

held in cold storage by a dealer or processor.

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions for commercial red snapper would apply regardless of whether the fish were harvested in state or Federal waters, as specified in 50 CFR 622.190(y)(1). Additionally, the recreational fishing season for red snapper is closed.

In 2014, the total removals (landings and dead discards) for 2013 will be compared to the 2013 ABC to determine if the 2013 ABC was exceeded and thus whether limited commercial and recreational fishing seasons for red snapper can occur in 2014. If NMFS determines that limited commercial and recreational red snapper seasons can occur in 2014, NMFS will file a notification with the Office of the Federal Register to announce the opening dates of any commercial and recreational fishing seasons in 2014. A commercial fishing season would begin on the second Monday in July, and a recreational fishing season, consisting of weekends only (Fridays, Saturdays, and Sundays) would begin on the second Friday in July.

#### Classification

The Regional Administrator, Southeast Region, NMFS has determined this temporary rule is necessary for the conservation and management of South Atlantic red snapper and is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.193(y)(1) 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 public comment.

This action responds to the best available scientific information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for red snapper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. 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 closure.

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 red snapper since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

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).

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

Dated: October 1, 2013.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 121004518-3398-01]

RIN 0648-XC669

#### Reef Fish Fishery of the Gulf of Mexico; 2013 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 2013 fishing year through this temporary final rule. Based on the projected recreational landings, NMFS determined that the recreational annual catch target (ACT) for Gulf gray triggerfish was reached in August 2013. Therefore, NMFS closes the recreational sector for gray triggerfish in the Gulf EEZ at 12:01 a.m., local time, October 15, 2013, until January 1, 2014. This closure is necessary to reduce overfishing of the Gulf gray triggerfish resource.

**DATES:** This rule is effective 12:01 a.m., local time on October 15, 2013, until 12:01 a.m., local time on January 1, 2014, unless changed by subsequent notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, Southeast Regional Office, telephone 727-824-5305, email [rich.malinowski@noaa.gov](mailto: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).

On May 9, 2013, the final rule for Amendment 37 to the FMP implemented the Gulf gray triggerfish recreational annual catch limit (ACL) of 241,200 lb (109,406 kg), round weight, and the recreational ACT of 217,100 lb (98,475 kg), round weight (78 FR 27084, May 9, 2013), 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).

Based on the 2013 projected recreational landings estimates, the recreational ACT of 217,100 lb (98,475 kg), round weight, for Gulf gray triggerfish was reached in August 2013. Therefore, NMFS implements the in-season AM and the recreational harvest of Gulf gray triggerfish will close at 12:01 a.m., local time on October 15, 2013, until 12:01 a.m., local time on January 1, 2014.

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, 2014, the beginning of the 2014 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. The AMs state that NMFS will file a notification with the Office of the Federal Register 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 specified in 50 CFR 622.41(b)(2)(iii). All that remains is to notify the public of the reduced recreational fishing season for gray triggerfish for the remainder of the fishing year.

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 recreational ACL for gray triggerfish being exceeded, which, in turn, would trigger an additional AM for gray triggerfish. The AM states that if recreational landings exceed the ACL, and gray triggerfish is overfished, NMFS will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the ACL and the ACT for that following fishing year by the amount of the ACL overage in the prior fishing year. Reducing the ACL and ACT the following fishing season could be disruptive to business plans and would provide less flexibility to fishermen for when they could harvest the ACL.

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: October 1, 2013.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 130408348-3835-02]

RIN 0648-BD17

### Fisheries of the Northeastern United States; Atlantic Herring Fishery; Framework Adjustment 2 and Specifications

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is implementing Framework Adjustment 2 to the Atlantic Herring Fishery Management Plan (Framework 2) and the 2013–2015 fishery specifications for the Atlantic herring fishery (2013–2015 specifications). Framework 2 allows the New England Fishery Management Council (Council) to split annual catch limits seasonally for the four Atlantic herring management areas, and the carryover of unharvested catch, up to 10 percent for each area's annual catch limit. The specifications set catch specifications for the herring fishery for the 2013–2015 fishing years and establish seasonal splits for management areas 1A and 1B as recommended to NMFS by the Council.

**DATES:** Effective September 30, 2014.

**ADDRESSES:** Copies of supporting documents used by the Council, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone (978) 465-0492. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.nmfs.gov>.

**FOR FURTHER INFORMATION CONTACT:** Carrie Nordeen, Fishery Policy Analyst, (978) 281-9272, fax (978) 281-9135.

#### SUPPLEMENTARY INFORMATION:

#### Background

NMFS published a proposed rule for Framework 2 and the 2013–2015 specifications (Framework 2/2013–2015 Specifications) on August 2, 2013 (78 FR 46897). The comment period on the proposed rule ended on September 3, 2013. NMFS received five comments, which are summarized in the

“Comments and Responses” section of this final rule.

Regulations implementing the Atlantic Herring Fishery Management Plan (FMP) for herring appear at 50 CFR part 648, subpart K. The regulations at § 648.200 require the Council to recommend herring specifications for NMFS's review and proposal in the **Federal Register**, including the overfishing limit (OFL), acceptable biological catch (ABC), annual catch limit (ACL), optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), U.S. at-sea processing (USAP), border transfer (BT), the sub-ACL for each management area, including seasonal periods as allowed by § 648.201(d) and modifications to sub-ACLs as allowed by § 648.201(f), and the amount to be set aside for the research set aside (RSA) (3 percent of the sub-ACL from any management area) for up to 3 years.

The 2013–2015 herring specifications are based on the provisions currently in the FMP, and provide the necessary elements to comply with the ACL and accountability measure (AM) requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This action also includes measures in Framework 2 to the FMP.

#### Framework 2 Measures

The regulations implementing Framework 2 allow seasonal splits of sub-ACLs for all herring management areas through the specifications process. The FMP already authorizes seasonal splits of the Area 1A sub-ACL. The sub-ACL splitting under Framework 2 allows seasonal control of fishing effort and harvest in management areas by specifying the percent of the sub-ACL available for harvest. The fishing year (FY) 2013–2015 specifications include the following seasonal splits:

Area 1A: 100 percent of the sub-ACL available for harvest during June–December (none of the sub-ACL is available for harvest during January through May); and Area 1B: 100 percent of the sub-ACL available for harvest during May–December (none of the sub-ACL is available for harvest during January through April).

Framework 2 also allows the carryover of unharvested catch, up to 10 percent of each sub-ACL, provided the stock-wide catch did not exceed the stock-wide ACL. This measure allows a sub-ACL increase for a management area, but it does not allow a corresponding increase to the stock-wide ACL. Overall harvest would therefore remain constrained by the stock-wide ACL. Consequently, the fleet would be required to forego harvest in