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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 191213-0113]

RIN 0648-BJ08

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

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes 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). If implemented, this proposed rule would revise the commercial trip limit in the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) for greater amberjack. In addition, this proposed rule would revise the boundaries of several Gulf reef fish management areas to reflect a change in the seaward boundary of Alabama, Louisiana, and Mississippi for purposes

of management under the FMP to 9 nautical miles (nm). The purpose of this proposed rule and the framework action is to extend the commercial fishing season for greater amberjack by constraining the harvest rate while continuing to prevent overfishing and rebuild the stock in the Gulf, and to update the boundaries of reef fish management areas to reflect the current state boundaries.

DATES: Written comments must be received on or before [*insert date 30 days after date of publication in the **FEDERAL REGISTER***].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2019-0088" by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0088, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kelli O'Donnell, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the

comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

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 website at *<https://www.fisheries.noaa.gov/action/framework-action-greater-amberjack-commercial-trip-limits>*.

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 FMP was prepared by the 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).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the optimum yield from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation.

The greater amberjack stock in the Gulf has been overfished since 2001. To help rebuild the stock NMFS has implemented several modifications to the rebuilding plan, including changes to the commercial and recreational catch levels, and changes to management measures intended to constrain harvest and extend the commercial and recreational seasons. Most recently, NMFS implemented a framework action that modified the greater amberjack rebuilding time period, and modified the sector-specific annual catch limits (ACLs) and annual catch targets (ACTs) (82 FR 61485; December 28, 2017). NMFS also implemented another framework action that was expected to extend the greater amberjack recreational fishing season by modifying the recreational fishing year and the fixed closed season (83 FR 13426; March 29, 2018).

This proposed rule would implement a framework action that is expected to extend the fishing season for the commercial sector by reducing the commercial trip limit. Greater amberjack is not a common target species for the reef fish commercial sector, with the majority of trips landing less than 500 lb (227 kg), gutted weight, 520 lb (236 kg), round weight, of the species. However, some directed trips with higher harvest levels do occur. When commercial landings for greater amberjack are projected to meet the commercial annual catch target, which is codified as the commercial quota, NMFS prohibits harvest for the remainder of the fishing year and any overage of the annual catch limit is paid back the following year (50 CFR § 622.41). Harvest for Gulf commercial greater amberjack has closed before the end of the fishing year every year since 2009.

In 2012, NMFS implemented Amendment 35 to the FMP, which established a greater amberjack commercial trip limit of 2,000 lb (907 kg), round weight (77 FR 67574; November 13, 2012). In 2015, the greater amberjack commercial trip limit was reduced to 1,500 lb (680 kg), gutted weight; 1,560 lb (708 kg), round weight, (80 FR 75432; December 2, 2015).

The Council decided to reduce the trip limit further to a level that is expected to lengthen the fishing season while

continuing to allow enough harvest per trip to support the current small number of vessels that engage in directed trips.

Management Measure Contained in This Proposed Rule

Commercial Trip Limit

This proposed rule would reduce the Gulf greater amberjack commercial trip limit from 1,500 lb (680 kg), gutted weight, 1,560 lb (708 kg), round weight, to 1,000 lb (454 kg), gutted weight, 1,040 lb (472 kg), round weight. Additionally, there would be a reduction in the trip limit to 250 lb (113 kg), gutted weight, 260 lb (118 kg), round weight, when 75 percent of the commercial ACT has been landed.

As described in the framework action, the proposed trip limit reduction is expected to extend the length of the commercial fishing season beyond June, the month when recent closures have occurred. However, an in-season closure is still expected to occur sometime in September.

The Council considered three other trip limit alternatives which ranged from 750 lb (340 kg), gutted weight (780 lb (354 kg), round weight), to 250 lb (113 kg), gutted weight (260 lb (118 kg), round weight). However, the Council determined that these trip limits were too small to allow for directed commercial greater amberjack trips. Additionally, the 250 lb

(113 kg), gutted weight, alternative was not expected to allow fishers to harvest all of the commercial ACT.

Changes in this Proposed Rule Not in the Framework Action

State/Federal Waters Boundary

This proposed rule would revise the boundaries of three Gulf reef fish management areas to reflect a change in the seaward boundary of Alabama, Louisiana, and Mississippi for purposes of management under the FMP. Generally, the state/Federal waters boundary for fisheries management is 3 nm off the coasts of Louisiana, Mississippi, and Alabama and 9 nm off the coasts of Texas and Florida. However, language included in the 2016 and 2017 Consolidated Appropriations Acts (P.L. 114-113, December 18, 2015, and P.L. 115-31, May 5, 2017), changed the state/Federal waters boundary for purposes of management under the FMP to 9 nm off the coasts of all of the Gulf states. Therefore, some existing Federal reef fish management areas that were exclusively in Federal waters now extend into state waters.

This proposed rule would update the regulations to revise the coordinates of the inshore boundaries for the reef fish stressed area (Table 2 of Appendix B to 50 CFR Part 622), the reef fish longline and buoy gear restricted area (Table 1 of

Appendix B to 50 CFR Part 622), and the recreational shallow-water grouper closure (50 CFR 622.34(d)). This rule would also update the terminology in the coordinate tables to reflect that this is boundary specific to Gulf reef fish management. This rule would not change the management measures associated with each area.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Framework Action to the FMP, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this

determination follows.

A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained in the preamble of this proposed rule at the beginning of the **SUPPLEMENTARY INFORMATION** section and in the **SUMMARY** section. The Magnuson-Stevens Act provides the statutory basis for this proposed 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 proposed rule. Accordingly, the requirements of the Paperwork Reduction Act do not apply to this proposed rule.

The proposed action would reduce the commercial trip limit for Gulf greater amberjack from 1,500 lb (680 kg), gutted weight, 1,560 lb (708 kg), round weight, to 1,000 lb (454 kg), gutted weight, 1,040 lb (472 kg), round weight, with an added measure that the trip limit would reduce to 250 lb (113 kg), gutted weight, 260 lb (118 kg), round weight, when 75 percent of the commercial ACT had been reached. As a result, this action would directly affect federally permitted commercial fishers fishing for greater amberjack in the Gulf. For RFA purposes only, NMFS has established a small business size standard for

businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR § 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

To determine whether the proposed rule would have a significant economic impact on a substantial number of small entities, NMFS first describes the characteristics of the federal commercial reef fish vessels that harvest greater amberjack in the Gulf. NMFS then estimates the number of commercial vessels to which the reduction in the trip limit reduction would apply, as well the average revenue of these vessels. Last, NMFS estimates to what extent the proposed rule would reduce the revenue or profits of these vessels.

Commercial vessels in the Gulf used a variety of gear types in harvesting reef fish, including greater amberjack. Most vessels used hook-and-line gear in harvesting greater amberjack, with a few using longline or some other fishing gear types, such as spear or powerhead while diving. All vessels, regardless of gear type used, depended more on species other

than greater amberjack for their revenues. Relative to total revenues, greater amberjack accounted for approximately 2.24 percent, 0.25 percent, and 9.75 percent for vessels using hook-and-line, longline, and other gear types, respectively. Although greater amberjack is a minor revenue generator for an average vessel, it appears that vessels using other gear types, such as diving gear, depend on greater amberjack more than other vessels.

Florida is the dominant state in the harvest of Gulf greater amberjack, both in terms of landings and revenues. The number of Florida vessels that harvested greater amberjack is the key factor that places Florida above the level of other states. Although Louisiana registered a much lower number of vessels than Florida, greater amberjack landings and revenues from the species appear to be relatively substantial. The other three Gulf states have relatively minor commercial landings of greater amberjack. Although Florida ranks first in terms of total revenues from all sources, Texas ranks first in terms of revenues per vessel, with Alabama/Mississippi (combined for confidentiality purposes) ranking last.

From 2013 through 2017, on average, 204 vessels per year landed greater amberjack from the entire Gulf. These vessels,

combined, averaged 628 trips per year in the Gulf on which greater amberjack was landed and 3,167 other trips, which were taken either in the Gulf and no greater amberjack were harvested, or in the South Atlantic regardless of species caught. The average annual total dockside revenue (2017 dollars) was approximately \$0.66 million from greater amberjack, \$5.68 million from other species co-harvested with greater amberjack (on the same trips), and \$32.53 million from other trips by these vessels in the Gulf on which no greater amberjack were harvested or occurred in the South Atlantic. Total average annual revenue from all species harvested by vessels harvesting greater amberjack in the Gulf was approximately \$38.87 million or approximately \$190,000 per vessel. Revenues from greater amberjack accounted for approximately 1.7 percent of total revenues from all species, indicating that greater amberjack is a minor revenue generator for an average vessel.

Based on the foregoing revenue information, all commercial vessels affected by the proposed action may be considered to be small entities. Because all entities that are expected to be affected by this proposed rule are considered small entities, the issue of disproportional effects on small versus large

entities does not arise.

Based on 2016-2018 data, the proposed action would extend the commercial fishing season from 85 days (closure date of June 27) under the no action alternative to, potentially, 170 days (closure date of September 20), but the entire commercial greater amberjack ACT would still be reached in a fishing year, resulting in about the same total revenues from greater amberjack as the no action alternative. Compared to the current trip limit, the 1,000-lb (454-kg), gutted weight, 1,040-lb (472-kg), round weight, trip limit would reduce harvest of greater amberjack per trip by about 18 percent and the 250-lb (113-kg), gutted weight, 260-lb (118-kg), round weight, trip limit would further reduce harvest per trip to about 71 percent. The reduced trip limit would therefore be expected to reduce revenue per trip and possibly lower profits per trip given the same fishing cost. As noted above, greater amberjack accounts for only 1.7 percent of total reef fish vessel revenues indicating that the resulting reduction in revenues per trip would be relatively small. In addition, an extended commercial fishing season would likely provide a better pricing condition for greater amberjack, further mitigating the reduced harvest per trip. Moreover, commercial vessels can make some

adjustments as to species composition of catch to make up for whatever is lost as a result of a reduced trip limit for greater amberjack. Although the proposed action would possibly reduce revenues per trip, total annual revenues would remain the same. Therefore, NMFS does not expect the economic impacts of the reduced trip limit on revenues to be significant. Additionally, the updated 9 nm state/Federal boundary coordinates would not affect the analysis done for this proposed rule.

The information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of subjects in 50 CFR Part 622

Boundary, Commercial, Coordinates, Fisheries, Fishing, Greater amberjack, Gulf, Trip limits.

Dated: December 13, 2019.

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 proposed to be 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, revise paragraph (d) to read as follows:

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

* * * * *

(d) *Seasonal closure of the recreational sector for
shallow-water grouper (SWG).* The recreational sector for SWG,
in or from the Gulf EEZ, is closed each year from February 1
through March 31, in the portion of the Gulf EEZ seaward of rhumb

lines connecting, in order, the points in the following table. During the closure, the bag and possession limit for SWG in or from the Gulf EEZ seaward of the following rhumb lines is zero.

Table 1 to paragraph (d)

Point	North latitude	West longitude
1	24°48.0'	82°48.0'
2	25°07.5'	82°34.0'
3	26°26.0'	82°59.0'
4	27°30.0'	83°21.5'
5	28°10.0'	83°45.0'
6	28°11.0'	84°00.0'
7	28°11.0'	84°07.0'
8	28°26.6'	84°24.8'
9	28°42.5'	84°24.8'
10	29°05.0'	84°47.0'
11	29°02.5'	85°09.0'
12	29°21.0'	85°30.0'
13	29°27.9'	85°51.7'
14	29°45.8'	85°51.0'
15	30°05.6'	86°18.5'
16	30°07.5'	86°56.5'
17	29°43.9'	87°33.8'
18	29°43.0'	88°18.5'
19	29°18.9'	88°50.7' at State/Federal Reef Fish Management Boundary, follow Reef Fish

		Management Boundary to point 20
20	28°58.98'	89°35.1' at State/Federal Reef Fish Management Boundary
21	29°02.0'	89°45.5'
22	28°32.7'	90°21.5'
23	28°24.8'	90°52.7'
24	28°42.3'	92°14.4'
25	28°34.2'	92°30.4'
26	28°27.6'	95°00.0'
27	28°20.0'	95°06.9'
28	28°02.2'	96°11.1'
29	27°46.5'	96°38.1'
30	27°15.0'	97°00.0'
31	26°45.5'	97°01.4'
32	At EEZ	96°51.0'

* * * * *

3. In § 622.43, revise paragraph (a) to read as follows:

§ 622.43 Commercial trip limits.

* * * * *

(a) *Gulf greater amberjack*. (i) Until 75 percent of the quota specified in § 622.39(a)(1)(v) is reached, 1000 lb (454 kg), gutted weight; 1040 lb (472 kg), round weight.

(ii) After 75 percent of the quota is reached or projected to be reached, 250 lb (113 kg), gutted weight; 260 lb (118 kg), round weight. See § 622.39(b) for the limitations regarding greater amberjack after the quota is reached. When the conditions in this paragraph (a)(ii) have been reached, the Assistant Administrator will implement this trip limit change by filing a notification with the Office of the Federal Register.

* * * * *

4. Revise Appendix B to Part 622, to read as follows:

Appendix B to Part 622—Gulf Areas

Table 1 of Appendix B to Part 622—Seaward Coordinates of the Longline and Buoy Gear Restricted Area

Point Number and reference location¹	North lat.	West long.
1 Seaward limit of the State/Federal Reef Fish Management Boundary north of Dry Tortugas	24°48.0'	82°48.0'
2 North of Rebecca Shoal	25°07.5'	82°34.0'
3 Off Sanibel Island—Offshore	26°26.0'	82°59.0'
4 West of Egmont Key	27°30.0'	83°21.5'
5 Off Anclote Keys—Offshore	28°10.0'	83°45.0'
6 Southeast corner of Florida Middle Ground	28°11.0'	84°00.0'
7 Southwest corner of Florida Middle Ground	28°11.0'	84°07.0'
8 West corner of Florida Middle Ground	28°26.6'	84°24.8'

9 Northwest corner of Florida Middle Ground	28°42.5'	84°24.8'
10 South of Carrabelle	29°05.0'	84°47.0'
11 South of Cape St. George	29°02.5'	85°09.0'
12 South of Cape San Blas lighted bell buoy—20 fathoms	29°21.0'	85°30.0'
13 South of Cape San Blas lighted bell buoy—50 fathoms	28°58.7'	85°30.0'
14 De Soto Canyon	30°06.0'	86°55.0'
15 South of Pensacola	29°46.0'	87°19.0'
16 South of Perdido Bay	29°29.0'	87°27.5'
17 East of North Pass of the Mississippi River	29°14.5'	88°28.0'
18 East of South Pass of the Mississippi River	29°04.0'	88°49.7' at State/Federal Reef Fish Management Boundary
Thence westerly along the seaward limit of the State/Federal Reef Fish Management Boundary to:		
19 South of Southwest Pass of the Mississippi River	28°46.5'	89°26.0'
20 Northwest tip of Mississippi Canyon	28°38.5'	90°08.5'
21 West side of Mississippi Canyon	28°34.5'	89°59.5'
22 South of Timbalier Bay	28°22.5'	90°02.5'
23 South of Terrebonne Bay	28°10.5'	90°31.5'
24 South of Freeport	27°58.0'	95°00.0'
25 Off Matagorda Island	27°43.0'	96°02.0'
26 Off Aransas Pass	27°30.0'	96°23.5'
27 Northeast of Port Mansfield	27°00.0'	96°39.0'
28 East of Port Mansfield	26°44.0'	96°37.5'

29 Northeast of Port Isabel	26°22.0'	96°21.0'
30 U.S./Mexico EEZ boundary	26°00.5'	96°24.5'
Thence westerly along U.S./Mexico EEZ boundary to the seaward limit of the State/Federal Reef Fish Management Boundary.		

¹Nearest identifiable landfall, boundary, navigational aid, or submarine area.

Table 2 of Appendix B to Part 622—Seaward Coordinates of the Stressed Area

Point Number and reference location¹	North lat.	West long.
1 Seaward limit of the State/Federal Reef Fish Management Boundary northeast of Dry Tortugas	24°45.5'	82°41.5'
2 North of Marquesas Keys	24°48.0'	82°06.5'
3 Off Cape Sable	25°15.0'	82°02.0'
4 Off Sanibel Island—Inshore	26°26.0'	82°29.0'
5 Off Sanibel Island—Offshore	26°26.0'	82°59.0'
6 West of Egmont Key	27°30.0'	83°21.5'
7 Off Anclote Keys—Offshore	28°10.0'	83°45.0'
8 Off Anclote Keys—Inshore	28°10.0'	83°14.0'
9 Off Deadman Bay	29°38.0'	84°00.0'
10 Seaward limit of the State/Federal Reef Fish Management Boundary east of Cape St. George	29°35.5'	84°38.6'
Thence westerly along the seaward limit of the State/Federal Reef Fish Management Boundary to:		

11 Seaward limit of the State/Federal Reef Fish Management Boundary south of Cape San Blas	29°32.2'	85°27.1'
12 Southwest of Cape San Blas	29°30.5'	85°52.0'
13 Off St. Andrew Bay	29°53.0'	86°10.0'
14 De Soto Canyon	30°06.0'	86°55.0'
15 South of Florida/Alabama border	29°34.5'	87°38.0'
16 Off Mobile Bay	29°41.0'	88°00.0'
17 South of Alabama/Mississippi border	30°01.5'	88°23.7'
18 Horn/Chandeleur Islands	30°01.5'	88°39.8' at State/Federal Reef Fish Management Boundary
Thence southerly along the seaward limit of the State/Federal Reef Fish Management Boundary to:		
19 Seaward limit of the State/Federal Reef Fish Management Boundary off Chandeleur Islands	29°50.8'	88°39.07' at State/Federal Reef Fish Management Boundary
20 Chandeleur Islands	29°35.5'	88°37.0'
21 Seaward limit of the State/Federal Reef Fish Management Boundary off North Pass of the Mississippi River	29°21.0'	88°54.43' at State/Federal Reef Fish Management Boundary
Thence southerly and westerly along the seaward limit of the State/Federal Reef Fish Management Boundary to:		

22 Seaward limit of the State/Federal Reef Fish Management Boundary off Southwest Pass of the Mississippi River	29°01.3'	89°34.67' at State/Federal Reef Fish Management Boundary
23 Seaward limit of the State/Federal Reef Fish Management Boundary west of the Mississippi	29°5.24' at State/Federal Reef Fish Management Boundary	89°41.0'
Thence westerly along the seaward limit of the State/Federal Reef Fish Management Boundary to:		
24 Seaward limit of the State/Federal Reef Fish Management Boundary south of Grand Isle	29°3.03' at State/Federal Reef Fish Management Boundary	89°56.0'
25 Quick flashing horn buoy south of Isles Dernieres	28°32.5'	90°42.0'
26 Southeast of Calcasieu Pass	29°10.0'	92°37.0'
27 South of Sabine Pass—10 fathoms	29°09.0'	93°41.0'
28 South of Sabine Pass—30 fathoms	28°21.5'	93°28.0'
29 East of Aransas Pass	27°49.0'	96°19.5'
30 East of Baffin Bay	27°12.0'	96°51.0'
31 Northeast of Port Mansfield	26°46.5'	96°52.0'
32 Northeast of Port Isabel	26°21.5'	96°35.0'
33 U.S./Mexico EEZ boundary	26°00.5'	96°36.0'
Thence westerly along U.S./Mexico EEZ boundary to the seaward limit of the State/Federal Reef Fish Management Boundary.		

¹Nearest identifiable landfall, boundary, navigational aid, or submarine area.

