

public access to official documents pursuant to the Freedom of Information Act, 5 U.S.C. 552a.

§ 230.26 Do these rules affect the service of process requirements of the Federal Rules of Civil Procedure (28 U.S.C. Appendix)?

No, the rules in subpart B in no way modify the requirements of the Federal Rules of Civil Procedure regarding service of process.

§ 230.27 Do these rules create any right or benefit enforceable by a party against the Postal Service?

No, subpart B is intended to provide instructions to Office of Inspector General employees and members of the public. It does not create any right or benefit, substantive or procedural, enforceable by any party against the Office of Inspector General or the Postal Service.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 03-24619 Filed 10-2-03; 8:45 am]

BILLING CODE 7710-12-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 030430107-3236-02; I.D. 040703A]

RIN 0648-AN87

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Pelagic Sargassum Habitat of the South Atlantic Region

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region (FMP). This final rule limits the harvest or possession of pelagic sargassum in or from the exclusive economic zone (EEZ) off the southern Atlantic states to 5,000 lb (2,268 kg) annually, restricts fishing for pelagic sargassum in the South Atlantic EEZ to an area no less than 100 nautical miles offshore of North Carolina and to the months of November through June, requires vessel owners or operators to accommodate NMFS-approved observers on all pelagic sargassum fishing trips, and restricts the

mesh and frame sizes of nets used to harvest pelagic sargassum. The FMP also defines the management unit, maximum sustainable yield (MSY), optimum yield (OY), and overfishing parameters. In addition, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for those collections. The intended effects are to conserve and manage pelagic sargassum and to protect essential fish habitat.

DATES: This final rule is effective November 3, 2003.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Robert Sadler, Southeast Region, NMFS, at the above address, and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, phone: 727-570-5305, fax: 727-570-5583, e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council (SAFMC) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On April 17, 2003, NMFS announced the availability of the FMP and requested comments on it (68 FR 18942). NMFS published a proposed rule to implement the FMP and requested comments on the proposed rule through June 30, 2003 (68 FR 32450, May 30, 2003). NMFS partially approved the FMP on July 11, 2003; the designation of essential fish habitat (EFH), EFH-habitat areas of particular concern (EFH-HAPCs), and the estimate of maximum fishing mortality threshold (MFMT) were disapproved. The rationale for the measures in the FMP is provided in the preamble to the proposed rule and is not repeated here.

Comments and Responses

NMFS received 22 letters on the FMP and proposed rule. Of those, 18 were in general support of the actions identified in the FMP, 2 were opposed, and 2 letters focused on future research needs regarding the role of pelagic sargassum as habitat in the open ocean

environment. A summary of those comments and NMFS's responses are provided below.

Comment 1: Sargassum is extremely important habitat for a variety of marine species. NMFS is urged to approve this FMP and its implementing regulations, which would limit the harvest of sargassum and protect the resource as essential fish habitat (EFH) and EFH habitat areas of particular concern (EFH-HAPC).

Response: NMFS recognizes the importance of sargassum as EFH for managed species, and sargassum's general importance as habitat in the open ocean environment. NMFS has partially approved the FMP, and regulations implemented through this rule will prohibit the harvest of sargassum south of 34° N. lat. in the SAFMC's area of jurisdiction, and restrict the allowable harvest to 5,000 lb (2,268 kg) annually from waters greater than 100 nautical miles offshore of the North Carolina coast. These actions are intended to provide protection to sargassum habitat, which is designated as EFH for snappers, groupers, and coastal migratory pelagic fishes, and is known to be used by threatened and endangered sea turtles and large quantities of other marine life.

Comment 2: Because of the importance of sargassum as habitat, and its designation as EFH and HAPC for several managed finfish species, all harvest of sargassum should be prohibited.

Response: NMFS previously informed the SAFMC that there was insufficient justification to prohibit all harvest of sargassum. Section 303(a)(7) of the Magnuson-Stevens Act requires that the Councils minimize to the extent practicable adverse effects on EFH caused by fishing, but clearly this does not, in every instance, preclude some loss or damage to EFH from fishing impacts. Given the suggested standing crop of sargassum is 9 to 24 billion lbs (4 to 11 million mt) and there has been a documented harvest of 448,000 lb (203 mt) over a 22-year period, NMFS determined that the administrative record does not provide sufficient evidence that there has been an adverse impact on sargassum as EFH, or that harvest should be prohibited.

Comment 3: Quantities of sargassum found off of the east coast of Florida have declined in recent years. The ongoing harvest of sargassum is detrimental to Florida's offshore fisheries and should not be allowed.

Response: Given that sargassum is dispersed northward from the Sargasso Sea to the north Atlantic Ocean via the Gulf Stream and prevailing winds,