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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1206013412-2517-02]

RIN 0648-XG771

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2019 Commercial Accountability Measure and Closure for Gulf of
Mexico Greater Amberjack**

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial greater amberjack in the Gulf of Mexico (Gulf) reef fish fishery for the 2019 fishing year through this temporary rule. NMFS has determined that Gulf greater amberjack landings in 2018 exceeded the commercial annual catch target (ACT) and landings will have met the adjusted 2019 commercial ACT by June 9, 2019. Therefore, the commercial fishing season for greater amberjack in the Gulf exclusive economic zone (EEZ) will close on June 9, 2019, and the sector will remain closed until the start of the next commercial fishing season on January 1, 2020.

This closure is necessary to protect the Gulf greater amberjack resource.

DATES: This rule is effective 12:01 a.m., local time, June 9, 2019, until 12:01 a.m., local time, January 1, 2020.

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

SUPPLEMENTARY INFORMATION: NMFS manages the reef fish fishery of the Gulf, which includes greater amberjack, under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All greater amberjack weights discussed in this temporary rule are in round weight.

The 2019 commercial annual catch limit (ACL) for Gulf greater amberjack is 402,030 lb (182,358 kg), as specified in 50 CFR 622.41(a)(1)(iii). The 2019 commercial quota (equivalent to the commercial ACT) is 349,766 lb (158,651 kg), as specified in 50 CFR 622.39(a)(1)(v)(B). However, NMFS has determined that in 2018, the commercial harvest of greater amberjack exceeded

the 2018 commercial ACL of 319,140 lb (144,759 kg) by 12,263 lb (5,562 kg). Under 50 CFR 622.41(a)(1)(ii), NMFS is required to reduce the commercial ACL and the commercial ACT for greater amberjack in the year following an overage of the commercial ACL, by the amount of the overage. Therefore, NMFS adjusts the 2019 commercial ACL for greater amberjack to 389,767 lb (176,795 kg) and the 2019 commercial ACT to 337,503 lb (153,089 kg).

Under 50 CFR 622.41(a)(1)(i), NMFS is required to close the commercial sector for greater amberjack when the commercial ACT is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that as of June 9, 2019, the adjusted 2019 commercial ACT will have been reached.

Accordingly, NMFS closes commercial harvest of greater amberjack from the Gulf EEZ effective 12:01 a.m., local time, June 9, 2019, until 12:01 a.m., local time, January 1, 2020.

During the commercial closure, the sale or purchase of greater amberjack taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, June 9, 2019, and were held in cold storage by a dealer or processor. The

commercial sector for greater amberjack will re-open on January 1, 2020, the beginning of the 2020 greater amberjack commercial fishing season.

During the commercial closure, the bag and possession limits specified in 50 CFR 622.38(b)(1) apply to all harvest or possession of greater amberjack in or from the Gulf EEZ. However, the recreational sector for greater amberjack was closed on May 1, 2019. During the recreational closure, the bag and possession limits for greater amberjack in or from the Gulf EEZ are zero. Therefore, there is no recreational harvest of greater amberjack in the Gulf EEZ until August 1, 2019, the start of the recreational fishing season.

Classification

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

This action is taken under 50 CFR 622.41(a)(1) 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 NOAA Fisheries (AA), finds that there is good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B) because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the requirement to close the commercial sector when the commercial ACT is reached or projected to be reached was subject to notice and comment, and all that remains is to notify the public of the commercial closure. Providing prior notice and opportunity for public comment is contrary to the public interest because there is a need to immediately implement this action to protect the greater amberjack resource. The capacity of the fishing fleet allows for rapid harvest of the commercial quota. Providing prior notice and opportunity for public comment on this action would require time and increase the likelihood that the commercial sector could exceed its quota.

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: May 10, 2019.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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