



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230427-0115]

RTID 0648-XD439

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; 2023 Recreational Harvest Closure for Gag

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 the recreational harvest of gag in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2023 fishing year. NMFS has projected that the 2023 recreational annual catch limit (ACL) for gag will be reached by October 19, 2023. Therefore, NMFS closes the recreational sector for gag to protect the gag resource.

DATES: This temporary rule is effective from 12:01 a.m. local time on October 19, 2023, through December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Dan Luers, NMFS Southeast Regional Office, telephone: 727-551-5719, email:

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SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery and gag under the Fishery Management Plan for the

Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All weights described in this temporary rule are in gutted weight.

On May 3, 2023, NMFS implemented a final temporary rule for gag in the Gulf EEZ (88 FR 27701, May 3, 2023). That 2023 temporary rule resulted from a 2021 gag stock assessment and determination that the stock is overfished and is undergoing overfishing, and a subsequent request from the Council for NMFS to implement interim measures gag during the 2023 fishing year. The purpose of the requested interim measures and the 2023 temporary rule was to reduce overfishing of gag while long-term management measures are developed in Amendment 56 to the FMP. The effective period of the 2023 temporary rule is 180 days and would end after October 29, 2023. However, NMFS intends to extend the interim measures for an additional 186 days.

The interim measures reduced commercial and recreational catch limits for gag and revised the opening of the recreational season from June 1, 2023, to September 1, 2023. Under the interim measures, gag has a recreational ACL of 403,759 lb (183,142 kg) and a recreational annual catch target (ACT) of 362,374 lb (164,370 kg). The 2023

recreational season for gag was scheduled to be open through November 9, unless NMFS projected that the recreational ACL will be reached sooner and closes the recreational sector as required by the AMs specified in 50 CFR 622.41(r)(2).

NMFS projects that recreational landings of gag from the Gulf EEZ will reach the recreational ACL on October 19, 2023. Accordingly, this temporary rule closes the recreational harvest of gag in or from the Gulf EEZ from October 19 through the end of the fishing year, December 31, 2023.

During the recreational closure, the bag and possession limits of gag in or from the Gulf EEZ are zero. The prohibition on possession of gag also applies in state waters of the Gulf for any vessel issued a valid Federal charter vessel/headboat permit for Gulf reef fish.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.41(r)(2)(i), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the

closure of recreational harvest of gag at 50 CFR 622.41(r)(2)(i) have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment are contrary to the public interest, because there is a need to immediately implement this action to protect the gag stock. Prior notice and opportunity for public comment would require time and could result in a harvest well in excess of the established ACL. In addition, many charter vessel and headboat businesses reserve trips for clients in advance and require as much notice as NMFS is able to provide to adjust their business plans to account for changes to the recreational fishing season.

For the reasons just stated, there is also 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: September 29, 2023.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.