted a review under Endangered Species Act for the Caribbean reef fish fishery and determined the Bajo de Sico action could proceed while a formal consultation is being conducted. The proposed rule published on July 28, 2010 (75 FR 44209). The comment period ended August 27, 2010. Only one comment was received from Department of the Interior specifying the proposed rule appropriately manages and protects Caribbean reef fishes and their habitat and has no effect on threatened and endangered species under their jurisdiction. The final rule published November 2, 2010 (75 FR 67247); with an effective date of December 2, 2010.

2. 2010 Caribbean ACL Amendment: The Caribbean Council scoped options for establishing ACLs and AMs for species undergoing overfishing or overfished in the U.S. Caribbean from April 27-May 7, 2009, and decided in June to hold a second round of scoping meetings August 18-19, 2009. Development of the ACL/AM amendment has been controversial and contentious, especially in the U.S.V.I. Meetings have been held with local policy makers, including the Governor of the U.S.V.I., the Island's Congressional Representative, and fishers to discuss Congressional mandated management needs and timing of implementation. In December 2009, the Caribbean Council reviewed and discussed an options paper for ACLs/AMs and reviewed a public hearing draft at their meeting on April 6-7, 2010. The amendment contains 6 actions:

- Amend the stock complexes in the Reef Fish Fishery management units (FMU),
- Establish management reference points for each FMU undergoing overfishing,
- Establish ACLs for snapper, grouper, and parrotfish complexes and allocate among commercial and recreational sectors and among islands,
- Implement management measures to prohibit species-specific harvest of parrotfishes, and establish recreational bag limits,
- Establish AMs to be invoked if ACLs are exceeded, and
- Develop framework measures for each FMP to allow for needed management changes.

At their April 2009 meeting, the Caribbean Council chose preferred alternatives for most actions. Public hearings were held during July 19-22, 2010, in Puerto Rico and the U.S.V.I. The DEIS filed on July 23 for a 45-day comment period that ended on September 7, 2010. The Caribbean Council then reviewed the amendment and considered comments during their September 2010 meeting and voted to submit it to the Secretary for review. At present, the amendment and DEIS await the outcome of a biological opinion being prepared by the Protected Resources Division that will address possible issues regarding impact of parrotfish grazing on critical settlement habitat for acroporid corals.

3. Queen Conch Compatible Regulations: Currently, fishing for and possession of queen conch is prohibited in the EEZ, with the exception of an area known as Lang Bank east of St. Croix, which is open to harvest of queen conch from October 1 through June 30. In 2008, the U.S.V.I. Department of Planning and Natural Resources (DPNR) implemented a 50,000-pound quota for queen conch in territorial waters of St. Croix. The DPNR queen conch quota was reached and the fishery was closed on May 1, 2009, until the end of their fishing year (November 1, 2009). On May 11, 2009, the Caribbean Council received a request from the DPNR for a compatible closure in the EEZ. At the June 2009 meeting, the Caribbean Council voted to amend the FMP for Queen Conch Resources of Puerto Rico and the U.S.V.I. to establish compatible closures

with U.S.V.I. territorial regulations. A regulatory amendment was developed to establish compatible closures with the U.S.V.I. territorial regulations to close the queen conch fishery after the local government has determined the quota in St. Croix has been reached. The amendment will also extend the seasonal closure in federal waters to June 1 through October 31, each year, consistent with the territorial seasonal closure. At the September 2010 meeting, the Caribbean Council voted to submit the regulatory amendment to the Secretary for review. The EA has been reviewed by NOAA's Office of PPI. The proposed rule was published January 20, 2011 (76 FR 3596). The comment period ends February 22, 2011.

4. 2011 Caribbean ACL Amendment: The reauthorized Magnuson Act requires that ACLs and AMs be established in 2010 for those species designated as undergoing overfishing and by 2011 for all other managed species. The 2010 Caribbean ACL Amendment is addressing those requirements for species designated as undergoing overfishing and the 2011 Amendment is designed to accomplish the same for all other managed species. A scoping document was prepared during fall 2010 and presented to the Caribbean Council at their December meeting in Fajardo, Puerto Rico. The Caribbean Council reviewed the options paper and has proceeded with scheduling scoping hearings, in Puerto Rico during the week of February 7, 2011, and in the U.S.V.I. during the week of February 14, 2011. Input provided during those scoping hearings will be used as appropriate to modify the options included in the document. That modified document will be presented to the Caribbean Council at their March 29-30, 2011, meeting in anticipation that they will identify preferred alternatives. A draft public hearing document will then be developed and provided for public input in preparation for final review and approval by the Caribbean Council for Secretarial review. In addition to ACLs and AMs for members of the reef fish, corals and associated plants and invertebrates, conch, and lobster fishery units, proposed provisions include separation of the recreational and commercial sectors in Puerto Rico, bag limits for the Puerto Rico recreational fishery, subdivision of the EEZ for application of AMs, management of aquarium trade species, and modification of framework provisions. NOAA Fisheries Service published a NOI to prepare a DEIS on January 27, 2011 (76 FR 4868).