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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170816768-7999-02]

RIN 0648-BH14

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Reef Fish Fishery of the Gulf of Mexico; Modifications to
Greater Amberjack Allowable Harvest and Rebuilding Plan**

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule revises the commercial and recreational annual catch limits (ACLs) and annual catch targets (ACTs), and modifies the recreational fixed closed season for greater amberjack in the Gulf of Mexico (Gulf) exclusive economic zone (EEZ). The purpose of this final rule and the framework action is to adjust the rebuilding time period

and to revise the sector ACLs and ACTs consistent with updated stock status information to end overfishing and rebuild the greater amberjack stock in the Gulf.

DATES: This final rule is effective January 27, 2018.

ADDRESSES: Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office Web Site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/GAJ_Framework/gaj_framework.pdf

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, Southeast Regional Office, NMFS, telephone: 727-824-5305, email: Kelli.ODonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes greater amberjack, is managed under the FMP. The Council prepared the FMP, and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) through regulations at 50 CFR part 622.

On November 20, 2017, NMFS published a proposed rule for the framework action and requested public comment (82 FR 55074). The proposed rule and framework action outline the rationale

for the actions contained in this final rule. A summary of the management measures described in the framework action and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule revises the commercial and recreational ACLs and ACTs (which are expressed as quotas in the regulatory text), and revises the recreational fixed closed season for greater amberjack in the Gulf.

Commercial and Recreational ACLs and ACTs

The current commercial ACL is 464,400 lb (210,648 kg), and the commercial ACT is 394,740 lb (179,051 kg). The current recreational ACL is 1,255,600 lb (569,530 kg), and the recreational ACT is 1,092,372 lb (495,492 kg). All weights described in this final rule are given in round weight.

This final rule revises the commercial and recreational ACLs and ACTs for Gulf greater amberjack based on the results of the SEDAR 33 Update (2016) and the acceptable biological catch (ABC) recommendations from the Council's Scientific and Statistical Committee (SSC). This final rule sets the commercial ACL at 319,140 lb (144,759 kg) for 2018, 402,030 lb (182,357 kg) for 2019, and 484,380 lb (219,711 kg) for 2020 and subsequent years. The commercial ACT is set at 277,651 lb

(125,940 kg) for 2018, 349,766 lb (158,651 kg) for 2019, and 421,411 lb (191,148 kg) for 2020 and subsequent years. The recreational ACL is set at 862,860 lb (391,386 kg) for 2018, 1,086,970 lb (493,041 kg) for 2019, and 1,309,620 lb (594,033 kg) for 2020 and subsequent years. The recreational ACT is set at 716,173 lb (354,850 kg) for 2018, 902,185 lb (409,223 kg) for 2019, and 1,086,985 lb (493,047 kg) for 2020 and subsequent years. These revisions to the ACLs and ACTs are projected to rebuild the stock by 2027.

Recreational Fixed Closed Season

This final rule revises the greater amberjack recreational fixed closed season from June 1 through July 31, which was established in the final rule for Amendment 35 to the FMP (77 FR 67574; November 13, 2012). That closed season was implemented to restrict harvest during times of peak fishing effort in order to prevent a recreational in-season closure as a result of the quota being met, and therefore provide for a longer fishing season for the recreational sector. The June 1 through July 31 recreational fixed closed season also was intended to allow for the harvest of one highly targeted species (red snapper) when the fishing season for the other species (greater amberjack) was closed. However, in-season closures of greater amberjack

have continued to occur since the implementation of Amendment 35, and the reduction of the recreational red snapper season, which opens on June 1 each year, has resulted in closures for both of these species simultaneously. This final rule changes the recreational fixed closed season for greater amberjack to January 1 through June 30. The Council determined that extending the length of the recreational fixed closed season to the 6-month period of January 1 through June 30 will protect greater amberjack during peak spawning months (March through April) in the majority of the Gulf, thereby contributing to the rebuilding of the greater amberjack stock. The Council also determined that the 6-month fixed closed season will reduce the likelihood that the recreational sector will meet its quota and trigger an in-season quota closure, or exceed its ACL, which would require a subsequent ACL and ACT payback in the following year because of an ACL overage.

The Council intends the new 6-month fixed closed season established by this final rule to be a short-term measure; it recently submitted another greater amberjack framework action to NMFS for review. Implementation of that framework action would modify this 6-month recreational closed season to create two separate fishing seasons: one open from May 1 through May

31, and a second open from August 1 through October 31. NMFS expects to publish a proposed rule in early 2018 and to solicit public comments on this change.

Comments and Responses

NMFS received a total of 12 comments on the proposed rule for the framework action. Two comments supported the changes to the commercial and recreational ACLs and ACTs and the recreational seasonal closure, and six comments disagreed with the proposed rule, although some of the comments were similar in reasons for disagreement.

Other comments that were outside the scope of the proposed rule and therefore not addressed here, stated that charter vessel and headboat harvest should be considered commercial and that the use of longlines in the Gulf should be eliminated. Specific comments related to the framework action and the proposed rule are grouped as appropriate and summarized below, followed by NMFS' respective responses.

Comment 1: Recreational fishing for greater amberjack should not be open during the summer when effort is highest and other species, such as red snapper, are available for harvest.

Response: NMFS and the Council intend the January 1 through June 30 closure implemented through this final rule to be a

short-term measure. As noted above, the Council recently submitted a framework action to NMFS that would change the January 1 through June 30 closure by establishing two separate annual recreational fishing seasons: one open from May 1 through May 31, and a second open from August 1 through October 31. However, even if the January through June closure remains in place, this final rule is expected to extend the fishing season into October, when fishing for other species, such as red snapper, have closed.

Comment 2: There needs to be at least one species that is important to recreational anglers available for harvest at the beginning of the calendar year.

Response: NMFS agrees that it is important to have species targeted by the recreational sector available early in the calendar year. Although this final rule would make greater amberjack unavailable at the beginning of the calendar year, there are many other Gulf reef fish species, such as red grouper, deep water groupers, snappers, and hogfish, which are generally available for recreational harvest beginning annually on January 1.

NMFS recently approved an FMP amendment that establishes a new recreational fixed closed season for gray triggerfish from

January 1 through the end of February. This new closed season was implemented through a final rule issued on December 15, 2017 (82 FR 59523), and, as a result, gray triggerfish are no longer available for recreational harvest during the first two months of the calendar year. However, the gray triggerfish fishery will be open starting March 1, while greater amberjack harvest remains closed.

Comment 3: There should be a recreational vessel limit instead of a longer recreational fixed closed season.

Response: The Council did not consider establishing a vessel limit in this framework action. However, in response to public comment at its October 2017 meeting, the Council began working on another framework action and will consider including vessel limits in that framework action. NMFS expects the Council to review a draft of this framework action at its January 2018 meeting.

Comment 4: The greater amberjack stock is healthy and therefore not in need of rebuilding efforts.

Response: NMFS disagrees. The most recent Gulf greater amberjack population assessment, completed in 2016, indicated greater amberjack are experiencing overfishing and are overfished. The current rebuilding plan time period ends in

2019, but new scientific information indicates the stock will not be rebuilt by that time. Therefore, consistent with the framework action approved by the Council, this final rule establishes a new rebuilding time period ending in 2027 and revises the harvest limits as necessary to end overfishing and rebuild the stock.

Actions Contained in the Framework Action not Codified through this Final Rule

In addition to the measures in this final rule, the framework action revises the greater amberjack ABC and overfishing limits (OFLs) based upon the results of the SEDAR 33 Update and the Council's SSC recommendations. The current greater amberjack ABC is 1,720,000 lb (780,179 kg), and the OFL is 3,420,000 lb (1,551,286 kg), which were established in the final rule implementing the 2015 framework action (80 FR 75432; December 2, 2015). This framework action revises the ABC and OFL for 3 years, beginning in 2018. The ABC, which is equal to the stock ACL, is set at 1,182,000 lb (536,146 kg) for 2018, 1,489,000 lb (675,399 kg) for 2019, and 1,794,000 lb (813,744 kg) for 2020 and subsequent years. The OFL is set at 1,500,000 lb (680,388 kg) for 2018, 1,836,000 lb (832,795 kg) for 2019, and 2,167,000 lb (982,934 kg) for 2020 and subsequent years.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments from the public or the SBA's Chief Counsel for Advocacy were received regarding the certification, and NMFS has not received any new information that would affect its determination. As a result,

a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Greater amberjack, Gulf, Recreational, Reef fish.

Dated: December 22, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,
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 OF MEXICO, 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, revise paragraph (c) to read as follows:

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

* * * * *

(c) *Seasonal closure of the recreational sector for greater amberjack.* The recreational sector for greater amberjack in or from the Gulf EEZ is closed from January 1 through June 30, each year. During the closure, the bag and possession limits for greater amberjack in or from the Gulf EEZ are zero.

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3. In § 622.39, revise paragraphs (a) (1) (v) and (a) (2) (ii) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(v) Greater amberjack--(A) For fishing year 2018--277,651 lb (125,940.38 kg), round weight.

(B) For fishing year 2019--349,766 lb (158,651 kg), round weight.

(C) For fishing year 2020 and subsequent years--421,411 lb (191,149 kg), round weight.

* * * * *

(2) * * *

(ii) *Recreational quota for greater amberjack.* The recreational quota for greater amberjack, in round weight, is 716,173 lb (324,851 kg), for 2018, 902,185 lb (409,224 kg), for 2019, 1,086,985 lb (493,048 kg), for 2020 and subsequent fishing years.

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4. In § 622.41, revise paragraphs (a)(1)(iii) and (a)(2)(iii) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(1) * * *

(iii) The commercial ACL for greater amberjack, in round

weight, is 319,140 lb (144,759 kg), for 2018, 402,030 lb (182,358 kg), for 2019, and 484,380 lb (219,711 kg), for 2020 and subsequent fishing years.

(2) * * *

(iii) The recreational ACL for greater amberjack, in round weight, is 862,860 lb (391,387 kg), for 2018, 1,086,970 lb (493,041 kg), for 2019, and 1,309,620 (594,034 kg), for 2020 and subsequent fishing years.

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