DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622, 635, and 654

[Docket No. 100503210–0215–01]

RIN 0648–AY87

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon Oil Spill

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

ACTION: Emergency rule; amendment; request for comments.

SUMMARY: NMFS issues this action to amend the emergency regulations published on May 6, 2010, to revise the portion of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) that is closed to all fishing, due to the evolving nature of the Deepwater Horizon oil spill. The initial closure was applicable May 2, 2010 through 12:01 a.m., local time, May 12, 2010. This revised fisheries closure supersedes the original closure and is effective from May 7, 2010 through 12:01 a.m., local time, May 17, 2010, unless conditions allow NMFS to terminate it sooner. The revised closure is implemented for public safety.

DATES: This rule is effective May 7, 2010 through 12:01 a.m., local time, May 17, 2010, except for the amendment to § 622.34 (n) which is effective May 7, 2010. Comments may be submitted through May 17, 2010.

ADDRESSES: You may submit comments on this rule, identified by "0648–AY87" by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov*.
- Fax: 727–824–5308; Attention: Anik Clemens.
- Mail: Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: No comments will be posted for public viewing until after the comment period. 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 (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov*, enter "NOAA-NMFS–2010–0100" in the keyword search, then select "Send a Comment or Submission." NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Anik Clemens, telephone: 727–824–5305, fax: 727–824–5308, e-mail: *anik.clemens@noaa.gov*.

SUPPLEMENTARY INFORMATION: This emergency action is being taken to amend emergency regulations published on May 6, 2010 (75 FR 24822) to revise the area in the Gulf closed to all fishing due to the Deepwater Horizon oil spill. The initial closed area was applicable from May 2, 2010 through 12:01 a.m., local time, May 12, 2010. This amendment supercedes the original closure and revises the coordinates of the closed area, due to the evolving nature of the oil spill. The oil that is continuing to leak from the Deepwater Horizon drilling rig has resulted in more than 3 million gallons (11.4 million liters) of oil being released into the Gulf of Mexico. NMFS is currently assessing the impacts this oil spill will have on the fishing industry. While NMFS makes this assessment, NMFS amends the closed portion of the Gulf EEZ to encompass where the oil slick resides for public safety concerns. The revised closed area, effective May 7, 2010 through 12:01 a.m., local time, May 17, 2010, is bounded by rhumb lines connecting, in order, the following coordinates: From the point where 29°50′ N. lat. intersects with the 3 nautical mile Louisiana state boundary; proceeding easterly to the point 29°50′ N. lat. and 87°28′ W. long.; thence, southeasterly to the point 29°20′ N. lat. and 86°55′ W. long.; thence, southwesterly to the point 28°18′ N. lat. and 87°44′ W. long.; thence, northwesterly to the point 28°30′ N. lat. and 89° W. long.; thence, northwesterly to the point where 28°52′ N. lat. intersects with the 3 nautical mile Louisiana state boundary; thence along the seaward limit of Louisiana's waters.

NMFS will continue to monitor and evaluate the oil spill and its impacts on Gulf fisheries. When more updated information becomes available, NMFS will take action as appropriate to extend or reduce this closed area by publishing another amendment to this emergency rule in the **Federal Register** and by posting the revised information to the NMFS Southeast Regional Office website: *http://sero.nmfs.noaa.gov*.

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1855(c).

NMFS has consulted with OIRA and due to exigent circumstances this action is exempt from review under Executive Order 12866.

Pursuant to 40 CFR 1506.11, NMFS has consulted with the Council for Environmental Quality.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Prior notice and opportunity for public comment would be contrary to the public interest, as delaying action constitutes a public safety concern. NMFS is implementing this closure in the response to the oil spill to help prevent any potential injuries to fishermen in the area. Any delay of implementation of this fisheries closure could constitute unsafe fishing conditions for the fishing industry.

For the reasons stated above, the AA also finds good cause to waive the 30-day delay in effective date of this rule under 5 U.S.C 553(d)(3).

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

List of Subjects

50 CFR Part 622

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

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Imports, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 654

Fisheries, Fishing.

Dated: May 6, 2010.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR parts 622, 635, and 654 are 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, paragraph (n) is removed and reserved and paragraph (o) is added to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

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(o) *Gulf EEZ area closure related to Deepwater Horizon oil spill.* Effective May 7, 2010 through 12:01 a.m., local time, May 17, 2010, all fishing is prohibited in the portion of the Gulf EEZ bounded by rhumb lines connecting, in order, the following points: From the point where 29°50′ N. lat. intersects with the 3 nautical mile Louisiana state boundary; proceeding easterly to the point 29°50′ N. lat. and 87°28′ W. long.; thence, southeasterly to the point 29°20′ N. lat. and 86°55′ W. long.; thence, southwesterly to the point 28°18′ N. lat. and 87°44′ W. long.; thence, northwesterly to the point 28°30′ N. lat. and 89° W. long.; thence, northwesterly to the point where 28°52′ N. lat. intersects with the 3 nautical mile Louisiana state boundary; thence along the seaward limit of Louisiana's waters.

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PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. The authority citation for part 635 continues to read as follows:

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

■ 4. In § 635.21, paragraph (a)(4)(vi) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

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(a) * * *

(4) * * *

(vi) *Gulf of Mexico EEZ area closure related to Deepwater Horizon oil spill.* Effective May 7, 2010 through 12:01 a.m., local time, May 17, 2010, no vessel issued, or required to be issued, a permit under this part, may fish or deploy any type of fishing gear in the area designated at § 622.34(n) of this chapter.

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PART 654—STONE CRAB FISHERY OF THE GULF OF MEXICO

■ 5. The authority citation for part 654 continues to read as follows:

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

■ 6. In § 654.7, paragraph (r) is added to read as follows:

§ 654.7 Prohibitions.

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(r) Pull or tend a stone crab trap from May 7, 2010 through 12:01 a.m., local time, May 17, 2010 in the portion of the Gulf EEZ designated in § 622.34(n) of this chapter, due to the Deepwater Horizon oil spill.

[FR Doc. 2010–11184 Filed 5–6–10; 4:15 pm]

BILLING CODE 3510–22–S