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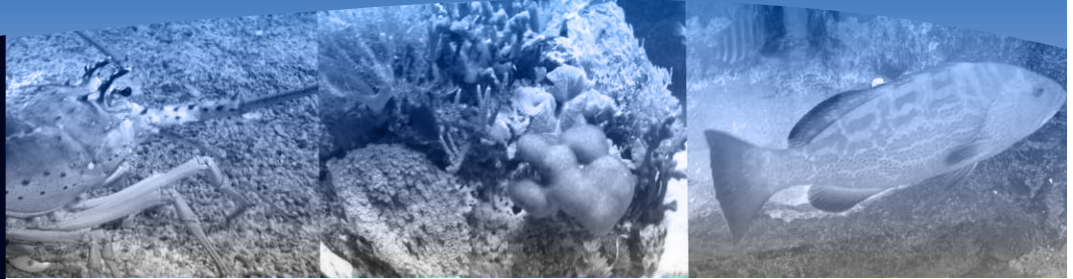
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## Scoping Meetings on Longline/Turtle Interactions scheduled

December 9, 2008  
Hilton Garden Inn  
1101 US Highway 231  
Panama City, Florida

December 10, 2008  
City of Madeira Beach  
300 Municipal Drive  
Madeira Beach, Florida

*See page 2 for more information*



Volume 30, Issue 5

## Aquaculture Fishery Management Plan update

Final action on a proposed Aquaculture Fishery Management Plan (FMP) that would implement a regional permitting process for regulating aquaculture in the federal waters of the Gulf of Mexico was delayed last month to allow for the review of public comments received as late as October 27, the deadline to submit formal comments.

The Council agreed the delay would also provide NOAA General Counsel the additional time needed to review the latest changes to both the FMP and the regulations prior the Council taking final action.

Under development for nearly six years, the Aquaculture FMP provides a process to ensure that aquaculture

operations undertaken in the Gulf of Mexico EEZ are environmentally sound, sustainable, and provide maximum benefits to the nation.

A final public hearing will be held during the January Council meeting in Bay St. Louis, MS, at the Hollywood Casino Hotel. Public testimony is scheduled to begin Wednesday, January 28, 2009 at 1:15 p.m.

The final draft of the FMP is expected to be available at the first of the year, and it will be posted on the Gulf Council web site at that time.

A list of frequently asked questions is also available on the Council's web site at [www.gulfcouncil.org](http://www.gulfcouncil.org) - click *Library* in the left navigation column, then click *Aquaculture*.

## NOAA seeking public comment on Amendment 30B

NOAA's National Marine Fisheries Service is seeking public comment on proposed Amendment 30B to the Gulf of Mexico Reef Fish Fishery Management Plan. The amendment, which the Council submitted for review, approval, and implementation back in August, is intended to end overfishing of gag and revise the shallow-water grouper management measures as a result of changes in the stock condition.

The most recent assessments for gag and red grouper indicate changes in stock condition. For gag, landings must be reduced to end overfishing and consistent with the fishing mortality level necessary to harvest the optimum yield.

For red grouper the stock condition has improved, allowing for an increase in harvest.

*See Gag and Red Grouper, page 9*

## Council tables operator permit discussions

Operator permits became a topic of discussion several years ago when the Council was developing Shrimp Amendment 11. While the measure didn't make it into that amendment, the Council last year created an Operator Permit Committee and began another round of discussions on a proposal that would require commercial, charter boat, and head boat captains to obtain a federal permit. It was looked upon as a means to identify operators of commercial/charter/headboat vessels.

Prompting the discussion was the reported problem of vessel operators incurring violations then moving from vessel to vessel, avoiding retribution and leaving vessel owners to deal with the financial issues associated with those violations.

The rationale behind an operator permit is that it could provide a deterrent for operator violations since the permits could be sanctioned or rendered invalid.

Proponents also suggested that operator permits might add a level of professionalism to the industry because

fleet owners could easily determine if a captain seeking employment is qualified, and could more readily conduct a background check.

But a letter from NOAA's National Marine Fisheries, responding to a question from the Southern Shrimp Alliance about whether the Council has authority to adopt measures allowing the issuance of a Notice of Violation & Assessment against the vessel operator only, led to the Council's decision to halt discussions on the measure.

"It is beyond the Council's authority to specifically preclude NOAA General Council...from taking action against the owner or permit holder of a vessel found to have been used in the commission of an act prohibited under the MSA," read the response.

Without that authority the amendment would have little utility for management, so the Council at its October meeting agreed to discontinue work on the amendment and remove it from the work schedule.

## Longline/sea turtle observer data prompts Council action

A recent report by the Southeast Fisheries Science Center shows the estimated take of sea turtles in the bottom longline fishery in the Gulf of Mexico exceeds the authorized bycatch allowance.

This increase in bycatch has prompted the Gulf of Mexico Fishery Management Council to immediately begin developing an amendment to address the issue. Already scheduled are two scoping meetings to explore possible alternatives to reduce sea turtle takes to levels that do not jeopardize the continued existence of the population.

Members of the longline fishing industry aren't wasting any time either, and are working hard to develop gear modifications to help reduce turtle bycatch.

Glen Brooks with the Gulf Fisherman's Association demonstrated to Council members during an informal Q&A session held in Mobile, two different gear modification prototypes. The modifications are fairly simple and, if proven effective, would be easy to implement across the bottom longline fishery.

The gear would, of course, have to be tested and approved, but Brooks is hopeful that the industry efforts will limit other possible restrictions, and he's working closely with officials to get the modifications approved as quickly as possible.

The Council is required by the Endangered Species Act to take action to provide protection for threatened loggerhead sea turtles from interactions with fishing gear. Similarly, National Standard 9 of the Magnuson-Stevens

Fishery Conservation and Management Act requires the Council to reduce bycatch to the extent practicable, and where it cannot be reduced, to reduce bycatch mortality.

Scoping meetings will be held from 6:00 p.m. - 9:00 p.m. December 9, 2008 at the Hilton Garden Inn in Panama City, Florida, and December 10, at the City of Madeira Beach Municipal Building in Madeira Beach, Florida.

The meetings are part of the initial phase of preparing a plan amendment and are designed to identify issues and a reasonable range of alternatives to address those issues. Some alternatives that may be considered include time/area closures, gear modifications, effort limitation, and other measures to reduce sea turtle takes and mortality from interactions with bottom longline gear in the reef fish fishery. The public is encouraged to attend and provide comments and suggestions; public input will then be used to further develop the amendment.



Examples of industry proposed gear modifications for the bottom longline fishery

## Gulf of Mexico Fishery Management Council

Richard Leard  
Interim Executive Director

### Appointed Voting Members

Ed Sapp Gainesville, FL 352-377-2715	Michael Ray Austin, TX 512-389-4649
Robert Gill Crystal River, FL 352-795-1916	Robert Shipp Vice Chair Mobile, AL 251-460-6351
Joseph Hendrix Houston, TX 281-597-1620	Susan Villere Mandeville, LA 985-845-3557
Thomas McIlwain Chair Ocean Springs, MS 228-818-8866	Bobbi Walker Orange Beach, AL 251-981-2300
Julie Morris Sarasota, FL 941-487-4527	Kay Williams Vanceleave, MS 228-826-2160
Harlon Pearce Kenner, LA 504-467-3809	

### State/Federal Voting Members

Robin Riechers Austin, TX 512-389-4864	Corky Perret Biloxi, MS 228-374-5000
Bill Teehan Tallahassee, FL 850-487-0554	Karen Foote Baton Rouge, LA 225-765-2383
Vernon Minton Gulf Shores, AL 251-968-7576	Roy Crabtree SERO 727-824-5301

### Non-voting Members

Sam Hamilton USF&WS 404-679-4000	Larry Simpson GSMFC 228-875-5912
Radm Joel Whitehead Eighth USCG District 504-589-6223	David Hogan Foreign Affairs 202-647-2335

## The Gulf of Mexico Fishery Management Council

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## Chili Champion named in first annual Chili Cook Off

Under the courtyard tent outside the Pillars restaurant in Mobile, with a sharp but fitting chill in the air, eight vats of chili awaited tasting by an ever-growing crowd. It was the first annual Gulf Council Chili Cook Off, where members of the Council put forth their best efforts to win the coveted title of Chili Champion.

Competition was fierce, with at least one entry from each of the five Gulf states vying for a shot to claim first prize.

Leading up to the competition, Council members jabbed each other with gibes about secret ingredients, such as "Gustav nutria" and "Texas road kill". Some advocated for stomach pumps and EMTs to be on hand to treat those who might fall victim to the exotic ingredients. Even legal counsel weighed in with a recommendation that all judges be required to sign a waiver prior to the event.

Nevertheless, flavorful medleys from thick and spicy, to mild and sweet, even a soupy chicken potage, filled the bowls of eager judges wandering from one delightful delectation to another - nary a nutria among them.

Fastidious samplers scribbled feverishly, noting details about each entry – tasting and re-tasting to ensure an impartial outcome.

After marking their top three choices, judges placed their ballots in an empty cracker box. With the ballot box stuffed, staff dutifully tallied the votes, and three top contenders quickly emerged - a winner was proclaimed.

Mississippi's Corky Perret took home the Chili Champion title and the prized Chili Cook Off trophy, a silver ladle, complete with a first place inscription. Larry Simpson, also of Mississippi, took second place prize, with third prize going to Bob Shipp of Alabama.

In a request for comment about his conquest over the seven other contenders, Perret said, with his usual

humility, "Oh, it was nothing. My chili has pleased the palates of many over the years. With my combination of top secret ingredients and unparalleled experience, I was a shoe-in. But I do want to compliment the other chefs for their efforts."

Perret later offered cooking lessons to the other chefs - no charge, of course.



C chili Champion Corky Perret admires his first place ladle



Larry Simpson proudly displays his second-place ribbon



Bob Shipp placed third in the first annual Gulf Council Chili Cook Off



The triumphant trio show off their ribbons as Chairman Tom McIlwain looks on



## New BRD criteria approved

NOAA's National Marine Fisheries Service (NOAA Fisheries Service) announced the publication of a final rule that will change the use of bycatch reduction devices (BRDs) in the Gulf of Mexico shrimp fishery. In summary, these changes:

- Decertify the Expanded Mesh BRD
- Decertify the Gulf Fisheye BRD
- Establish a more restrictive placement for the Fisheye BRD

The intent of these changes is to improve bycatch reduction in the Gulf of Mexico shrimp fishery and better meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. These changes are effective May 18, 2009.

A BRD is certified for use in the shrimp fishery if testing demonstrates the BRD reduces finfish bycatch 30 percent by weight.

New data collected aboard Gulf of Mexico shrimp vessels indicates that a

fish-eye-type device placed more than 9 feet forward in the cod end of the net does not exclude 30 percent of the finfish by weight.

The Fisheye BRD must be placed along the top center of the cod end of a shrimp trawl no further forward than 11 feet from the cod end tie-off rings.

The Gulf Fisheye BRD is the same fish-eye-type device that may be placed 15 meshes on either side of top center, between 8.5 feet and 12.5 feet from the cod end tie-off rings, thus expanding the allowable placement of the device in the cod end.

Therefore, the final rule will decertify the Gulf Fisheye BRD as it is designated in the regulations, and will restrict the allowable placement of the Fisheye BRD to no farther forward than 9 feet from the tie-off rings.

Similarly, it appears the effectiveness of the Expanded Mesh BRD has decreased. Recent tests of the

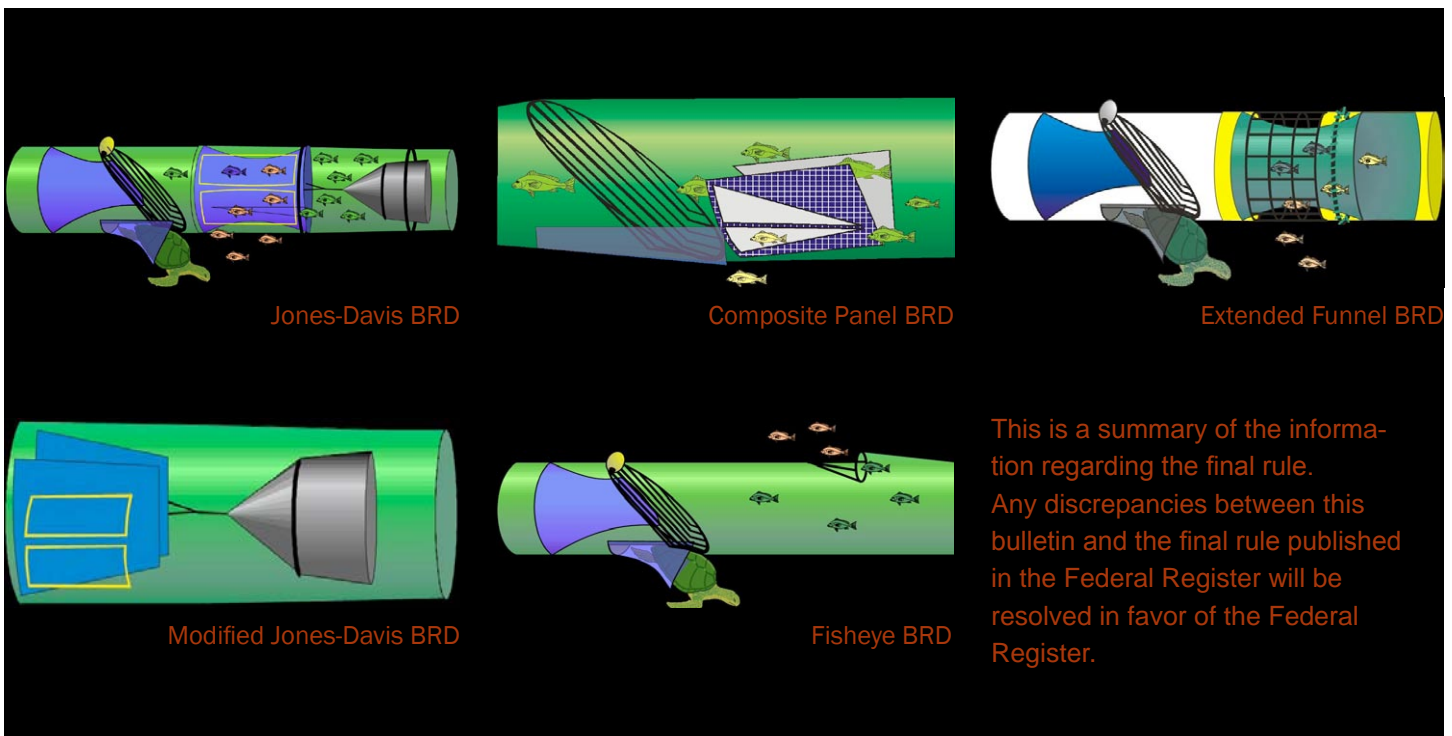
Expanded Mesh BRD in the Gulf of Mexico indicate it is only achieving about a 17 percent reduction in the weight of total finfish bycatch.

The final rule also decertifies the Expanded Mesh BRD in the Gulf of Mexico.

There are no new data collected from the South Atlantic fishery to indicate the BRDs are not meeting the bycatch reduction target; therefore, there will be no changes to the allowable BRDs in the South Atlantic.

Illustrations of the various BRD designs and installation instructions for some of the BRDs can be found at <http://sero.nmfs.noaa.gov/sf/BRDs.htm>.

Questions can be directed to the Harvesting Technology Branch, NOAA Fisheries Service, Mississippi Laboratories, Pascagoula Facility, 3209 Frederic Street, Pascagoula, Mississippi 39568-1207; phone 228-762-4591.





## NOAA/NMFS – Southeast Division

### Office for Law Enforcement Quarterly Report

#### Gulf of Mexico Enforcement Operations

#### Significant Actions

#### ESA

National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS) Special Agents from St. Petersburg, FL, were notified by NOAA General Council for Enforcement and Litigation, SE Region (GCEL/SE) that shrimp boat captain Jason NGUYEN was issued a NOVA in the amount of \$4,000. NGUYEN was boarded by the FWCC and cited for TED violations while dragging four non-compliant nets. NOAA/NMFS agents responded when notified by the FWCC and conducted follow-up interviews.

NOAA/NMFS agents from Galveston, TX, were notified by NOAA GCEL/SE of a three-count NOVA in a case involving shrimping during the seasonal closure, TED violations, illegal shark fining and disposal of evidence. The \$24,000 NOVA is in addition to a 45-day permit sanction and forfeiture of the proceeds of a perishable shrimp seizure in the amount of \$8,372.50.

#### MSFCMA

A NOAA/NMFS agent from St. Petersburg received notice that NOAA GCEL issued a NOVA in the amount of \$6,000 to the owner and operator of the FV WHO DAT. NOAA OLE Agents and FFWCC Officers boarded the vessel after receiving complaints alleging the vessel operator was fishing with illegal fish trap gear. The vessel owner and operator were charged with possession of illegal trap gear. A total of 40 fish traps were deployed and retrieved by the vessel operator and crew prior to the boarding.

A NOAA/NMFS agent from St. Petersburg received notification from NOAA GCEL Southeast that a NOVA in the amount of \$2,000.00 and a five-day Notice of Permit Sanction (NOPS) was issued to the owner and operator

of the F/V STAR CHIEF for violations of the Magnuson-Stevens Fishery Conservation and Management Act (M-SFCMA). The F/V STAR CHIEF was boarded approximately 80 nautical miles offshore by FWCC Officers and found to be in possession of 40 fish fillets, which were identified by the NOS Laboratory as red snapper.

A NOAA/NMFS agent from Niceville received a notice of settlement in the amount of \$3,375.00 by operator Marcus Murphy III of the F/V SLICK AS GLASS. Murphy was found in violation after filleting 55 red snapper at sea during the closed season. Murphy also was in possession of red drum in the Gulf of Mexico EEZ. Murphy told boarding officers from the AMRC that he was making up for the lack of snapper he was able to harvest last year due to lower bag limits and a shorter season.

A NOAA/NMFS agent from Niceville received a notice of NOVA of \$12,000.00 and 15-day NOPS to the owner, Michael Moore and operator, Donnie Anderson of the F/V MISS HALEY II. Moore and Anderson were found in violation when 1,300 pounds of tilefish were found onboard after the seasonal closure.

A NOAA/NMFS agent from St. Petersburg received notice that NOAA GCEL issued a NOVA in the amount of \$25,000 to the owner/operator of the FV MISS RITA. The case was initiated by the Southeast Region's VMS division after vessel tracks were observed in the longline and buoy gear restricted area. The vessel was subsequently boarded and escorted to port. The penalty included forfeiture of \$14,927.60 from the proceeds of the seized catch and a 30-day NOPS.

A NOAA/NMFS agent from St. Petersburg received notice from NOAA GCEL that a NOVA in the amount of

\$5,000, a 15-day NOPS, and forfeiture of seized proceeds was issued to the owner and the operator of the F/V BLUE WATER I for violations of the M-SFCMA. The captain of the F/V BLUE WATER I failed to comply with the red snapper IFQ requirements when he possessed an additional 148 pounds of unreported red snapper in excess of his allocation. The fish was found concealed under several bags of bait.

A NOAA/NMFS agent from St. Petersburg received notice from NOAA GCEL that a NOVA in the amount of \$1,800, a five-day NOPS, and forfeiture of seized proceeds was issued to the owner and operator of the F/V GUARDIAN for violations of the Magnuson-Stevens Fishery Conservation and Management Act. The F/V GUARDIAN was boarded in the Florida Middle Grounds and possessed undersized federally regulated reef fish.

A NOAA/NMFS agent from Niceville received notice from NOAA GCEL that a NOVA in the amount of \$1,800 was issued to Earnest Marlon Ducker. Ducker was apprehended in possession of red snapper during the closed season after he failed to comply with boarding commands and attempted to flee from a Panama City based FWCC patrol vessel.

A NOAA/NMFS agent from Niceville was notified by NOAA GC that Panama City charter boat captain Donald Morrell of the F/V MARY M was issued a \$2,000 NOVA. Morrell and his paying passengers possessed the state bag limit of red snapper during the closed federal recreational season in the Gulf of Mexico EEZ.

A NOAA/NMFS agent from Niceville received notice of a settlement with charter vessel operator Brian Phillips

## Enforcement Report *continued from page 5*

Annan, owner of the F/V GULF REBEL. Annan was found to be in possession of 60 red snapper during the seasonal closure while out fishing with friends. Annan paid a \$3,000 NOVA and forfeited \$744 for the seized fish.

A NOAA/NMFS agent from St. Petersburg received notice that NOAA GCEL issued a NOVA in the amount of \$30,000 to the owner and operator of the FV RACHEL J BELL. The case was initiated after vessel track data was observed within the Pulley Ridge Habitat Area of Particular Concern (HAPC). Vessel plotter positions and logbook data obtained upon the vessel's return to port confirmed the VMS track data. The vessel captain later provided a written statement admitting to fishing within the HAPC. The penalty included a 30 day NOPS.

A NOAA/NMFS agent from Niceville received a notice of settlement in the amount of \$11,500.00 and forfeiture in the amount of \$1,431.13 to commercial fisherman and vessel owner Joseph Nelson. Nelson fished for and sold king mackerel in federal waters on three occasions without a federal commercial king mackerel permit.

A NOAA/NMFS agent from Niceville received notice of a NOVA in the amount of \$2,500.00, a 10-day NOPS, and proposed forfeiture in the amount of \$76.00 was issued to the owner of the F/V MISS DEBBIE, James Gharst, for possession of undersize vermillion snapper and undersized triggerfish. Gharst stated that he had a new deck hand on board who was not informed of the legal size limits.

A NOAA/NMFS agent from St. Petersburg received notification from NOAA GCEL Southeast that a NOVA in the amount of \$30,000.00 and a 30-day NOPS was issued to the owner and operator of the F/V MISS JADE. The owner and operator of the F/V MISS JADE disabled the VMS unit shortly after installation in July, 2007. Additionally, he was fishing

without completing the proper call-in notifications and declarations to the VMS division. During the period of time that the VMS unit installed on the F/V MISS JADE was disabled, a total of 67 fishing trips were conducted and approximately 800 pounds of reef fish, 11,702 pounds of shark, and 13,776 pounds of stone crab were harvested from federal waters valued at \$132,960.94.

NOAA agents from the Slidell field office received notification from GCEL that a NOVA in the amount \$1,500.00 and a 5-day NOPS was issued to the F/V SEA QUEEN for fishing on the high seas without a valid Federal High Seas Permit. VMS reporting data showed the F/V SEA QUEEN had entered the high seas area in the Gulf of Mexico in November, 2007.

Through the course of the investigation SA Kejonen obtained a written statement from the captain and determined the vessel had made a number of

pelagic longline sets on the high seas.

NOAA agents from the Galveston field office, served a \$55,000 NOVA and 90-day NOPS to the owner of the F/V RICHARD II. The owner is currently incarcerated in the Texas State Penal System in San Antonio, TX. Special Agents served the documents via an officer at the jail. The NOVA was issued in March of 2008 and was not accepted via mail. SAs case package provided evidence of multiple MSFCMA violations including selling to a nonpermitted dealer and failure to use the IFQ system.

NOAA agents from the Slidell field office were notified that a NOVA in the amount of \$30,000.00, a 45-day NOPS, and forfeiture of the seized proceeds in the amount of \$34,273.75 was assessed to the F/V KIM THANH PN. After receiving the penalty, the F/V KIM THANH PN and KIM YEN FISHERY, LLC, requested an Administrative Hearing.

*Continued on page 8*

## Gulf of Mexico Fishery Closures

### Recreational Closures:

#### Red Snapper

The 2008 recreational red snapper season closed at 12:01 a.m. local time August 5. The season will reopen on June 1, 2009, the beginning of the 2009 federal recreational red snapper fishing season.

### Commercial Closures:

#### Deep-Water Grouper

NOAA Fisheries closed the commercial deep-water grouper fishery in the federal waters of the Gulf of Mexico effective 12:01 a.m. local time, November 10, 2008. The fishery will remain closed until 12:01 a.m. January 1, 2009.

During the closure, no person aboard a vessel for which a commercial reef fish permit has been issued may fish for or retain misty grouper, snowy grouper, yellowedge grouper, Warsaw grouper, or speckled hind in federal waters of the Gulf of Mexico. Additionally, if commercial quantities of reef fish are onboard, a recreational bag limit of reef fish is not allowed.

#### Tilefish

The Gulf of Mexico commercial tilefish fishery closed effective 12:01 a.m. May 10, 2008 and will reopen at 12:01 a.m. January 1, 2009. During the closure, no person aboard a vessel for which a commercial reef fish permit has been issued may commercially fish for tilefishes in federal waters of the Gulf of Mexico.

**Committee Agenda**  
**Gulf of Mexico Fishery Management Council**

The Hollywood Hotel  
Cypress Cove C  
Bay St. Louis, Mississippi  
January 26 - 28, 2009

**Monday, January 26, 2009**

8:30 a.m. - 9:00 a.m.

SEDAR Selection Committee and Full Council

- \* Selection of Gag & Red Grouper SEDAR Assessment Update Participants
- \* Selection of Black Grouper Data Workshop Participants

9:00 a.m. - noon

Budget/Personnel Committee and Full Council

- \* Executive Director Interviews and Selection

1:30 p.m. - 2:30 p.m.

Ad Hoc Allocation Committee

- \* Allocation Policy
- \* Next steps

2:30 p.m. - 5:30 p.m.

Joint Reef Fish/Mackerel/Red Drum Management Committee

- \* Final Aquaculture FMP
- Committee Recommendations

1:30 p.m. - 2:00 p.m.

Sustainable Fisheries/Ecosystem Committee

- \* Discussion Paper on ACL/AMs
- \* Report of the Ecosystem SSC Meeting

**Tuesday, January 27, 2009**

8:30 a.m. - noon/1:30 p.m. - 3:00 p.m.

Reef Fish Management Committee

- \* Options Paper on Amendment/Regulatory Amendment & DEIS to Address Lonline/Turtle Interactions
- Review Scoping Comments on Longline/Turtle Interactions
- \* White paper on Pros and Cons of Red Snapper for-hire sector management
- \* Consideration of (re)allocation Issues for reef fish species in Amendments 30A and 30B using the Allocation Policy

3:00 p.m. - 4:00 p.m.

Habitat Protection Committee

- \* Summary of AP meetings
- Committee Recommendations

4:00 p.m. - 6:30 p.m.

Mackerel Management Committee

- \* King Mackerel Stock Assessment
- SSC Recommendations
- AP Recommendations
- Committee Recommendations

6:30 p.m. - 7:30 p.m.

Informal Q&A Session on Gulf of Mexico Fishery Management Issues

**Wednesday, January 28, 2009**

8:30 a.m. - 9:00 a.m.

Shrimp Management Committee

- \* 2009 Texas Closure
- AP Recommendations
- Committee Recommendations

9:00 a.m. - 11:30 a.m.

Joint SSC Selection/Administrative Policy Committee

- \* National SSC Report
- SSC Recommendations
- Committee Recommendations
- \* Council Policies in SOPPs
- \* Consideration of Disbanding the Operator Permits Committee

<sup>1</sup>The established times for addressing items on the Council and committee agendas, except for those setting times for public testimony or open public comment, may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. Such adjustments may result in the meeting being extended from, or completed prior to the date established by these agendas.

**Council Agenda**  
**Gulf of Mexico Fishery Management Council**

The Hollywood Hotel  
Cypress Cove C  
Bay St. Louis, Mississippi  
January 28 - 29, 2009

**Wednesday, January 28, 2009**

- I. Call to Order and Introductions - Mcllwain
  - II. Adoption of Agenda <sup>1</sup> - Mcllwain
  - III. Approval of Minutes - Mcllwain  
(1:00 p.m. - 1:15 p.m.)
  - IV. Public Testimony <sup>2,3</sup> - Mcllwain
    - a. Exempted Fishing Permits (EFP) (if any)
    - b. Final Aquaculture FMP
    - c. Final Reef Fish Amendment 29 - Grouper IFQ
    - d. Open Public Comment Period <sup>2,4</sup>  
(1:15 p.m. - 4:30 p.m.)
  - V. Committee Reports
    - a. Joint Reef Fish/Mackerel/Red Drum Management  
(4:30 p.m. - 5:30 p.m.)
- Thursday, January 29, 2009**
- V. Committee Reports (continued)
    - b. Ad Hoc Allocation
    - c. Reef Fish Management
    - d. Mackerel Management
    - e. Joint SSC Selection/Administrative Policy
    - f. Budget/Personnel
    - g. SEDAR Selection
    - h. Shrimp Management
    - i. Habitat Protection
    - j. Sustainable Fisheries/Ecosystem Management  
(8:30 a.m. - noon)  
(1:30 p.m. - 4:00 p.m.)
  - VI. Other Business
    - a. Written Reports
    - b. Other Items  
(3:30 p.m. - 4:00 p.m.)

<sup>2</sup>Persons wishing to testify for either public testimony or open public comment must turn in a registration card before the beginning of the public testimony period; otherwise persons wishing to testify may be denied. One card must be completed for each issue on which persons wish to testify.

<sup>3</sup>Persons wishing Council members to have copies of written testimony or information should provide 30 copies to staff for distribution to members. All written information shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person testifying.

<sup>4</sup>The Council has set aside this time for open public comment regarding any fishery issue or concern. People wishing to speak before the Council should complete a public comment card, making sure to check the box marked Open Public Comment. A note about open public comment: In the interest of giving everyone an opportunity to speak, speakers are asked to limit comments to three minutes. If your sentiments are reflected in comments made by others, please state so and allow the next speaker to address the Council. Individuals may be asked to reduce speaking time even further in order to accommodate all those who wish to speak. The open public comment period will end no later than the time scheduled on the agenda regardless of the number of persons wishing to comment.

**Next Meeting:**  
April 13 - 16, 2009  
The W Hotel  
333 Poydras Street  
New Orleans, LA 70130



## Enforcement Report *continued from page 6*

On July 24, 2008 the case was heard in front of ALJ Bruce Smith in the Federal Building in New Orleans, LA. After SAs, GCEL and a VMS technician presented the case, ALJ determined there was prima facie evidence that the F/V KIM THANH PN had used live bait. He suggested both parties reach a settlement. The following settlement was reached:

Forfeiture of the seized proceeds in the amount \$34,273.75; a \$30,000.00 NOVA; Suspension of 33.33% of the NOVA as long as all conditions set forth is satisfied; full payment of the remaining 66.66% within 18 months payable with interest - less the cost of satellite thermal imaging equipment, installation, and 18 months of service; a 45-day NOPS suspended as long as all conditions set forth are satisfied.

Satellite thermal imaging equipment was negotiated into the settlement to bring the F/V KIM THANH PN up-to-date with modern pelagic longline fishing techniques. By using satellite thermal imaging equipment the F/V KIM THANH PN can examine water temperature and currents in the Gulf of Mexico to determine the best place to fish, without relying on the use of live bait for a successful trip.

It is our hope the F/V KIM THANH PN will become one of the most productive boats in the Dulac fleet, and its success will be contagious, prompting the installation of satellite thermal imaging equipment on all of the boats, eliminating or minimizing the live bait issue.

### MMPA

The International Whaling Commission (IWC) held a closed Working Group meeting in St. Petersburg, Florida in August. The IWC is responsible for governing the conduct of whaling throughout the world and provides for the proper conservation of whale stocks. Non-Governmental Organizations (NGO) normally attend the full IWC meetings. Their exclusion from the working group meeting was not well received.

NOAA/NMFS agents from Slidell, LA, St. Petersburg, FL, and Galveston, TX were assigned to help IWC staff and hotel management prepare for potential demonstrations, consult on matters of security and coordinate with local law enforcement. NGO representatives were present throughout most of the conference to keep track of discussions. The agents and IWC staff worked to assist the NGO representatives and ease their concerns about the closed meeting as best as possible. As a result no notable incidents occurred.

### Lacey Act

A NOAA/NMFS Agent from St. Petersburg attended the sentencing of Pell Bros. Inc., for its activities in transporting blue crab from Florida to Virginia on more than 120 occasions during the period from May of 2003 through September of 2004, in violation of Florida seafood licensing requirements. The corporation was ordered to pay a \$50,000 fine, and was given a two-year term of probation after pleading guilty to a criminal misdemeanor violation of the Lacey Act.

NOAA/NMFS agents from Niceville, FL and Morehead City, NC, along with officers from the FFWCC executed an arrest warrant on James Nations, an Apalachicola fisherman indicted by a federal grand jury from Columbus, Georgia.

The indictment is the result of a two year investigation involving ROAD RUNNER SEAFOOD INCORPORATED. Seven individuals were indicted on 57 counts of conspiracy and Lacey Act charges resulting from fish being illegally landed in Florida and then transported and sold in Georgia markets.

NOAA/NMFS agents from Niceville later attended the arraignment of individuals linked to the investigation. Judge Hodge in the Middle District of Georgia advised two of the subjects they could possibly face between 51 to 63 months in prison while the others

faced between 21 to 27 months. In addition each subject is restricted from possessing a firearm as well as other restrictions.

### National Marine Sanctuaries

A NOAA/NMFS agent in the Marathon field office was notified that David Dreifort, a resident of the Florida Keys, was arrested as a result of his involvement in an out-of-season lobstering operation that included the use of illegal artificial habitat placed in the Florida Keys National Marine Sanctuary and the stockpiling of approximately 1,500 pounds of lobster tail for sale after the opening of Florida's commercial lobster season August 6, 2008.

Because this illegal activity also impacted National Refuges in the Florida Keys, Special Agents and Refuge Officers from USFWS are assisting with the investigation along with FFWCC investigators.

### COPPS & Outreach

A NOAA/NMFS agent from Niceville continues to maintain an online forum, providing fisheries and regulatory information via "Ask the Law", in association with the Florida Sportsman online magazine.

### Partnerships

NOAA/NMFS agents from the Slidell, Harlingen and Galveston field offices, assisted with NOAA Lab personnel security issues and property cleanup in the aftermath of Hurricane Ike. The agents performed valuable 24-hour protection duties for LAB personal and US Government property until a contracted guard service was deployed.

The majority of homes on Galveston Island were flooded from the hurricane surge; the first floors of these homes were totally destroyed along with all of their personal belongings.

Agents went from house to house helping remove all of the wet furniture, sheet rock and personal belongings, placing it beside the road for FEMA clean-up crews.



## Gag and red grouper *(continued from page 1)*

To ensure harvest targets are met, the amendment proposes annual catch limits (ACLs) and accountability measures (AMs) for these species. Proposed management measures for the recreational fishery include:

- Establish ACLs and AMs for gag and red grouper.
- Reduce the gag bag limit to two fish per person per day and the aggregate grouper bag limit to four fish per person per day.
- Increase the red grouper bag limit to two fish per person per day.
- Extend the closed season for recreational shallow-water grouper to February 1 through March 31.

For the commercial fishery, the amendment would:

- Establish ACLs and AMs for gag, red grouper and shallow-water grouper.
- Establish a commercial quota for gag of 1.32 million pounds (mp) in 2009, 1.41 mp in 2010, and 1.49 mp in 2011.
- Increase the red grouper commercial quota to 5.75 mp.
- Set the shallow-water grouper quota as the sum of the gag and red grouper quotas with an additional .41 mp allowance for other shallow-water grouper species.
- Establish an incidental bycatch allowance trip limit for commercial gag and red grouper of 200 pounds for the species that first reaches 80 percent of its quota.
- Reduce the commercial minimum size limit for red grouper from 20 inches to 18 inches total length in order to reduce bycatch.
- Eliminate the February 15 to March 15 commercial closure.

The amendment will also:

- Establish the Edges 40-fathom contour seasonal area closure from January 1 through April 30 to all fishing of Council-managed species in order to protect gag and other groupers during spawning seasons.
- Eliminate the end date for the Madison-Swanson and Steamboat Lumps marine reserves.
- Require a person aboard a federally permitted Gulf of Mexico commercial or for-hire reef fish vessel to comply with federal regulations for reef fish species regardless of where the fish are harvested to increase compliance with federal regulations.

Finally, Amendment 30B addresses requirements of the Magnuson-Stevens Act that ACLs and AMs be in place by 2010 for stocks undergoing overfishing. ACLs must be set "at a level such that overfishing does not occur in the fishery." AMs are management measures established with ACLs to end and prevent overfishing.

Proposed AMs for gag and red grouper give NOAA Fisheries Services Assistant Administrator (AA) authority to shorten the fishing season for a particular sector if that sector's landings go over the ACLs. The recreational AM gives the AA authority to shorten the fishing year in the following year if the ACL is exceeded, while the commercial AM gives the AA authority to shorten the fishing season within the fishing year, as well as in the following year, if the commercial ACL is exceeded. Recreational ACLs are defined as multi-year running averages landings, with the exception of the first year, which would use only 2009 landings.

Comments on the amendment will be accepted until 5:00 p.m. Eastern time, January 2, 2009, and may be submitted in any of the following methods:

- Electronic Submissions: Federal e-Rulemaking Portal: <http://www.regulations.gov>. All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information voluntarily submitted may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NOAA Fisheries will accept anonymous comments. To submit comments, enter "NOAA-NMFS-2008-0203" in the keyword search and then select for the notice of availability "send a comment or submission." Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.
- Mail: Peter Hood, Southeast Regional Office, NOAA Fisheries Service, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727-824-5308, Attention: Peter Hood.

Amendment 30B is available from the Council's Web site at [www.gulfcouncil.org](http://www.gulfcouncil.org), or by contacting the Council at 813-348-1630; fax: 813-348-1711; e-mail: [gulfcouncil@gulfcouncil.org](mailto:gulfcouncil@gulfcouncil.org).

Comments received by January 2, 2009, will be considered by NOAA Fisheries in its decision to approve, disapprove, or partially approve the amendment. All comments received by NOAA Fisheries will be addressed in the final rule.





The Gulf Council would like to hear from you! Please contact us regarding fishery questions, comments, or concerns you would like to see covered in the **Gulf Fishery News**. Anyone interested in submitting information, such as articles, editorials, or photographs pertaining to fishing or fisheries management is encouraged to do so. Submissions may be mailed to Charlene Ponce, Public Information Officer, Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607. Materials can also be sent via fax to 813-348-1711, or by e-mail to [charlene.ponce@gulfcouncil.org](mailto:charlene.ponce@gulfcouncil.org).

The Gulf of Mexico Fishery Management Council is one of eight regional fishery management councils established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976. The Council is responsible for the development and modification of fishery management plans (FMPs) that are designed to manage fishery resources in the exclusive economic zone (EEZ) of the Gulf of Mexico from state boundaries to the 200-mile limit.

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