

legitimate amendments could not be distinguished from falsifications”—was to block a pathway for drivers to falsify their electronic records. At the time the guidance was written, most AOBRD systems required the driver to physically deliver his or her electronic HOS information to the motor carrier using removable media such as a data disk. The Agency may have been concerned that some of those early AOBRD systems might not have incorporated audit trails into their software.

Over 25 years have passed since the AOBRD rule was published. Many systems now allow electronic transfer of data from in-cab units to a support system. Thousands of motor carriers and hundreds of thousands of drivers are using HOS recording systems that far exceed the minimum performance requirements for AOBRDs. Information technology systems can place very precise controls over the data revision; e.g., specific data elements can be “locked” to prevent any revision once an entry has been made. They also routinely incorporate audit trails to indicate who revised data that was originally entered, when the revision was made, and the reason for the change.

FMCSA acknowledges that drivers need to be able to make legitimate corrections to their electronic AOBRD records. For example, if a driver erroneously enters “off duty” when he or she actually is on duty/not driving, and realizes this error later, under current guidance the driver would have to relay this information to a supervisory motor carrier official, and that official would need to edit the driver’s record. In another example, a driver might need to enter on-duty activity performed when the driver was away from the CMV.

With the steady increase in CMV drivers using AOBRDs, and the ability of software to note edits without deleting the original record, the need for a driver to make this request through another party is no longer necessary and is becoming increasing less viable. Therefore, as long as the AOBRD record reflects both the original entry and the revised entry, along with information on who made the revision, the date and time, and the reason (in the Remarks sections, see current Question 2 to § 395.15), FMCSA will now allow these edits.

However, FMCSA continues to prohibit drivers from editing records related to driving time, except in limited circumstances. Driving time may not be edited except in the case of unidentified or team drivers, and when driving time

was assigned to the wrong driver or no driver. Such time may be reassigned to the correct driver. Staff of the motor carrier or its electronic systems provider may request that a driver make edits to correct errors. The driver must accept or reject such requests and the AOBRD must record the transaction. If the driver edits the record based on the request, he or she must re-submit and re-certify the corrected record.

In all instances of editing, the AOBRD must retain the original entries, and reflect the date, time, and name of the person making any edit. The motor carrier must also retain both the original and edited record of duty status.

The Agency revises Question 2 of the Regulatory Guidance for § 395.15 to address all of these issues.

PART 395—HOURS OF SERVICE OF DRIVERS

- Replace the text of § 395.15 Question 2 with the following:

“*Question 2:* May entries made on an automatic on-board recording device (AOBRD) be annotated?”

Guidance: Yes.

(1) Within certain limits, a driver must be allowed to review his or her AOBRD records, annotate and correct inaccurate records, enter any missing information, and certify the accuracy of the information.

(2) The AOBRD must retain the original entries, and reflect the date and time of an edit, and name of the person making the edit. If the driver has already “certified” the entries for the duty period, he or she must re-certify the edited version, which must be transmitted to the carrier.

(3) “Driving time” may not be edited except in the case of unidentified or team drivers, and when driving time was assigned to the wrong driver or no driver. Such time may be reassigned to the correct driver.

(4) After reviewing incoming records, drivers’ supervisors may request that a driver make edits to correct errors. The driver must accept or reject such requests and the AOBRD must record the transaction. If the driver annotates the record based on the request, he or she must re-submit and re-certify the corrected record.”

Issued on: September 25, 2015.

T.F. Scott Darling, III,
Acting Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100217095–2081–04]

RIN 0648–XE217

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; 2015 Recreational Accountability Measure and Closure for Red Grouper

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

ACTION: Temporary rule; accountability measures.

SUMMARY: NMFS implements accountability measures (AMs) for the red grouper recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2015 fishing year through this temporary rule. NMFS projects the recreational sector will reach the recreational annual catch limit (ACL) by October 7, 2015. Therefore, the red grouper recreational sector in the Gulf EEZ will close at 12:01 a.m., local time, October 8, 2015. This closure is necessary to protect the Gulf red grouper resource.

DATES: The recreational sector closure for red grouper in the Gulf EEZ is effective at 12:01 a.m., local time, October 8, 2015, until January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS Southeast Regional Office, telephone: 727–824–5305, email: rich.malinowski@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf, which includes red grouper, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights specified in this rule are in gutted weight.

In accordance with regulations at 50 CFR 622.41(e)(2)(i), if red grouper recreational landings reach or are projected to reach the recreational ACL and without regard to overfished status, NMFS will close the red grouper recreational sector in the Gulf EEZ for the remainder of the fishing year by filing a notification to that effect with the Office of the **Federal Register**. The

Gulf red grouper recreational ACL is 1.90 million lb (0.862 million kg), as specified in 50 CFR 622.41(e)(2)(iv). Gulf red grouper are not overfished based on the most recent Status of U.S. Fisheries Report to Congress. Based on 2015 recreational landings data thus far, NMFS projects the recreational sector will reach the red grouper recreational ACL by October 7, 2015. Therefore, NMFS closes the red grouper recreational sector in the Gulf EEZ at 12:01 a.m., local time, October 8, 2015, through December 31, 2015.

During the recreational sector closure, the bag and possession limits for red grouper in or from the Gulf EEZ are zero. These bag and possession limits also apply in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

The recreational sector for red grouper will reopen on January 1, 2016, the beginning of the 2016 recreational fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf red grouper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(e)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the red grouper recreational sector constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B),

because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect red grouper. Prior notice and opportunity for public comment would require time and could potentially allow the recreational sector to exceed the recreational ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: September 29, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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