

**PART 52—[AMENDED]**

■ 1. The authority citation for Part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

**Subpart G—Colorado**

■ 2. Add paragraph (d) to § 52.329 as follows:

**§ 52.329 Rules and regulations.**

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(d) On August 7, 2007, the Colorado submitted two packages with revisions to Colorado's Regulation 3 Regulation, 5 CCR 1001–5, Part A. One change adopts language to treat nitrogen dioxide as an ozone precursor. The State also adopted an increase in fees used to pay for the State's increased workload from the processing of Air Pollutant Emission Notices (APENs) and permits. Annual and permit processing fees shall be \$16.54 for regulated pollutants and \$114.96 for Hazardous Air Pollutants. One grammatical change was made to the text of Part A, Section 1.B.9.d:

(1) Regulation 3, 5 CCR 1001–5, Air Contaminant Emissions Notices, Part A, Concerning General Provisions Applicable to Reporting and Permitting, Section I, Applicability, Section I.B.9.d, Applicable Requirement, effective October 2006: Any standard or other requirement under section 112 of the Federal Act (hazardous air pollutants, including any requirement concerning accident prevention under section 112(r)(7) of the Federal Act) (Regulation No. 8) but not including the contents of any risk management plan required under section 112(r) of the Federal Act.

(2) Regulation 3, 5 CCR 1001–5, Air Contaminant Emissions Notices, Part A, Concerning General Provisions Applicable to Reporting and Permitting, Section I, Applicability, Section I.B.16, Criteria Pollutants, effective October 2006:

(i) Those pollutants for which the U.S. EPA has established national ambient air quality standards, including: carbon monoxide, nitrogen dioxide (direct emissions and as a precursor to ozone), sulfur dioxide, PM10, total suspended particulate matter, ozone, volatile organic compounds (as a precursor to ozone), and lead.

(ii) For the purpose of Air Pollutant Emission Notice reporting, criteria pollutants shall also include nitrogen oxides, fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, reduced sulfur compounds, municipal waste combustor organics, municipal waste combustor metals, and municipal waste combustor acid gases.

(3) Regulation 3, 5 CCR 1001–5, Air Contaminant Emissions Notices, Part A, Concerning General Provisions Applicable to Reporting and Permitting, Section VI Fees; Section VI.D.1, Fee Schedule, effective February 2007: Annual and permit processing fees shall be charged in accordance with and in the amounts specified in the provisions of Colorado Revised Statutes section 25–7–114.7. Annual fees for regulated pollutants shall be \$16.54. Annual fees for hazardous air pollutants shall be \$114.96.

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 040205043–4043–01]

**RIN 0648–XA592**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Gulf of Mexico Reef Fish Fishery; 2011 Commercial Quota and 2011 Commercial Fishing Season for Greater Amberjack**

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

**ACTION:** Temporary rule; reopening.

**SUMMARY:** NMFS implements this temporary final rule to increase the commercial quota for greater amberjack in the Gulf of Mexico (Gulf) for the 2011 fishing year and reopen the 2011 commercial fishing season for greater amberjack for a limited time period. These actions are necessary to achieve the optimum yield for the fishery, thus enhancing social and economic benefits to the fishery.

**DATES:** This rule is effective August 19, 2011 through December 31, 2011, except for the reopening of the commercial sector for Gulf greater amberjack. The commercial sector for Gulf greater amberjack will reopen at 12:01 a.m., local time, September 1, 2011, and close at 12:01 a.m., local time, October 31, 2011.

**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 Rich Malinowski, NMFS, Southeast Regional Office, 263

13th Avenue South, St. Petersburg, FL 33701; telephone: 727–824–5305.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, telephone: 727–824–5305, e-mail [Rich.Malinowski@noaa.gov](mailto:Rich.Malinowski@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 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 562,172 lb (254,997 kg) were landed by the commercial sector, for an 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 overage. However, recently updated

landings data, provided by the SEFSC, indicate the commercial harvest for 2010 was 533,981 lb (242,210 kg), 28,191 lb (12,787 kg) less than was previously reported. This temporary rule will establish a new 2011 quota of 342,091 lb (155,170 kg).

The commercial sector was closed on June 18, 2011, when NMFS estimated the 313,900-lb (142,383-kg) adjusted quota would be reached. Landings data available to date, indicate the quota was not met by the closing date and that 58,254 lbs of the adjusted quota remain available. When combined with the 28,191 lb (12,787 kg) erroneously deducted for 2010, this results in 86,452 lb (39,214 kg) of quota available for 2011. Based on historical catch rates, NMFS projects the remaining 86,452 lb (39,214 kg) of quota will be harvested in 61 days. Therefore, this temporary rule will reopen the commercial greater amberjack fishing season beginning at 12:01 a.m., local time, September 1, 2011, and close the commercial sector at 12:01 a.m., local time, on October 31, 2011. The fishery will remain closed until 12:01 a.m., local time, on January 1, 2012.

During the closure, all commercial harvest or possession of greater amberjack in or from the Gulf Exclusive Economic Zone (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 31, 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.

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.

This action is taken under 50 CFR 622.43(a) 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.

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the commercial AM established by Amendment 30A and located at 50 CFR 622.49(a)(1)(i) authorizes the AA to file a notification with the Office of the Federal Register to adjust the

commercial quota the following fishing year. The final rule for Amendment 30A implementing this AM was subject to notice and comment and all that remains is to notify the public of the adjusted 2011 commercial quota and the reopening of the commercial fishing season for Gulf greater amberjack to allow fishermen to catch the remaining quota.

Also, providing prior notice and opportunity for public comment on this action would be contrary to the public interest. Delaying the announcement of the commercial fishing season reopening date to accommodate prior notice and comment would result in a delayed reopening date. Fishermen have indicated that a summer reopening will allow them to take advantage of the increased summer tourists that would be purchasing fish in restaurants and retail markets. This should allow fishermen to obtain higher prices and more easily sell their product. Further, better weather conditions exist in the summer than would be expected in a fall or winter reopening. This would be expected to improve safety at sea conditions in the fishery. Taking time to solicit public comment prior to reopening harvest would result in delaying the reopening until sometime in the early fall. This would result in foregoing the benefits discussed above.

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: August 16, 2011.

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

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