

when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that the direct final amendments will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the amendments do not affect the level of protection provided to human health or the environment.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective November 7, 2011.

**List of Subjects in 40 CFR Part 112**

Oil pollution prevention, Farms, Compliance date, Reporting and recordkeeping requirements.

Dated: October 13, 2011.

**Lisa P. Jackson,**  
*Administrator.*

For the reasons set out above, title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 112—OIL POLLUTION PREVENTION**

■ 1. The authority citation for part 112 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*; 33 U.S.C. 2720; and E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351.

■ 2. Section 112.3 is amended by adding paragraph (a)(3) to read as follows:

**§ 112.3 Requirement to prepare and implement a Spill Prevention, Control, and Countermeasure Plan.**

\* \* \* \* \*

(a) \* \* \*

(3) If your farm, as defined in § 112.2, was in operation on or before August 16, 2002, you must maintain your Plan, but must amend it, if necessary to ensure compliance with this part, and implement the amended Plan no later than May 10, 2013. If your farm becomes operational after August 16, 2002, through May 10, 2013, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare and implement a Plan on or before May 10, 2013. If your farm becomes operational after May 10, 2013, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare and implement a Plan before you begin operations.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 040205043–4043–01]

**RIN 0648–XA766**

**Gulf of Mexico Reef Fish Fishery; Closure of the 2011 Gulf of Mexico Commercial Sector for Greater Amberjack**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS closes the commercial sector for greater amberjack in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf). These actions are necessary to reduce overfishing of the Gulf greater amberjack resource.

**DATES:** The closure of the commercial sector for Gulf greater amberjack is

effective 12:01 a.m., local time, October 20, 2011, until 12:01 a.m., local time, on January 1, 2012.

**ADDRESSES:** Electronic copies of the final rule for Amendment 30A, the Final Supplemental Environmental Impact Statement (FSEIS) for Amendment 30A, and other supporting documentation may be obtained from Steve Branstetter, NMFS, Southeast Regional Office, 263 13th Avenue, South, St. Petersburg, FL 33701; telephone: 727–824–5305.

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, telephone: 727–824–5305, e-mail: *Steve.Branstetter@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf 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 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

**Background**

The 2006 reauthorization of the Magnuson-Stevens Act implemented new requirements that annual catch limits (ACLs) and accountability measures (AMs) be established to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur. Section 303(a)(15) of the Magnuson-Stevens Act mandates the establishment of ACLs at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

On July 3, 2008, NMFS issued a final rule (73 FR 38139) to implement Amendment 30A to the FMP (Amendment 30A). Amendment 30A established a commercial quota for Gulf greater amberjack of 503,000 lb (228,157 kg) and an AM that would go into effect if the commercial quota for greater amberjack is exceeded. In accordance with regulations at 50 CFR 622.49(a)(1)(i), when the applicable commercial quota is reached, or projected to be reached, the Assistant Administrator for Fisheries, NOAA, (AA), will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. If despite such closure, commercial landings exceed the quota, the AA will reduce the quota the year following an overage by the amount of the overage of the prior fishing year.

Landings data for 2010, provided by the Southeast Fisheries Science Center (SEFSC) in April, 2011, indicated that 562,172 lb (254,997 kg) were landed by the commercial sector for the 2010 fishing year, for a commercial sector overage of 189,100 lb (85,774 kg). Therefore, for 2011, NMFS published a rule in the **Federal Register** (76 FR 23909, April 29, 2011) announcing the 503,000-lb commercial quota would be adjusted to 313,900 lb (142,383 kg) to account for the 2010 overage of the commercial sector.

The greater amberjack commercial sector was closed on June 18, 2011, when NMFS estimated the 313,900-lb (142,383-kg) adjusted quota would be reached (76 FR 23909, April 29, 2011). However, subsequent updated landings data, provided by the SEFSC in 2011, indicated that the actual commercial harvest for 2010 was 533,981 lb (242,210 kg), 28,191 lb (12,787 kg) less than was previously reported. Therefore, for the 2011 fishing year, NMFS published a rule in the **Federal Register** (76 FR 51905, August 19, 2011) announcing the 503,000-lb commercial quota was again adjusted to establish a new 2011 adjusted commercial quota of 342,091 lb (155,170 kg).

Additional landings data that became available in August of 2011 indicated that the adjusted commercial quota had not been met when the commercial sector was previously closed on June 18, 2011, and that 86,452 lb (39,214 kg) of commercial quota remained available for the 2011 fishing year. Based on historical catch rates, NMFS projected that the remaining 86,452 lb (39,214 kg) of the greater amberjack commercial quota would be harvested in 61 days. Therefore, NMFS reopened the commercial greater amberjack fishing season beginning at 12:01 a.m., local time, September 1, 2011, until 12:01 a.m., local time, on October 31, 2011 to allow for the commercial harvest of the remaining commercial adjusted quota (August 19, 2011, 76 FR 51905).

Based on current statistics, NMFS has determined that the remaining 2011 adjusted commercial quota has been met. Accordingly, NMFS is closing the commercial harvest of greater amberjack in the Gulf EEZ at 12:01 a.m., local time,

on October 20, 2011, and it will remain closed until 12:01 a.m., local time, on January 1, 2012. The operator of a vessel with a valid commercial vessel permit for Gulf reef fish having greater amberjack aboard must have landed and bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, October 20, 2011.

During the closure, all commercial harvest or possession of greater amberjack in or from the Gulf EEZ, and the sale or purchase of greater amberjack taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 20, 2011, and were held in cold storage by a dealer or processor. In addition to the Gulf EEZ closure, a person on board a vessel for which a commercial vessel permit for Gulf reef fish has been issued must comply with these closure provisions regardless of where the Gulf greater amberjack are harvested, *i.e.*, in state or Federal waters. This closure is intended to prevent overfishing of Gulf greater amberjack and increase the likelihood that the 2011 quota will not be exceeded.

The 2012 commercial quota for greater amberjack will return to the quota specified at 50 CFR 622.42(a)(1)(v) unless accountability measures are implemented due to a quota overage and a reduced quota is specified through notification in the **Federal Register**, or subsequent regulatory action is taken to adjust the quota.

#### Classification

The Administrator, Southeast Region, NMFS, (RA) has determined this temporary rule is necessary for the conservation and management of the Gulf greater amberjack component of the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

The temporary rule has been determined to be not significant for purposes of 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.

NMFS prepared a FSEIS for Amendment 30A. A notice of availability for the FSEIS was published on April 18, 2008 (73 FR 21124). A copy of the FSEIS and the Record of Decision are available from NMFS (see **ADDRESSES**).

This action responds to the best available information recently obtained from the fishery. The AA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B). Such procedures would be unnecessary because the rule implementing the quota and the associated requirement for closure of commercial harvest when the quota is reached or projected to be reached already has been subject to notice and comment, and all that remains is to notify the public of the closure.

Providing prior notice and opportunity for public comment on this action would be contrary to the public interest because any delay in the closure of commercial harvest could result in the commercial quota for greater amberjack being exceeded, which in turn, would trigger the accountability measure for greater amberjack. The accountability measure would require NMFS to reduce the quota for the following year by the amount of the quota overage from the prior fishing year. Reducing the quota the following year would produce additional adverse economic impacts for Gulf reef fish fishermen. There is a need to implement this measure in a timely fashion to prevent a quota overrun of the greater amberjack commercial sector, given the capacity of the fishing fleet to harvest the quota quickly.

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: October 13, 2011.

**Steven Thur,**

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

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