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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BG87

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;

Reef Fish Fishery of the Gulf of Mexico; Gray Triggerfish

Management Measures; Amendment 46

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

ACTION: Notification of availability; request for comments.

SUMMARY: The Gulf of Mexico (Gulf) Fishery Management Council (Council) has submitted Amendment 46 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), for review, approval, and implementation by NMFS. Amendment 46 would establish the rebuilding time period for the Gulf gray triggerfish stock. Amendment 46 would also revise the recreational fixed closed season, recreational bag limit, recreational minimum size limit, and commercial trip limit. The purpose of Amendment 46 is to implement management measures to assist in rebuilding the Gulf gray triggerfish stock and to achieve optimum yield (OY).

DATES: Written comments must be received on or before [*insert date 60 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on the amendment identified by "NOAA-NMFS-2017-0080" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0080, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Lauren Waters, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 46, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional

Office Web Site at:

http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/am46_gray_trigger/documents/pdfs/gulf_reef_am46_gray_trigg_final.pdf.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: Lauren.Waters@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The FMP being revised by Amendment 46 was prepared by the Council and implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from Federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation,

particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to rebuild overfished stocks.

The first Southeast Data, Assessment, and Review (SEDAR) benchmark stock assessment for gray triggerfish was completed in 2006 (SEDAR 9). SEDAR 9 indicated that the gray triggerfish stock was both overfished and possibly undergoing overfishing. Subsequently, Amendment 30A to the FMP established a gray triggerfish rebuilding plan beginning in the 2008 fishing year (73 FR 3813; July 3, 2008). In 2011, a SEDAR 9 update stock assessment for gray triggerfish determined that the gray triggerfish stock was still overfished and was undergoing overfishing, and had not made adequate progress toward rebuilding. As a result of the SEDAR 9 update and to end overfishing, the final rule for Amendment 37 to the FMP revised the gray triggerfish commercial and recreational sector annual catch limits (ACLs) and annual catch targets (ACTs), revised the gray triggerfish recreational sector accountability measures (AMs), revised the gray triggerfish recreational bag limit, established a commercial trip limit for gray triggerfish, and established a fixed closed season for the gray triggerfish commercial and recreational sectors (78 FR 27084; May 5, 2013). Additionally, Amendment 37 revised the rebuilding plan and

projected that the stock would be rebuilt in 5 years, or by the end of 2017 fishing year.

Since implementation of Amendment 37 in 2013, commercial harvest has not exceeded the commercial ACL, while the recreational sector has exceeded the recreational ACL or adjusted recreational ACL (that resulted from a ACL overage adjustment) in the 2013, 2014, 2015, and 2016 fishing years. The most recent stock assessment for gray triggerfish was completed and reviewed by the Council's Scientific and Statistical Committee (SSC) in October 2015 (SEDAR 43). SEDAR 43 indicated that the gray triggerfish stock was not experiencing overfishing but remained overfished and would not be rebuilt by the end of 2017 as previously projected. On November 2, 2015, NMFS notified the Council that the gray triggerfish stock was not making adequate progress toward rebuilding and the Council subsequently began development of Amendment 46 to establish a new rebuilding time period and other management measures to achieve OY and rebuild the stock.

Actions Contained in Amendment 46

Amendment 46 includes measures to set a rebuilding time period, revise the recreational fixed closed season, revise the recreational bag limit, revise the recreational minimum size limit, and revise the commercial trip limit. Additionally,

Amendment 46 considers alternatives to the commercial and recreational ACLs and ACTs.

Rebuilding Time Period and Commercial and Recreational ACTs and ACLs

Amendment 37 established a 5-year rebuilding time period, expiring in 2017, and the current gray triggerfish commercial and recreational ACTs and ACLs. The current commercial ACT is 60,900 lb (27,624 kg), round weight, and the commercial ACL is 64,100 lb (29,075 kg), round weight. The current recreational ACT is 217,000 lb (98,475 kg), round weight, and the recreational ACL is 242,200 lb (109,406 kg), round weight.

Amendment 46 would establish a new rebuilding time period for the Gulf gray triggerfish stock as a result of the stock status determined through SEDAR 43, and maintain the current commercial and recreational ACLs and ACTs.

The Council's SSC reviewed SEDAR 43 and recommended alternative rebuilding time periods of 8, 9, or 10 years and the acceptable biological catch (ABC) yield streams for each period. There is a 60 percent probability of rebuilding the stock within these time periods if landings are appropriately constrained to the recommended catch levels. In Amendment 46, the Council considered these rebuilding time periods and their associated catch levels, as well as a 6-year period, which would be the time needed to rebuild the stock in the absence of fishing

mortality. The Council determined that the 9-year rebuilding time period was as short as possible, taking into account the status and biology of the stock and the needs of the associated fishing communities. Although the ABC recommendation associated with the 9-year time period allowed for an increase in harvest, the Council chose to adopt a more conservative approach and maintain the current commercial and recreational ACLs and ACTs for gray triggerfish that were set through the final rule for Amendment 37 (78 FR 27084, May 9, 2013).

Recreational Seasonal Closure

The current recreational seasonal closure for gray triggerfish in the Gulf is from June 1 through July 31, and was established in Amendment 37 to protect gray triggerfish during the peak spawning season and help constrain landings to the recreational ACT (78 FR 27084; May 5, 2013). However, as explained above, recreational landings have exceeded the recreational ACL or adjusted ACL the last four years. Amendment 46 would establish an additional recreational fixed closed season for gray triggerfish from January 1 through the end of February, which is expected to reduce recreational landings and help rebuild the stock within the rebuilding time period established in Amendment 46.

Recreational Bag Limit

The current recreational bag limit was set in Amendment 37 and is a 2-fish per person per day limit within the overall 20-fish aggregate reef fish bag limit. Amendment 46 would reduce the recreational gray triggerfish bag limit to 1 fish per person per day within the 20-fish aggregate reef fish bag limit.

As described in Amendment 46, from 2013 through 2015, approximately 10 percent of recreational trips with reef fish landings harvested 2 gray triggerfish within the 20-fish aggregate bag limit. NMFS expects the proposed change to the bag limit to reduce recreational landings by 15 percent, which will help constrain harvest to the recreational ACT to allow the sector to remain open through the end of the fishing year.

Recreational Size Limit

The current recreational minimum size limit for gray triggerfish is 14 inches (35.6 cm), FL, and was established in Amendment 30A to the FMP (73 FR 38139, July 3, 2008). Amendment 46 would increase the minimum size limit to 15 inches (38.1 cm), FL.

Increasing the recreational minimum size limit is expected to increase the gray triggerfish spawning potential by maintaining larger-sized fish, which are more fecund, in the stock, and is expected to help slow recreational harvest.

Commercial Trip Limit

The current commercial trip limit is 12 fish per trip, and was established in Amendment 37 to constrain commercial harvest to the commercial ACT and avoid an in-season closure (78 FR 27084, May 5, 2013). Amendment 46 would increase the commercial trip limit to 16 fish per trip.

As described in Amendment 46, since implementation of the 12-fish commercial trip limit in 2013, commercial landings have been consistently below the commercial ACT. Analysis of commercial trips demonstrated that 80 percent of trips caught 10 gray triggerfish or less. This indicates that gray triggerfish is primarily a non-target species by the commercial sector and that increasing the commercial trip limit would likely result in only a small change in the weight projected to be landed during a fishing year. However, increasing the commercial trip limit would allow those fishermen who encounter the species the opportunity to harvest more fish. This would help achieve OY for the stock while continuing to constrain commercial landings to the commercial ACT.

Proposed Rule for Amendment 46

A proposed rule that would implement Amendment 46 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will

publish the proposed rule in the *Federal Register* for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 46 for Secretarial review, approval, and implementation. Comments on Amendment 46 must be received by [*insert date 60 days after date of publication in the FEDERAL REGISTER*]. Comments received during the respective comment periods, whether specifically directed to Amendment 46 or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 46 and will be addressed in the final rule.

All comments received by NMFS on Amendment 46 or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: August 25, 2017.

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

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