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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518-3398-01]

RIN 0648-XD033

Reef Fish Fishery of the Gulf of Mexico; 2014 Recreational Accountability Measure and Closure for Gray Triggerfish in the Gulf of Mexico

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for recreational gray triggerfish in the Gulf of Mexico (Gulf) reef fish fishery for the 2014 fishing year through this temporary final rule. Based on the 2013 recreational annual catch limit (ACL) overage, NMFS reduces the 2014 recreational annual catch target (ACT) and ACL for gray triggerfish to 0 lb (0 kg) through this temporary rule.

Therefore, NMFS closes the recreational sector for gray triggerfish in the Gulf EEZ at 12:01 a.m., local time, May 1, 2014, until January 1, 2015. This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, on May 1, 2014,

until 12:01 a.m., local time, on January 1, 2015, unless changed by subsequent notification in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, Southeast Regional Office, telephone 727-824-5305, e-mail rich.malinowski@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf, which includes gray triggerfish, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the 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). All weights specified in this rule are round weight.

The final rule for Amendment 37 to the FMP (78 FR 27084, May 9, 2013) implemented the Gulf gray triggerfish recreational ACL of 241,200 lb (109,406 kg), and the recreational ACT of 217,100 lb (98,475 kg), as specified in 50 CFR 622.41(b)(2)(iii).

The final rule for Amendment 37 to the FMP implemented an in-season AM to close the recreational sector when its ACT is reached or projected to be reached, as specified in 50 CFR 622.41(b)(2)(i), and implemented a post-season AM in the form of an overage adjustment that would apply if the recreational ACL is exceeded and gray triggerfish are overfished, as specified in 50 CFR 622.41(b)(2)(ii). This post-season AM reduces the recreational ACL and ACT for the year

following a recreational ACL overage by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

NMFS determined that the 2013 recreational landings were 524,606 lb (237,957 kg), which exceeded the 2013 recreational ACT by 307,506 lb (139,482 kg) and the 2013 recreational ACL by 283,406 lb (128,551 kg). Therefore, NMFS implements a post-season AM for recreational gray triggerfish in the Gulf for the 2014 fishing year through this temporary final rule. Based on the 2013 overage of 283,406 lb (128,551 kg), NMFS reduces the 2014 recreational ACT from 217,100 lb (98,475 kg), to 0 lb (0 kg) and the 2014 recreational ACL from 241,200 lb (109,406 kg) to 0 lb (0 kg).

Based on the adjusted 2014 recreational ACT of 0 lb (0 kg), for Gulf gray triggerfish, NMFS implements the in-season AM to close the recreational harvest of Gulf gray triggerfish at 12:01 a.m., local time, on May 1, 2014, until 12:01 a.m., local time on January 1, 2015, unless changed by subsequent notification in the Federal Register.

During the closure, the bag and possession limit of gray triggerfish in or from the Gulf EEZ is zero. This bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, i.e. in state

or Federal waters. The recreational sector for gray triggerfish will reopen on January 1, 2015, the beginning of the 2015 recreational fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(2) 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.

This action responds to the best scientific information available. 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 because such procedures are unnecessary and is contrary to the public interest. Prior notice and the opportunity to comment is unnecessary because the final rule for Amendment 37 to the FMP (78 FR 27084, May 9, 2013) implemented AMs which state that NMFS will file a notification with the Office of the Federal Register to reduce the recreational ACT and the recreational ACL by the amount of any recreational ACL overage in the prior year

and to close the recreational sector for Gulf gray triggerfish for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACT. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the reduced recreational fishing season for gray triggerfish.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the gray triggerfish resource. Any delay in the closure of the recreational sector could result in the adjusted recreational ACL for gray triggerfish being further exceeded, which, in turn, would further reduce the recreational ACL and ACT for gray triggerfish in 2015.

For the aforementioned reasons, the Assistant Administrator,

NMFS, 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: April 22, 2014.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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