

(iii) *"Imbalance" penalties.* Includes penalties the lessee incurs (generally on a monthly basis) for differences between volumes delivered into the pipeline and volumes scheduled or nominated at a receipt or delivery point; and

(iv) *"Operational" penalties.* Includes fees the lessee incurs for violation of the pipeline's curtailment or operational orders issued to protect the operational integrity of the pipeline;

(4) *Costs for intra-hub transfer fees paid to hub operators for administrative services (e.g., title transfer tracking) necessary to account for the sale of gas within a hub; and*

(5) *Any cost the lessee incurs for services it is required to provide at no cost to the lessor.*

(h) *Other transportation cost determinations.*

This section applies when calculating transportation costs to establish value using a netback procedure or any other procedure that requires deduction of transportation costs.

[FR Doc. 96-19310 Filed 7-30-96; 8:45 am]

BILLING CODE 4310-MR-P

FEDERAL MARITIME COMMISSION

46 CFR Part 540

[Docket 94-21]

Inquiry Into Alternative Forms of Financial Responsibility for Nonperformance of Transportation

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of proceeding.

SUMMARY: The Federal Maritime Commission had solicited public comment on certain passenger vessel operator financial responsibility issues under section 3 of Public Law 89-777. On the basis of the comments received, the Commission has determined to proceed with a further notice of proposed rulemaking in a separate docketed proceeding and is discontinuing this proceeding.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION:

Background

In Docket No. 94-06, *Financial Responsibility Requirements for Nonperformance of Transportation* ("NPR"),¹ the Commission proposed to increase its section 3, Pub. L. 89-777

coverage requirements. Given the industry's concerns about the NPR, the Commission determined to hold it in abeyance pending this Inquiry.² This Inquiry's purpose was to determine whether an acceptable alternative could be fashioned both to address the industry's concerns with the NPR and to ensure appropriate protection for passengers.

The comments filed on this Inquiry prompted the Commission to publish a Further Notice of Proposed Rulemaking in Docket No. 94-06 proposing revisions to the coverage requirements.³ Thus, Docket 94-21 has served its purpose and is discontinued.

By the Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 96-19439 Filed 7-30-96; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF ENERGY

48 CFR Parts 917, 950, 952, and 970

[1991-AB-28]

Acquisition Regulation; Department of Energy Management and Operating Contracts; Hearing Cancellation

AGENCY: Department of Energy.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on the Department of Energy's proposal to amend its acquisition regulations to implement certain key recommendations of the Department's contract reform initiative.

DATES: The public hearing originally scheduled for Thursday, August 1, 1996, beginning at 9:30 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Connie P. Fournier, Office of Policy (HR-51), Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-8245.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is changes proposed to amend the Department of Energy Acquisition Regulation Parts 917, 950, 953, and 970 to improve the Department's acquisition system, principally in areas affecting management and operating contracts. A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register on Monday, June 24, 1996 (61 FR 32588) announced that the public hearing would be held on

Thursday, August 1, 1996, beginning at 9:30 a.m., in the Main Auditorium, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

The public hearing scheduled for Thursday, August 1, 1996, is cancelled. Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

[FR Doc. 96-19480 Filed 7-30-96; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 960123012-6196-02; I.D. 011995A]

RIN 0648-AF78

Reef Fish Fishery of the Gulf of Mexico; Red Grouper Size Limit

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

ACTION: Proposed rule; withdrawal.

SUMMARY: NMFS announces that it is withdrawing the proposed rule to change the minimum allowable size of red grouper, currently 20 inches (50.8 cm), to 18 inches (45.7 cm) for persons not subject to the bag limit.

DATES: This proposed rule is withdrawn on July 31, 1996.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by regulations at 50 CFR part 622 (formerly at 50 CFR part 641).

Under the framework procedure for adjusting FMP management measures, the Council proposed a regulatory amendment (RA) (50 CFR part 641) to change the minimum allowable size for red grouper from 20 inches (50.8 cm) to 18 inches (45.7 cm) for persons not subject to the bag limit. The proposed rule to implement the RA was published in the Federal Register on January 31, 1996 (61 FR 3369); comments were requested on or before March 1, 1996. Five members of the Council submitted a minority report opposing the RA. NMFS specifically requested comments on the following concerns: (1) Long- and

¹ 59 FR 15149 (March 31, 1994).

² 59 FR 52133 (October 26, 1994).

³ 61 FR 33059 (June 26, 1996).

short-term economic and social effects of the rule; (2) potential for creating user conflicts; (3) consistency with the Magnuson Act's National Standards and with certain FMP objectives; and (4) difficulties with enforcing differential minimum size limits for the commercial and recreational fisheries.

NMFS received written comments from 586 entities on the advisability of the 18-inch (45.7-cm) minimum size limit. All but one commenter were from Florida.

Summary of Public Comments and Agency Responses

1. Long- and Short-Term Economic and Social Effects

Comment: Thirty-three commenters provided information on this issue. Five commercial associations and one commercial fisherman supported the reduction in minimum size. They believed the long- and short-term socioeconomic effects on recreational and commercial fisheries would be positive; that is, the rule would result in an increase of 5 to 10 percent in gross income. These commenters did not expect a derby fishery to develop as a result of the proposed minimum size reduction.

Twenty-seven commenters opposed the minimum size reduction for socioeconomic reasons. Six charter vessel/headboat operators stated that commercial fishermen would obtain more profits but would experience a fishery closure due to the quota being reached. They believed reduction in the size limit would cause negative responses among recreational anglers because few legal sized red grouper would be available for recreational anglers. They suggested that the smaller commercial size limit would devastate the resource because 18-inch fish (45.7-cm) would not have a chance to reproduce potentially causing a negative long term socioeconomic impact. These commenters believed that charterboat income and Florida's sales tax receipts would decrease.

Eight commercial fishermen stated that the commercial fishery would experience a short-term increase in income but ultimately would experience a long-term loss because the red grouper resource could not withstand the increased fishing pressure. They feared that if the quota were reached, and NMFS closed the fishery, very few fishermen could financially withstand the closure. They contended that a derby fishery would develop in future years similar to what has happened in the red snapper fishery. They also stated that the influx of smaller fish would

depress market prices and reduce overall income to fishermen.

The Florida Department of Environmental Protection (FDEP) and Florida Marine Fisheries Commission (FMFC) stated that the proposed reduction in the size limit would not create any benefits.

In a minority report, five Council members stated they expected a short-term glut of 18- to 20-inch (45.7- to 50.8-cm) fish and cited testimony from dealers and fishermen indicating that smaller fish could result in size grading and reduced values.

One individual suggested that the commercial fishery would benefit in the short term but suffer in the long term due to overfishing. One recreational association indicated that the smaller size limit would cause overfishing. Four recreational anglers stated that no benefits would result from the reduction in the size limit.

Response: NMFS agrees with the 27 commenters that any short-term benefit to the commercial fishery would be offset by negative long- and short-term socioeconomic effects on the recreational fishery and by negative long-term socioeconomic effects on the commercial fishery.

2. Potential for User Conflicts

Comment: Thirty-one commenters provided information on this issue. Five commercial associations and one commercial fisherman supported the minimum size limit reduction. They believed it would minimize the potential for user conflicts because commercial fishermen target larger fish in deeper waters where recreational fishermen generally do not operate and the sedentary nature of red grouper should keep the two fisheries separated.

Twenty-five commenters opposed a reduction in the minimum size limit because of user conflict concerns. Six charter vessel/headboat operators stated that recreational anglers would object to commercial fishermen taking smaller fish and recommended the same size limit for all fishermen. Seven commercial fishermen were concerned about the potential for conflicts due to recreational anglers blaming commercial fishermen for the unavailability of 20-inch (50.8-cm) fish. They believed user conflicts would arise as commercial fishermen move shoreward to catch the smaller fish.

The FDEP and FMFC stated that the smaller commercial minimum size limit would cause conflicts between user groups.

Five Council members stated in a minority report that most recreational anglers opposed the size limit change.

One individual and one recreational association stated that the smaller commercial size limit would cause conflicts between the commercial and recreational fishermen. Three recreational anglers supported no change in the current commercial size limit because minimal conflicts occur under existing regulations.

Response: NMFS agrees with the 25 commenters that the smaller commercial size limit would cause conflicts between the commercial and recreational fishermen.

3. Consistency With the Magnuson Act's National Standards and With Certain FMP Objectives

Comment: Twenty commenters provided information on this issue. Five commercial associations and one commercial fisherman supporting the minimum size reduction doubted the smaller commercial minimum size limit would cause commercial landings to reach the annual quota (9.8 million pounds, 4.45 million kg) for the shallow water grouper complex which includes red grouper. The commercial fisherman did not believe that the change in the commercial size limit would alter fishing patterns. These commenters concluded that the proposed reduction in minimum size is consistent with the Magnuson Act's National Standards and the FMP objectives.

Fourteen commenters opposed reduction in the commercial minimum size limit for reasons relating to the National Standards or FMP objectives. Two charter vessel/headboat operators and five commercial fishermen contended that reduction in the commercial size limit would lead to overfishing, a derby fishery, and conflicts with recreational fishermen. The FDEP stated that the reduction was inconsistent with the Magnuson Act's National Standards. In a minority report, five Council members contended that the smaller size limit was contrary to the Magnuson Act and certain FMP objectives because it might result in overfishing, a derby fishery, and conflicts with the recreational sector. A recreational angler stated the reduction discriminated against his user group.

Response: NMFS agrees with the 14 commenters to the extent that the proposed reduction in the commercial size limit is inconsistent with National Standard 1 and certain FMP objectives (i.e., FMP Objective 4—minimize user conflicts; FMP Amendment 1, Objective 7—maximize net economic benefits; FMP Amendment 8 Objective 3—protect juveniles; and FMP Amendment 8, Objective 2—avoid a derby fishery).

4. Difficulties With Enforcing Differential Size Limits

Comment: Thirty commenters provided information on this issue. Five commercial associations and one commercial fisherman stated that different size limits for recreational and commercial fishermen were enforceable because commercial fishermen must have a Federal permit to operate and, therefore, would be readily distinguishable from recreational fishermen. They noted the concept of different size limits for recreational and commercial fishermen has been tested and found acceptable, from the enforcement standpoint, in the amberjack and red snapper fisheries in the Gulf of Mexico.

Twenty-four commenters indicated that differing recreational and commercial minimum size limits complicate enforcement, especially when Federal and state size limits differ. Four charter vessel/headboat operators and eight commercial

fishermen commented that compatible Federal and state regulations would simplify enforcement of minimum size limits. The FDEP, the Florida Department of Community Affairs (FDCA), and the FMFC believe that Federal regulations different from the state's would adversely impact Florida's ability to enforce its regulations.

The five Council members who filed a minority report pointed out that a size limit for red grouper that differs from the size limit for other grouper species would make enforcement more difficult.

Response: NMFS agrees with the 25 commenters that different minimum size limits for recreational and commercial fisheries would complicate enforcement, especially since Federal and Florida's size limits would be different.

5. Consistency With Florida's Coastal Management Plan

Comment: On November 28, 1995, the FDCA notified the Council that the

proposed minimum size reduction is inconsistent with Florida's Coastal Management Program. Florida has a 20-inch (50.8-cm) commercial minimum size limit for red grouper, and the FDCA claimed that reducing the Federal size limit to 18 inches (45.7-cm) would undermine Florida's efforts to manage its fishery resources. Florida also opposed the size reduction because 18-inch red grouper are sexually immature, and harvesting red grouper prior to reproduction increases the potential for overfishing.

Response: Disapproval of the regulatory amendment renders Florida's inconsistency determination moot.

6. Summary of Public Responses

During the comment period, 586 commenters provided written comments on the advisability of implementing the proposed 18-inch (45.7-cm) minimum size limit for red grouper. All but one commenter was from Florida. Table 1 summarizes the responses.

TABLE 1.—COMMENTS ON THE PROPOSAL TO REDUCE THE COMMERCIAL MINIMUM SIZE LIMIT FOR RED GROUPER TO 18 INCHES (45.7 CM)

Constituent group	For	Against	*Other
Commercial Associations	5	.....	.....
Charter Vessel/ Headboat Operators	3	9	1
Commercial Fishermen	2	84	.....
Environmental Groups .....	.....	.....	1
State Government Agencies	1	3	.....
Gulf Council (Minority Report) .....	.....	5	.....
Private Individuals	12	140	1
Recreational Associations .....	.....	4	.....
Recreational Anglers .....	.....	314	1

TABLE 1.—COMMENTS ON THE PROPOSAL TO REDUCE THE COMMERCIAL MINIMUM SIZE LIMIT FOR RED GROUPER TO 18 INCHES (45.7 CM)
Continued

Constituent group	For	Against	*Other
Total	23	559	4

*Commenters who did not take a position on the size limit

Agency Decision

After reviewing the RA, supporting documents, minority report, and comments received during the public comment period, NMFS has concluded that the proposed reduction in the commercial size limit is neither necessary nor appropriate for the conservation and management of red grouper. In particular, it is likely that the smaller commercial size limit would

create conflicts between commercial and recreational fishermen and would not result in long-term benefits to the fisheries. NMFS is also concerned about the ineffectiveness of the proposed commercial size limit in preventing overfishing as required under National Standard 1 of the Magnuson Act. Accordingly, NMFS has disapproved the RA and withdraws the proposed rule to change the minimum size limit for red grouper for persons not subject to the bag limit.

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

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 25, 1996.

Charles Karnella,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96-19464 Filed 7-30-96; 8:45 am]

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