

which the vessel was lost, or for either of the two subsequent licensing periods, NMFS will consider the replacement vessel to have the license application approval status and history of the lost or destroyed vessel for the purpose of applying the prioritization criteria of paragraph (k)(4) of this section, provided that the ownership of the lost or destroyed vessel and the ownership of the replacement vessel, as determined by the Regional Administrator, are identical, and the replacement vessel meets the requirements for licensing under this subpart and the Act.

(n) *Procedures for 2011–2012 licensing period.* For the licensing period that starts June 15, 2011, and for that licensing period only, pre-approvals may not be sought and will not be issued by NMFS. NMFS will rank order those applications received by February 5, 2011, for the 2011–2012 licensing period by applying the criteria in paragraphs (k)(4)(i) and (k)(4)(ii) of this section, except that in lieu of using the criteria in (k)(4)(i), first priority will be given to applications for vessels that as of February 5, 2011, have valid licenses for the 2010–2011 licensing period.

■ 4. In § 300.45, paragraph (d) is revised to read as follows:

**§ 300.45 Vessel monitoring system.**

\* \* \* \* \*

(d) *Hardware and software specifications.* The VMS unit installed and carried on board a vessel to comply with the requirements of this section must consist of hardware and software that is approved by the Administrator and approved by NMFS. A current list of hardware and software approved by the Administrator may be obtained from the Administrator. A current list of hardware and software approved by NMFS may be obtained from NMFS.

\* \* \* \* \*

[FR Doc. 2010–30240 Filed 11–30–10; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 100510220–0581–04]

**RIN 0648–AY90**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon MC252 Oil Spill; Amendment 3**

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

**ACTION:** Temporary emergency rule; amendment; request for comments.

**SUMMARY:** NMFS issues this temporary rule to revise the existing procedures for closing and reopening areas of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) for the royal red component of the Gulf shrimp fishery in response to a fishery interaction of the Gulf shrimp fishery with oil or oil byproducts from the Deepwater Horizon MC252 oil spill. The revisions to the procedures for closing and reopening allow for timely adjustment to the spatial and temporal scale of closed areas to fishing for royal red shrimp in response to new information regarding a fishery interaction with the Gulf shrimp fishery with sub-surface oil and oil byproducts. To facilitate timely notice to the public of such closures, the closed portions of Federal waters will be updated on a regular basis and announced to the public via NOAA Weather Radio, Fishery Bulletin, and NOAA Web site updates, or the public may obtain the information by calling the Deepwater MC252 Oil Spill Hotline at 800–627–6622. The action being taken pursuant to this temporary rule is to prohibit royal red shrimp fishing in a specific area of the Gulf in response to a known interaction of this component of the shrimp fishery with sub-surface oil and oil byproducts. This temporary rule would remain in effect for 10 days, unless superseded by subsequent rulemaking. The intended effect of this temporary rule is to promote seafood safety and consumer confidence in seafood products.

**DATES:** This rule is effective November 26, 2010 through December 4, 2010, unless superseded by subsequent rulemaking. Comments may be submitted by December 24, 2010.

**ADDRESSES:** You may submit comments on this rule, identified by “0648–AY90” by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>.

- *Fax:* 727–824–5308; Attention: Anik Clemens.

- *Mail:* Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* No comments will be posted for public viewing until after the comment period. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter “NOAA–NMFS–2010–0244” in the keyword search, then select “Send a Comment or Submission.” NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the environmental assessment, signed on June 17, 2010, may be obtained from Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701–5505; telephone: 727–824–5305; e-mail: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Anik Clemens, telephone: 727–824–5305, fax: 727–824–5308; e-mail: [anik.clemens@noaa.gov](mailto:anik.clemens@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provides the legal authority for the promulgation of emergency regulations under section 305(c).

**Background**

NMFS responded to the April 20, 2010 Deepwater Horizon MC252 oil spill by closing a portion of the Gulf EEZ to all fishing through an emergency rule effective May 2, 2010 (75 FR 24822, May 6, 2010). Oil continued to leak from the Deepwater Horizon MC252 site and the spatial and temporal location of the oil in the Gulf EEZ continued to change. NMFS revised the closed area in a second emergency rule that became

effective May 7, 2010 (75 FR 26679, May 12, 2010). The dynamic situation regarding the Deepwater Horizon MC252 oil spill required a method to respond rapidly to changing conditions. Delaying the announcement of the new fishery closed area could have led to the possible harvest of adulterated seafood products. Therefore, NMFS issued a third emergency rule, effective May 11, 2010 (75 FR 27217, May 14, 2010) that allowed NMFS to revise the closed area as needed (on a daily or weekly basis) and announce the revised closed area via NOAA Weather Radio, Fishery Bulletin, and NOAA Web site updates, without the need to announce the new closure boundary coordinates in the **Federal Register**.

**Procedures for Closing and Reopening Areas Affected by the Oil Spill**

The third emergency rule also identified a procedure for reopening closed areas. Closed areas may be reopened if NMFS has determined that oil from the Deepwater Horizon MC252 oil spill has never been in those areas. Closed areas may also be reopened if NMFS has determined that fish and other marine species within the closed area meet FDA standards for public

health and wholesomeness. The procedures did not specifically address fishery interactions with sub-surface oil or oil byproducts. This temporary rule revises the NMFS procedure by allowing for timely adjustment of the spatial and temporal scale of closed areas to fishing activities in response to new information regarding an interaction of the Gulf shrimp fishery with sub-surface oil and oil byproducts.

**Need for This Temporary Rule**

In response to this interaction, which occurred approximately 22 miles (35 km) from the Deepwater Horizon MC252 well head, NMFS is taking temporary action to prohibit royal red shrimp fishing in a specific area of the Gulf EEZ. The area of the Gulf EEZ currently closed to all fishing would continue to remain in effect.

The public may obtain the updated boundary coordinates for the fishery closed area by listening to NOAA Weather Radio, visiting various NOAA Web sites, reading the e-mailed or posted Fishery Bulletins, receiving a text message or a tweet that the closed area has been revised, or by calling the Deepwater Horizon MC252 oil spill hotline number (1-800-627-6622) to

listen to a recorded message of the updated boundary coordinates. To improve public outreach, the fishery bulletins and the recorded messages are also available in Spanish and Vietnamese.

This rulemaking informs the public of the boundary coordinates of the current area closed to all fishing as well as the new area closed to royal red shrimp fishing only. The current area closed to all fishing related to the Deepwater Horizon MC252 oil spill, as of November 15, 2010, is bounded by rhumb lines connecting, in order, the following coordinates:

Point	North lat.	West long.
A .....	29°00'	88°30'
B .....	29°00'	88°00'
C .....	28°30'	88°00'
D .....	28°30'	88°30'
A .....	29°00'	88°30'

The area closed to royal red shrimp fishing only, as of 6 p.m. Eastern Time, on November 24, 2010, is bounded by rhumb lines connecting, in order, the following coordinates:

Point	North lat.	West long.
A .....	29°30' .....	LA State/EEZ boundary.
B .....	29°30' .....	87°30'
C .....	29°00' .....	87°30'
D .....	29°00' .....	88°30'
E .....	28°30' .....	88°30'
F .....	28°30' .....	89°00'
G .....	LA State/EEZ boundary .....	89°00'
From point G follow the state/EEZ boundary back to point A.		
A .....	29°30' .....	LA State/EEZ boundary.

Pursuant to second 305(c) of the Magnuson-Stevens Act, this rule will remain in effect for 10 days, unless superseded by subsequent rulemaking.

**Classification**

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Act, 16 U.S.C. 1855(c).

This rulemaking is a “significant regulatory action” under section 3(f) of Executive Order 12866. The Department of Commerce has notified the Office of Management and Budget Office of Information and Regulatory Affairs (OMB/OIRA) under section 6(a)(3)(D) of the Executive Order, and OMB/OIRA agrees, that NOAA is promulgating this action in an emergency situation and that normal Executive Order review is not practicable at this time. For this reason, OMB/OIRA has not reviewed this notice under EO 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Prior notice and the opportunity for public comment would be impracticable and contrary to the public interest, as delaying this action is a seafood safety concern and could result in compromised seafood products reaching the public. This action allows NMFS to close and reopen areas of the Gulf, as needed, in response to new information regarding the royal red shrimp component of the Gulf shrimp fishery with sub-surface oil and oil byproducts. This rule closes an area of the Gulf EEZ to royal red shrimp fishing in response to an interaction with the Gulf shrimp fishery and sub-surface oil and oil byproducts that occurred approximately 22 miles (35 km) from

the Deepwater Horizon MC252 well head. The intent of this action is to prevent the harvest of adulterated seafood products. A timely response is needed to ensure seafood safety and consumer confidence in seafood products.

For the reasons stated above, the AA also finds good cause to waive the 30-day delay in effective date of this rule under 5 U.S.C. 553(d)(3).

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: November 24, 2010.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

**PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.34, paragraph (n) is removed and reserved and paragraph (o) is added to read as follows:

**§ 622.34 Gulf EEZ seasonal and/or area closures.**

\* \* \* \* \*

(o) *Gulf EEZ area closure related to Deepwater Horizon oil spill.* Effective November 26, 2010, fishing is prohibited in the portion of the Gulf EEZ, and for the fishery components identified, in the map shown on the NMFS Web site: [http://sero.nmfs.noaa.gov/deepwater\\_horizon\\_oil\\_spill.htm](http://sero.nmfs.noaa.gov/deepwater_horizon_oil_spill.htm).

\* \* \* \* \*

[FR Doc. 2010-30232 Filed 11-26-10; 4:15 pm]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 100806332-0573-02]

RIN 0648-BA02

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gag Grouper Management Measures**

**AGENCY:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Final temporary rule.

**SUMMARY:** NMFS issues this final temporary rule to implement interim measures to reduce overfishing of gag in the Gulf of Mexico (Gulf). This final rule reduces the commercial quota for gag and, thus, the combined commercial quota for shallow-water grouper species (SWG), prohibits recreational harvest of gag, and suspends red grouper multi-use allocation in the Gulf grouper and tilefish individual fishing quota (IFQ)

program, as requested by the Gulf of Mexico Fishery Management Council (Council). The intended effect of this final temporary rule is to reduce overfishing of the gag resource in the Gulf.

**DATES:** This rule is effective January 1, 2011 through May 31, 2011.

**ADDRESSES:** Copies of the final regulatory flexibility analysis (FRFA) may be obtained from Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**FOR FURTHER INFORMATION CONTACT:**

Peter Hood, telephone: 727-824-5305, or e-mail: [Peter.Hood@noaa.gov](mailto:Peter.Hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the fishery management plan (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On October 18, 2010, NMFS published the proposed temporary rule and requested public comment (75 FR 63786).

This final temporary rule will reduce the commercial quota for gag, reduce the combined commercial SWG quota, prohibit recreational harvest of gag, and suspend red grouper multi-use allocation in the Gulf grouper and tilefish IFQ program. The purpose of this final temporary rule is to reduce overfishing of the gag resource in the Gulf. No changes were made to this final rule as a result of public comment.

**Comments and Responses**

The following is a summary of the comments NMFS received on the proposed rule and NMFS' respective responses. During the comment period, NMFS received 55 comments on the proposed rule.

*Comment 1:* A number of commenters questioned the scientific basis used to assess gag stocks and how scientific information was applied to support fishery management decisions. They indicated the data NMFS used were outdated, flawed, or anecdotal.

*Response:* Stock assessments are conducted under the scientifically peer-reviewed Southeast Data, Assessment, and Review (SEDAR) process which was initiated in 2002 to improve the quality and reliability of fishery stock assessments in the Gulf, South Atlantic, and U.S. Caribbean. SEDAR seeks improvements in the scientific quality of stock assessments and supporting information available to address existing and emerging fishery management

issues. This process emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. SEDAR is organized around 3 workshops. First, the data workshop documents, analyzes, and reviews datasets to be used for assessment analyses. Second, the assessment workshop develops and refines quantitative population analyses and estimates population parameters. The final workshop is conducted by a panel of independent experts who review the data and the assessment and recommend the most appropriate values of critical population and management quantities. The 2006 gag assessment and 2009 update assessment were both conducted within this SEDAR process. All workshops and Council-initiated meetings to review the assessment were open to the public and included constituent participation on the various SEDAR panels to ensure the transparency of the data and how it was applied in the assessments. In addition, the Council's Scientific and Statistical Committee reviewed the assessment results and made recommendations to the Council about the adequacy of the assessments and what level to set the acceptable biological catch. The data incorporated into the SEDAR assessment is derived from both fishery-dependent and fishery-independent data. Examples of fishery-dependent data include, but are not limited to: Logbook data, trip tickets, dockside sampling, dealer reports, and marine recreational fishing statistical surveys (MRFSS). Fishery-independent data sources consist of data provided through surveys and research conducted by Federal, state, and academic institutions. Furthermore, NOAA's Southeast Fisheries Science Center reviews and certifies that the actions contained in this rulemaking are based on the best available scientific information.

*Comment 2:* Several individuals doubted that red tide could be responsible for the 2005 mortality event modeled in the gag update assessment.

*Response:* Red tide may have contributed to the 2005 episodic mortality event. In the 2009 update assessment, 10 models were run that varied different parameters within the assessment. The model with the best fit took into account decreases in indices of abundance thought to have occurred because of the red tide event documented in 2005. Although the model cannot show a direct link between the red tide event and the