### APPENDIX A TO PART 214—SCHEDULE OF CIVIL PENALTIES—Continued

<table>
<thead>
<tr>
<th>Section</th>
<th>Violation</th>
<th>Wilful</th>
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</thead>
<tbody>
<tr>
<td>214.337</td>
<td>On-track safety procedures for lone workers:</td>
<td></td>
</tr>
<tr>
<td>(b) Member of roadway work group fouling a track without authority of employee in charge</td>
<td>2,000</td>
<td></td>
</tr>
<tr>
<td>(c) Failure to provide train approach warning or working limits on adjacent track where required</td>
<td>3,000</td>
<td>5,000</td>
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<tr>
<td>214.214</td>
<td>Audible warning from trains:</td>
<td></td>
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<tr>
<td>(a) Failure to require audible warning from trains</td>
<td>2,000</td>
<td>4,000</td>
</tr>
<tr>
<td>(b) Failure to train to give audible warning where required</td>
<td>1,000</td>
<td>3,000</td>
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#### DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 95081206–628–06; I.D. 070296D]

RIN 0648–AG29

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 12

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement the approved measures of Amendment 12 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). These measures reduce the bag limit for greater amberjack to one fish and establish a 20-fish aggregate bag limit for reef fish species for which there are no other bag limits. The intended effects of this rule are to provide additional protection for greater amberjack, conserve reef fish, and enhance enforcement.

**EFFECTIVE DATE:** January 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Robert Sadler, 813–570–5305.

**SUPPLEMENTAL INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Based on a preliminary evaluation of Amendment 12 at the beginning of formal agency review, NMFS disapproved measures in Amendment 12 that would have reduced the minimum size limit for red snapper harvested in the commercial fishery. On August 21, 1996, NMFS published a proposed rule to implement the remaining measures of Amendment 12 (61 FR 43215). The Council’s rationale for the remaining measures in Amendment 12, as well as the reasons for NMFS’ disapproval of the proposed measures to reduce the minimum size limit for red snapper, are contained in the preamble of the proposed rule and are not repeated here.

**Comments and Responses**

A total of 354 entities, including the Florida Marine Fisheries Commission.
Amberjack Size and Bag Limits

The U.S. Fish and Wildlife Service indicated that it reviewed Amendment 12 but had no comments at this time.

Banded Rudderfish and Lesser Amberjack Size and Bag Limits

Comment: FMFC opposed the proposed 28-inch (71.1-cm) fork-length recreational size limit and 1-fish per person bag limit for greater amberjack, lesser amberjack, and banded rudderfish. FMFC believes that the expected adverse effects of the measures on recreational fisheries for banded rudderfish and lesser amberjack, particularly for-hire recreational fisheries, would be greater than had been anticipated by the Council. FMFC also is concerned that the proposed minimum size regulation would unfairly shift the banded rudderfish and lesser amberjack resources from a mixed recreational-commercial fishery to a solely commercial fishery.

FMFC indicated that it was only after the Council had adopted the 28-inch (71.1-cm) minimum size limit, and the 1-fish bag limit for the three species combined, that public comment provided evidence of the importance of banded rudderfish and lesser amberjack to the recreational fisheries in Florida. In addition, FMFC stated that these measures would be unfair since the recreational for-hire industry, particularly in the eastern Gulf of Mexico, has been traditionally dependent on the harvest of banded rudderfish and lesser amberjack while the commercial fishery has not. One of the commenters noted that banded rudderfish and lesser amberjack currently harvested in the recreational sector would remain susceptible to commercial harvest without size limits.

FMFC also noted that banded rudderfish and lesser amberjack rarely reach the proposed 28-inch (71.1-cm) recreational minimum size and, thus, would be in the recreational harvest. FMFC stated that, as a result, significant quantities of banded rudderfish and lesser amberjack, historically harvested in the recreational fishery, would remain susceptible to unlimited commercial harvest (i.e., without size limits or quotas).

Response: NMFS approved the reduction in the greater amberjack bag limit based on data that indicate substantial declines in recreational landings and other reports of a significant decline in the status of the resource. NMFS believes that the 1-fish bag limit will provide conservation benefits for the greater amberjack resource. NMFS acknowledges that the for-hire sector may experience a minor decrease in income as a result of the necessary reduction in the greater amberjack bag limit. NMFS observes that the revised bag limit measure does not prevent catch and release of more than one greater amberjack.

Amendment 12 states that greater amberjack are reproductively active starting at 32 inches (81.3 cm) for females and 33 inches (83.8 cm) for males. Some of the greater amberjack that must be released in the recreational fishery under the 28-inch (71.1-cm) minimum size limit and 1-fish bag limit are expected to reproduce before they reach the 36-inch (91.4-cm) minimum size limit for the commercial fishery and are harvested. Further, some fish would survive beyond the 36-inch stage, providing additional benefits for improving the stock condition. NMFS believes that the resulting additional reproductive activity for greater amberjack will provide conservation benefits that outweigh the associated short-term adverse economic impacts.

Also, NMFS acknowledges that the lack of uniform size and bag limits for the morphologically similar banded rudderfish and lesser amberjack may deter enforcement of the greater amberjack bag limit to the extent that the three species are misidentified. However, the reduced bag limit has been approved as a first step towards effective conservation and management of greater amberjack. NMFS anticipates that the Council will propose alternative management measures for banded rudderfish and lesser amberjack in the future that are fair and equitable to all fishermen, should such action prove necessary to conserve greater amberjack.

Aggregate Bag Limit for Reef Fish Without Bag Limits

Comment: A total of 224 commenters objected to the reduction in the greater amberjack bag limit from three fish to one fish as inappropriate and burdensome, especially for charter vessels and overnight headboat customers. These commenters indicated that a 1-fish bag limit would adversely affect their for-hire business, as many anglers would not make a trip for one greater amberjack on overnight headboat and charter vessel trips.)

Response: NMFS approved the reduction in the greater amberjack bag limit based on data that indicate substantial declines in recreational landings and other reports of a significant decline in the status of the resource. NMFS believes that the 1-fish bag limit will provide conservation benefits for the greater amberjack resource. NMFS acknowledges that the for-hire sector may experience a minor decrease in income as a result of the necessary reduction in the greater amberjack bag limit. NMFS observes that the revised bag limit measure does not prevent catch and release of more than one greater amberjack.

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Reduction in Greater Amberjack Bag Limit

Comment: A total of 224 commenters objected to the reduction in the greater amberjack bag limit from three fish to one fish as inappropriate and burdensome, especially for charter vessels and overnight headboat customers. These commenters indicated that a 1-fish bag limit would adversely affect their for-hire business, as many anglers would not make a trip for one greater amberjack on overnight headboat and charter vessel trips.)

Response: NMFS approved the reduction in the greater amberjack bag limit based on data that indicate substantial declines in recreational landings and other reports of a significant decline in the status of the resource. NMFS believes that the 1-fish bag limit will provide conservation benefits for the greater amberjack resource. NMFS acknowledges that the for-hire sector may experience a minor decrease in income as a result of the necessary reduction in the greater amberjack bag limit. NMFS observes that the revised bag limit measure does not prevent catch and release of more than one greater amberjack.

Amendment 12 states that greater amberjack are reproductively active starting at 32 inches (81.3 cm) for females and 33 inches (83.8 cm) for males. Some of the greater amberjack that must be released in the recreational fishery under the 28-inch (71.1-cm) minimum size limit and 1-fish bag limit are expected to reproduce before they reach the 36-inch (91.4-cm) minimum size limit for the commercial fishery and are harvested. Further, some fish would survive beyond the 36-inch stage, providing additional benefits for improving the stock condition. NMFS believes that the resulting additional reproductive activity for greater amberjack will provide conservation benefits that outweigh the associated short-term adverse economic impacts.

Also, NMFS acknowledges that the lack of uniform size and bag limits for the morphologically similar banded rudderfish and lesser amberjack may deter enforcement of the greater amberjack bag limit to the extent that the three species are misidentified. However, the reduced bag limit has been approved as a first step towards effective conservation and management of greater amberjack. NMFS anticipates that the Council will propose alternative management measures for banded rudderfish and lesser amberjack in the future that are fair and equitable to all fishermen, should such action prove necessary to conserve greater amberjack.
the aggregate bag limit would be insignificant. The public comments provide no substantive information to support their claim of extensive economic impacts. Accordingly, NMFS disagrees with these comments. NMFS has approved the 20-fish aggregate bag limit as a risk-averse measure to prevent an uncontrolled increase in harvest of reef fish species for which no bag limits are in effect.

The measure would prevent unlimited harvest of reef fish by persons not fishing under commercial reef fish vessel permits. Currently, such persons can catch and land an unlimited number of reef fish species not subject to a bag limit; while sale of these species is not legal without a commercial permit, it is difficult to enforce this sale restriction. The aggregate bag limit should enhance enforcement of the prohibition on sale of reef fish by those persons.

The 20-fish aggregate bag limit will include banded rudderfish and lesser amberjack, since NMFS disapproved the bag limit for these two species, and will help restrain recreational harvest. As previously indicated, NMFS anticipates that the Council will initiate additional management measures for banded rudderfish and lesser amberjack which will contribute to the conservation of greater amberjack.

Comment: One commenter stated that the measure would encourage culling of the catch at sea (i.e., continual discard of the smaller reef fish to obtain the largest fish under the 20-fish aggregate bag limit) and, therefore, should be disapproved.

Response: NMFS acknowledges that persons may continue to harvest and retain the largest reef fish caught under the 20-fish aggregate bag limit. NMFS does not encourage this practice because some of the discarded reef fish may not survive release. The aggregate bag limit, however, will prevent an uncontrolled harvest of reef fish currently without bag limits and, thereby, should provide greater conservation benefits than the status quo.

Changes from the Proposed Rule

As discussed above, the minimum size limit for banded rudderfish and lesser amberjack, applicable to persons subject to the bag limit, is removed. Also, banded rudderfish and lesser amberjack are not included in a bag limit with greater amberjack.

Classification

The Regional Administrator, Southeast Region, NMFS, with concurrence by the Assistant Administrator for Fisheries, NOAA, determined that the approved measures of Amendment 12 are necessary for the conservation and management of the reef fish fishery of the Gulf of Mexico and that it is consistent with the Magnuson-Stevens Act and other applicable law, with the exception of those measures that were disapproved.

This action has been determined to be not significant for purposes of E.O. 12866.

Before the proposed rule was published, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared. Specific findings supporting that conclusion were summarized in the proposed rule and are not repeated here. No public comments on the certification were received. The disapproval of the banded rudderfish and lesser amberjack management measures did not alter those findings or conclusions regarding the impacts of the approved measures of Amendment 12 that are implemented by this rule.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: December 10, 1996.

Gary Matlock,
Acting Assistant Administrator for Fisheries, 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, 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 §622.39, paragraph (b)(1)(i) is revised, and paragraph (b)(1)(v) is added to read as follows:

§622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

(i) Greater amberjack—1.

* * * * *

(v) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i) through (iv) of this section—20.

* * * * *

[FR Doc. 96-31766 Filed 12-13-96; 8:45 am]
BILLING CODE 3510-22-W

50 CFR Part 679

[Docket No. 9608-30240-6338-02; I.D. 082796A]
RIN 0648-AH28

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Closure to Protect Red King Crab

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

ACTION: Final rule.

SUMMARY: NMFS implements Amendment 37 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The implementing regulations for Amendment 37 close portions of Bristol Bay, make adjustments to the prohibited species catch limit for red king crab in Zone 1 of the Bering Sea, and increase observer coverage in specified areas related to the trawl closures. These measures are necessary to protect the red king crab stocks in Bristol Bay, which have declined to a level that presents a serious conservation problem for this stock. They are intended to accomplish the objectives of the FMP.

EFFECTIVE DATE: January 1, 1997.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this rule may be obtained from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands Area (BSAI) is managed by NMFS according to the FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, et seq.; Magnuson-Stevens Act), and is...