

otherwise has federalism implications. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable. In accordance with the provisions of Executive Order 12866, this IFC was reviewed by the Office of Management and Budget.

#### List of Subjects in 42 CFR Part 423

Administrative practice and procedure, Emergency medical services, Health facilities, Health maintenance organizations (HMO), Health professionals, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

For the reasons stated in the preamble of this interim final rule with comment period, the Centers for Medicare & Medicaid Services amends 42 CFR part 423 as follows:

#### PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG PROGRAM

■ 1. The authority citation for part 423 continues to read as follows:

**Authority:** Secs. 1102, 1106, 1860D–1 through 1860D–42, and 1871 of the Social Security Act (42 U.S.C. 1302, 1306, 1395w–101 through 1395w–152, and 1395hh).

■ 2. Amend § 423.100 by adding a definition of “Other authorized prescriber” in alphabetical order to read as follows:

##### § 423.100 Definitions.

\* \* \* \* \*

*Other authorized prescriber* means, for purposes of § 423.120(c)(6) only, an individual other than a physician (as defined in section 1861(r) of the Act) or eligible professional (as defined in section 1848(k)(3)(B) of the Act) who is authorized under State or other applicable law to write prescriptions.

\* \* \* \* \*

■ 3. Amend § 423.120 by revising paragraphs (c)(5) introductory text and (c)(6) to read as follows:

##### § 423.120 Access to covered Part D drugs.

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(5) Before January 1, 2016, the following are applicable:

\* \* \* \* \*

(6) Beginning January 1, 2016, the following are applicable:

(i) A Part D plan sponsor must reject, or must require its pharmaceutical benefit manager (PBM) to reject, a pharmacy claim for a Part D drug unless the claim contains the active and valid National Provider Identifier (NPI) of the prescriber who prescribed the drug.

(ii)(A) Except as provided in paragraph (c)(6)(v) of this section, a Part D plan sponsor must reject, or must require its PBM to reject, a pharmacy claim for a Part D drug unless the physician or, when permitted by applicable State law, the eligible professional (as defined in section 1848(k)(3)(B) of the Act) who prescribed the drug—

(1) Is enrolled in the Medicare program in an approved status; or

(2) Has a valid opt-out affidavit on file with a Part A/B Medicare Administrative Contractor (MAC).

(B) Pharmacy claims for Part D drugs prescribed by an other authorized prescriber (as defined in § 423.100) are not subject to the requirements specified in paragraph (c)(6)(ii)(A) of this section.

(iii) Except as provided in paragraph (c)(6)(v) of this section, a Part D plan sponsor must deny, or must require its PBM to deny, a request for reimbursement from a Medicare beneficiary unless the request pertains to a Part D drug that was prescribed by—

(A) A physician or, when permitted by applicable State law, other eligible professional (as defined in section 1848(k)(3)(B) of the Act) who is identified by name in the request and who—

(1) Is enrolled in Medicare in an approved status; or

(2) Has a valid opt-out affidavit on file with a Part A/B MAC; or

(B) An other authorized prescriber (as defined in § 423.100) who is identified by name in the request.

(iv) A Part D plan sponsor submitting a prescription drug event (PDE) to CMS must include on the PDE the active and valid individual NPI of the prescriber of the drug, who must—

(A)(1) Be enrolled in Medicare in an approved status, or

(2) Have a valid opt out affidavit on file with a Part A/B MAC; or

(B) Be an other authorized prescriber (as defined in § 423.100).

(v)(A) A Part D sponsor or its PBM must not reject a pharmacy claim for a Part D drug under paragraph (c)(6)(ii) of the section or deny a request for reimbursement under paragraph (c)(6)(iii) of this section unless the sponsor has provided the provisional coverage of the drug and written notice to the beneficiary required by paragraph (c)(6)(v)(B) of this section.

(B) Upon receipt of a pharmacy claim or beneficiary request for reimbursement for a Part D drug that a Part D sponsor would otherwise be required to reject or deny in accordance with paragraphs (c)(6)(ii) or (iii) of this

section, a Part D sponsor or its PBM must do the following:

(1) Provide the beneficiary with the following, subject to all other Part D rules and plan coverage requirements:

(i) A 3-month provisional supply of the drug (as prescribed by the prescriber and if allowed by applicable law).

(ii) Written notice within 3 business days after adjudication of the claim or request in a form and manner specified by CMS.

(2) Ensure that reasonable efforts are made to notify the prescriber of a beneficiary who was sent a notice under paragraph (c)(6)(v)(B)(1)(ii) of this section.

\* \* \* \* \*

Dated: April 17, 2015.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Dated: April 29, 2015.

**Sylvia M. Burwell,**

*Secretary, Department of Health and Human Services.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–XD901

##### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2015 Commercial Accountability Measure and Closure for South Atlantic Gray Triggerfish

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements accountability measures for commercial gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings for gray triggerfish, will reach the commercial annual catch limit (ACL) on May 8, 2015. Therefore, NMFS is closing the commercial sector for gray triggerfish in the South Atlantic EEZ on May 8, 2015, and it will remain closed until NMFS announces the start of the next fishing season. This closure is necessary to protect the gray triggerfish resource.

**DATES:** This rule is effective 12:01 a.m., local time, May 8, 2015, until NMFS

announces the start of the next fishing season by publishing a document in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Catherine Hayslip, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [catherine.hayslip@noaa.gov](mailto:catherine.hayslip@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for gray triggerfish in the South Atlantic is 272,880 lb (123,776 kg), round weight, for the current fishing year, January 1 through December 31, 2015, as specified in 50 CFR 622.193(q)(1)(i).

Under 50 CFR 622.193(q)(1)(i), NMFS is required to close the commercial sector for gray triggerfish when the commercial ACL 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 commercial ACL for South Atlantic gray triggerfish will be reached on May 8, 2015. Accordingly, the commercial sector for South Atlantic gray triggerfish is closed effective 12:01 a.m., local time, May 8, 2015, until NMFS announces the start of the next fishing season.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having gray triggerfish on board must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, May 8, 2015. During the closure, the bag limit specified in 50 CFR 622.187(b)(8), applies to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the sale or purchase of gray triggerfish taken from the South Atlantic EEZ is prohibited.

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 bag and possession limits and sale and purchase provisions of the commercial closure for gray

triggerfish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.193(q)(1)(i).

**Classification**

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

This action is taken under 50 CFR 622.193(q)(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 comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish 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 are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been 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 of the need to immediately implement this action to protect gray triggerfish 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: May 1, 2015.

**Emily H. Menashes,**

*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. 140918791-4999-02]

RIN 0648-XD929

**Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fishery by Non-Rockfish Program Catcher Vessels Using Trawl Gear in the Western and Central Regulatory Area of the Gulf of Alaska**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2015 Chinook salmon prohibited species catch limit established for non-Rockfish Program catcher vessels using trawl gear and directed fishing for groundfish, other than pollock, in the Western and Central Regulatory Areas of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), May 3, 2015, through 2400 hours, A.l.t., December 31, 2015.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 2015 Chinook salmon prohibited species catch (PSC) limit for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA is 2,700 Chinook salmon (\$ 679.21(i)(3)(i)(C)).

In accordance with § 679.21(i)(7), the Regional Administrator has determined that the 2015 Chinook salmon PSC limit established for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central