

<sup>2</sup>The description is not intended to be a comprehensive explanation of the underlying violation; the statute and corresponding regulation, if applicable, should be consulted.

<sup>3</sup>Statutory or Inflation Act Adjustment.

<sup>4</sup>The cost of living multiplier for 2018, based on the CPI-U for the month of October 2017, not seasonally adjusted, is 1.02041, as indicated in OMB Memorandum M-18-03, "Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Adjustment Act Improvements Act of 2015" (December 15, 2017).

<sup>5</sup>2018 Maximum Adjusted Penalty column adjusted based on changes to the Bipartisan Budget Act of 2018 for 42 U.S.C.1320a-7a(a),1320a-7a(b), 1395l(h)(5)(D),1395m(a)(11)(A),1395m(a)(18)(B), 1395m(b)(5)(C), 1395m(h)(3), 1395m(j)(4), 1395m(k)(6), 1395m(l)(6), 1395u(b)(18)(B), 1395u(j)(2)(B), 1395u(k), 1395u(l)(3), 1395u(m)(3), 1395u(n)(3), 1395u(o)(3)(B), 1395w-4(g)(1)(B), 1395w-4(g)(3)(B),1395pp(h).

Dated: October 3, 2018.

**Alex M. Azar II,**

*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. 121004518-3398-01]

**RIN 0648-XG524**

#### Reef Fish Fishery of the Gulf of Mexico; 2018 Commercial Accountability Measure 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 commercial sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) through this temporary rule. NMFS projects that 2018 commercial landings for gray triggerfish will reach the commercial annual catch target (ACT) (commercial quota) by October 7, 2018. Therefore, NMFS is closing the commercial sector for Gulf gray triggerfish on October 7, 2018, and it will remain closed through the end of the fishing year on December 31, 2018. This closure is necessary to protect the Gulf gray triggerfish resource.

**DATES:** This temporary rule is effective at 12:01 a.m., local time, on October 7, 2018, until 12:01 a.m., local time, on January 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Lauren Waters, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [lauren.waters@noaa.gov](mailto:lauren.waters@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the Gulf reef fish fishery, which includes gray triggerfish, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of

Mexico (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.

On August 4, 2008, NMFS established gray triggerfish AMs as well as commercial quotas for gray triggerfish through Amendment 30A to the FMP (73 FR 38139). On May 9, 2013, NMFS issued a final rule to implement Amendment 37 to the FMP (78 FR 27084). In part, Amendment 37 revised gray triggerfish commercial ACLs and ACTs. The 2018 commercial quota (*i.e.*, the commercial ACT) for Gulf gray triggerfish specified in 50 CFR 622.39(a)(1)(vi) is 60,900 lb (27,624 kg).

As specified by 50 CFR 622.41(b)(1), NMFS is required to close the commercial sector for gray triggerfish when the commercial quota 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 the 2018 commercial quota for Gulf gray triggerfish will be reached by October 7, 2018. Accordingly, this temporary rule closes the commercial sector for Gulf gray triggerfish effective at 12:01 a.m., local time, October 7, 2018, and it will remain closed until the start of the next commercial fishing season on January 1, 2019.

During the commercial closure, the operator of a vessel with a valid commercial vessel permit for Gulf reef fish having gray triggerfish onboard must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, October 7, 2018. During the closure, the sale or purchase of gray triggerfish taken from the Gulf EEZ is prohibited. The prohibition on the sale or purchase does not apply to gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 7, 2018, and were held in cold storage by a dealer or processor.

#### Classification

The Regional Administrator for the NMFS Southeast Region 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)(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 NOAA Fisheries (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 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 Amendment 37 to the FMP (78 FR 27084; May 9, 2013), which established 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 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 quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial quota.

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.*

**Margo B. Schulze-Haugen,**

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

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