

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: October 14, 2010.

**Edward L. Connor,**

*Acting Federal Insurance and Mitigation Administrator, Department of Homeland Security, Federal Emergency Management Agency.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XY49

#### **Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2010 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). NMFS has determined that the commercial greater amberjack quota will have been reached by October 28, 2010. This closure is necessary to prevent overfishing of Gulf greater amberjack.

**DATES:** Closure is effective 12:01 a.m., local time, October 28, 2010, until 12:01 a.m., local time, on January 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bruger, telephone 727-551-5727, fax 727-824-5308, e-mail [Catherine.Bruger@noaa.gov](mailto:Catherine.Bruger@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management 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. The regulations set the commercial quota for greater amberjack in the Gulf at 503,000 lb (228,157 kg), round weight, however in 2009, the commercial quota was exceeded by 129,928 lb (58,934 kg), and, therefore, a reduced quota of 373,072 lb

(169,222 kg) was implemented for the 2010 fishing year.

#### **Background**

Constraining harvest to the quota is crucial to meeting the legal requirements to prevent and end overfishing and rebuild greater amberjack in the Gulf. On August 4, 2008, new fishing regulations were implemented by NMFS (73 FR 38139) to reduce the harvest and discard of greater amberjack in the Gulf reef fish fishery. Regulatory changes for commercial greater amberjack included implementing a quota of 503,000 lb (228,157 kg), round weight and accountability measures.

The accountability measures state, as described in § 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 close the commercial sector of greater amberjack 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.

NMFS published a temporary rule on June 22, 2010 (75 FR 35335) to implement the 2010 accountability measures for Gulf greater amberjack, including a reduced 2010 commercial quota and an estimated season length for the 2010 recreational sector. In 2009, the commercial sector of greater amberjack was closed on November 7, when the commercial quota of 503,000 lb (228,157 kg) was determined to be reached. Finalized 2009 commercial landings data determined the commercial quota was exceeded by 25.8 percent, or 129,928 lb (58,934 kg). Therefore, in accordance with the accountability measures, the reduced 2010 commercial quota for Gulf greater amberjack is 373,072 lb (169,222 kg).

Under 50 CFR 622.43(a), NMFS is required to close harvest for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on current statistics, NMFS has determined that the available commercial quota of 373,072 lb (169,222 kg), round weight for greater amberjack will be reached on or before October 28, 2010. Accordingly, NMFS is closing commercial harvest of greater amberjack in the Gulf EEZ from 12:01 a.m., local time, on October 28, 2010, until 12:01 a.m., local time, on January 1, 2011. 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 28, 2010.

During the closure, all harvest or possession of greater amberjack in or from the Gulf of Mexico 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 28, 2010, 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 2010 quota will not be exceeded.

#### **Classification**

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 commercial greater amberjack 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).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: October 14, 2010.

**Emily H. Menashes,**

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

[FR Doc. 2010-26284 Filed 10-14-10; 4:15 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910131362-0087-02]

RIN 0648-XZ81

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA) for 72 hours. This action is necessary to fully use the 2010 total allowable catch (TAC) of pollock specified for Statistical Area 610 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 14, 2010, through 1200 hrs, A.l.t., October 17, 2010. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 29, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by 0648-XZ81, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov>.

- **Mail:** P.O. Box 21668, Juneau, AK 99802.

- **Fax:** (907) 586-7557.

- **Hand delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on October 9, 2010 (publication in the **Federal Register** pending).

NMFS has determined that approximately 900 metric tons of pollock remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2010 TAC of pollock in Statistical Area 610, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA. This will enhance the socioeconomic well-being of harvesters dependent upon pollock in this area. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of pollock by the GOA trawl sector and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels participating in this fishery.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 72 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA effective 1200 hrs, A.l.t., October 17, 2010.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (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)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 13, 2010.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 610 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 29, 2010.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: October 14, 2010.

**Emily H. Menashes,**

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

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