

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 121004518-3398-01]

RIN 0648-XF005

Reef Fish Fishery of the Gulf of Mexico; 2017 Recreational Accountability Measures and Closure for Gulf of Mexico Gray Triggerfish

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the gray triggerfish recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2017 fishing year through this temporary rule. NMFS has determined that the 2016 recreational annual catch limit (ACL) for Gulf gray triggerfish was exceeded; therefore, NMFS reduces the gray triggerfish recreational ACL and annual catch target (ACT) in 2017. As a result of the recreational ACL and ACT overages in 2016, the gray triggerfish 2017 recreational season in the Gulf EEZ will not open on January 1, 2017, and will remain closed for the entire 2017 fishing year. This closure is necessary to protect the Gulf gray triggerfish resource.

DATES: This rule is effective from 12:01 a.m., local time, January 1, 2017, until 12:01 a.m., local time, January 1, 2018.

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

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, including gray triggerfish, under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All gray triggerfish weights discussed in this temporary rule are in round weight.

The recreational ACL for Gulf gray triggerfish specified in 50 CFR 622.41(b)(2)(iii) is 241,200 lb (109,406 kg) and the recreational ACT is 217,100 lb (98,475 kg). However, in 2015, gray triggerfish landings exceeded the 2015

ACL by 39,977 lbs. Therefore, the 2016 ACL and ACT were adjusted to 201,223 lb (91,273 kg) and 177,123 lb (80,342 kg), respectively. In 2016, the recreational fishing season did not re-open after the annual spawning season closure from June 1 through July 31, and the recreational harvest of gray triggerfish exceeded the 2016 recreational ACL by 221,213 lb (100,341 kg). Therefore, consistent with the AM requirements specified in 50 CFR 622.41(b)(2)(ii), NMFS reduces the recreational ACL and ACT for gray triggerfish in 2017 by the amount of the recreational ACL overage to 19,987 lb (9,066 kg) and 0 lb (0 kg), respectively.

Under 50 CFR 622.41(b)(2)(i), NMFS is required to close the recreational sector for gray triggerfish when the recreational ACT is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the recreational ACT for the 2017 fishing year is 0 lb (0 kg). Therefore, NMFS closes the recreational harvest of gray triggerfish for the 2017 fishing year.

During the recreational closure, the bag and possession limits for gray triggerfish in or from the Gulf EEZ are zero. The prohibition on possession in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued applies regardless of whether gray triggerfish were harvested in state or Federal waters.

The recreational sector for gray triggerfish in the Gulf EEZ will reopen on January 1, 2018, the beginning of the 2018 recreational fishing year, unless changed by subsequent notification in the **Federal Register**.

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)(i) and (ii) 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. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the recreational sector for gray

triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because the public requires as much advanced notice as possible of season closures to allow time to adequately plan for recreational fishing trips during the 2017 fishing year.

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: November 9, 2016.

Tracey Thompson,

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

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 150916863-6211-02]

RIN 0648-XF032

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from catcher vessels using trawl gear and catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using pot gear to catcher processors (C/Ps) using hook-and-line gear and C/Ps using pot gear in the Bering Sea and Aleutian Islands (BSAI) management area. This action is necessary to allow the 2016 total allowable catch of Pacific cod to be harvested.

DATES: *Effective* November 9, 2016, through 2400 hours, Alaska local time (A.l.t.), December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2016 Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI is 46,638 metric tons (mt) as established by the final 2016 and 2017 harvest specifications for groundfish of the BSAI (81 FR 14773, March 18, 2016) and reallocations (81 FR 69445, October 6, 2016, 81 FR 76530, November 3, 2016). The Regional Administrator has determined that catcher vessels using trawl gear will not be able to harvest 1,500 mt of the remaining 2016 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9).

The 2016 Pacific cod TAC specified for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI is 17,598 mt as established by the final 2016 and 2017 harvest specifications for groundfish of the BSAI (81 FR 14773, March 18, 2016) and reallocation (81 FR 69445, October 6, 2016). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet (18.3 m)

LOA using pot gear will not be able to harvest 3,000 mt of the remaining 2016 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(5).

Therefore, in accordance with § 679.20(a)(7)(iii), taking into account the capabilities of the sectors to harvest reallocated amounts of Pacific cod, and following the hierarchies set forth in § 679.20(a)(7)(iii)(A) and § 679.20(a)(7)(iii)(B), NMFS reallocates 4,500 mt of Pacific cod to C/Ps using hook-and-line gear and C/Ps using pot gear in the Bering Sea and Aleutian Islands management area.

The harvest specifications for Pacific cod included in the final 2016 and 2017 harvest specifications for groundfish of the BSAI (81 FR 14773, March 18, 2016, 81 FR 57491, August 23, 2016, 81 FR 61143, September 6, 2016, 81 FR 69445, October 6, 2016, 81 FR 76530, November 3, 2016) are revised as follows: 45,138 mt for catcher vessels using trawl gear, 14,598 for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear, 111,783 for C/Ps using hook-and-line gear, and 6,607 mt for C/Ps using pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is

impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from multiple sectors to C/Ps using hook-and-line gear and C/Ps using pot gear in the Bering Sea and Aleutian Islands management area. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 7, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: November 9, 2016.

Tracey Thompson,

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

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