• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: September 28, 2012.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2012–25156 Filed 10–11–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BC37

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 38

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico (Gulf) Fishery Management Council (Council) has submitted Amendment 38 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Amendment 38 proposes to modify post-season accountability measures (AMs) that affect shallow-water grouper species (SWG), change the trigger for AMs, and revise the Gulf reef fish framework procedure.

DATES: Written comments must be received on or before December 11, 2012.

ADDRESSES: You may submit comments on the amendment identified by ''NOAA–NMFS–2012–0149'' by any of the following methods:

• *Electronic Submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the ''Instructions'' for submitting comments.

• *Mail:* Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: 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. NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous).

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov,* enter ''NOAA–NMFS–2012–0149'' in the search field and click on ''search.'' After you locate the document ''Gulf of Mexico Reef Fish Amendment 38,'' click the ''Submit a Comment'' link in that row. This will display the comment web form. You can then enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this notice will not be considered.

For further assistance with submitting a comment, see the ''Commenting'' section at *http://www.regulations.gov/#!faqs* or the Help section at *http://www.regulations.gov.*

Electronic copies of Amendment 38 may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf.*

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, telephone: 727–824–5305, or email: *Steve.Branstetter@noaa.gov.*

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

Background

Accountability measures were established for gag and red grouper in 2009 through Amendment 30B to the FMP (74 FR 17603, April 16, 2009). These AMs included the following provision: if the recreational sector annual catch limit (ACL) for gag or red grouper is exceeded in the current year, the recreational season for all SWG is shortened the following year to ensure that the gag or red grouper recreational ACL is not exceeded again. Regulations implemented through Amendment 32 to the FMP (77 FR 6988, February 10, 2012) added more AMs, including in-season closures for gag and red grouper, and overage adjustments for gag and red grouper if they are overfished. Amendment 38 would modify the post-season AMs for gag and red grouper so that the shortening of the season following a season with an ACL overage applies only to the species with landings that exceeded the ACL the prior year. Modifying the AMs would improve the likelihood of achieving optimum yield for red grouper and avoid unnecessary closures of all SWG species (*i.e.,* gag, red grouper, black

grouper, scamp, yellowfin grouper, and yellowmouth grouper).

The current method for determining if post-season AMs have been triggered for red grouper or gag is to compute a one to 3-year moving average of recreational landings, and to compare that moving average of landings to the ACL. However, the use of a moving average has not been practicable due to the frequent changes that have occurred in the ACLs. In addition, the use of moving averages could potentially delay the implementation of AMs by unduly masking sizeable harvest overages and potentially slowing down the recovery of stocks under rebuilding. Amendment 38 would remove the 3-year moving average, allowing AMs to be based on comparison of the ACL to the current year's landings. A simple comparison of the current year's landings to the ACL could provide greater protection to the gag and red grouper stocks, be easier for fishermen to understand, and be less burdensome to administer.

Amendment 38 would revise the list of management measures that may be established or modified by the framework procedure specified in the FMP. Specifically, Amendment 38 would add a list of the AMs that may be revised through the Gulf reef fish framework process. Typically, framework actions take less than a year to implement and are effective until amended. Changes to AMs through the framework may result in faster implementation of measures beneficial to fish stocks and fishery participants. Additionally, Amendment 38 would update the language in the framework procedure related to Council advisory panels and committees. More general language in reference to Council committees and advisory panels would replace specific references that are no longer accurate.

A proposed rule that would implement measures outlined in Amendment 38 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council submitted Amendment 38 for Secretarial review, approval, and implementation on September 10, 2012. NMFS' decision to approve, partially approve, or disapprove Amendment 38 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability.

Public comments received on or before December 11, 2012, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 38. All comments received by NMFS on Amendment 38 or the proposed rule for Amendment 38 during their respective comment periods will be addressed in a final rule.

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

Dated: October 9, 2012.

Lindsay Fullenkamp,

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

[FR Doc. 2012–25129 Filed 10–11–12; 8:45 am]

BILLING CODE 3510–22–P