



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230427-0115]

RIN 0648-BL89

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Temporary Measures to Reduce Overfishing of Gag

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

ACTION: Temporary rule; interim measures extended.

SUMMARY: NMFS issues this temporary rule to extend the expiration date of interim measures to reduce overfishing of gag in Federal waters of the Gulf of Mexico. This temporary rule extends the commercial and recreational harvest levels and the revised recreational fishing season for gag for an additional 186 days. The purpose of this temporary rule extension is to reduce overfishing of gag while NMFS implements management measures to end overfishing of gag on a permanent basis.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the expiration date for the final temporary rule published at 88 FR 27701 on May 3, 2023, is extended from October 30, 2023, through May 2, 2024, unless NMFS publishes a superseding document in the **Federal Register**.

ADDRESSES: An electronic copy of the environmental assessment (EA) supporting these temporary measures may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/interim-action-reduce-overfishing-gag-gulf-mexico>. The EA includes a regulatory impact review and a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Dan Luers, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: daniel.luers@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery in the Gulf of Mexico (Gulf) is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP) and includes gag and other federally managed reef fish species. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

All weights described in this temporary rule are in gutted weight.

On May 3, 2023, NMFS published the final temporary rule for interim measures to reduce overfishing of gag in Gulf Federal waters (88 FR 27701). The final temporary rule reduced the total annual catch limit (ACL) for gag to 661,901 lb (300,233 kg). In addition, the final temporary

rule specified the commercial and recreational ACLs, commercial quota, and recreational annual catch target (ACT) using the existing sector allocations of the total ACL of 39 percent commercial and 61 percent recreational. Therefore, during the effectiveness of the final temporary rule and this temporary rule extension, the commercial ACL and commercial quota are 258,000 lb (117,027 kg) and 199,000 lb (90,265 kg), respectively. The recreational ACL and ACT are 403,759 lb (183,142 kg) and 362,374 lb (164,370 kg), respectively.

In addition to the reduced catch limits for gag, the final temporary rule changed the gag recreational fishing season for the 2023 fishing year. This temporary rule extension continues the same recreational fishing season of September 1 through November 9, 2023, unless NMFS projects that recreational landings of gag will reach the recreational ACL sooner than November 9, 2023, and will close the recreational sector as required by the accountability measures specified in 50 CFR 622.41(r)(2).

This temporary rule extension continues the measures in the final temporary rule unchanged for an additional 186 days, unless this temporary rule extension is superseded by subsequent rulemaking. The purpose of these interim measures is to reduce the overfishing of gag in Gulf Federal waters while NMFS implements long-term management measures to end overfishing and rebuild the Gulf gag stock.

Amendment 56 was approved by the Council at the June 2023 meeting and includes management measures to end overfishing of gag on a long-term basis. NMFS is currently reviewing Amendment 56 and developing the proposed rule for Amendment 56 and, if approved, expects to implement a final rule before the expiration of the interim measures in this temporary rule extension in the 2024 fishing year.

Section 305(c)(2) of the Magnuson-Stevens Act provides the Council the authority to request interim measures, if necessary, to reduce overfishing. The Council sent a letter to NMFS, dated June 18, 2022, requesting that NMFS implement interim measures to immediately reduce overfishing of gag while long-term management measures were developed to end overfishing of gag. Section 305(c)(3)(B) of the Magnuson-Stevens Act allows for interim measures to be extended for one additional period of 186 days provided that the public has had an opportunity to comment on the interim measures and that the Council is actively preparing an FMP amendment to address the overfishing on a permanent basis. NMFS published in the **Federal Register** a proposed temporary rule on February 3, 2023, and requested public comments on these interim measures (88 FR 7388). NMFS responded to public comments in the final temporary rule that was published in the **Federal Register** on May 3, 2023 (88 FR 27701).

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Act, 16 U.S.C. 1855(c). The NMFS Assistant Administrator has determined that this temporary rule extension is consistent with the Magnuson-Stevens Act and other applicable law.

This temporary rule extension has been determined to be not significant for purposes of Executive Order 12866.

This temporary rule extension is exempt from the procedures of the RFA, because this temporary rule extension is issued without the opportunity for prior notice and public comment.

NMFS prepared an EA for the interim measures contained in the January 2, 2018, final temporary rule (83 FR 65). The EA analyzed the impacts of reduced commercial and recreational harvest and the change to the 2023 recreational season through the 2023 fishing year, which includes the impacts related to extending the interim measures. If additional management measures are not implemented after the extension expires, the recreational season would open on June 1, 2024, and the commercial and recreational catch limits would increase to the levels in place prior to the final temporary rule. Impacts during the 2024 fishing year would be a result of the implementation of the management measures included in Amendment 56, which are considered in the EA supporting that amendment. Therefore, the impacts of extending the interim measures

through this temporary rule have already been considered. An electronic copy of the EA supporting the interim measures is available from NMFS (see the **ADDRESSES** section).

This temporary rule extension contains no information collection requirements under the Paperwork Reduction Act of 1995.

Pursuant to the authority set forth in 5 U.S.C. 553(b) (B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this action as such procedures for this temporary rule extension are unnecessary and contrary to the public interest. Such procedures are unnecessary because NMFS already published a proposed temporary rule on February 3, 2023, and requested public comments on these interim measures, including their potential extension. NMFS responded to public comments in the final temporary rule published on May 3, 2023. This temporary rule extension continues the interim measures unchanged for up to an additional 186 days.

Additional notice and opportunity for public comment are contrary to the public interest because of the need to continue these interim measures without interruption to protect the gag stock until NMFS can implement management measures to end overfishing and rebuild the Gulf gag stock. Prior notice and opportunity for public comment would

require additional time and could result in an interruption of the interim measures and, therefore, allow harvest in excess of the catch limits implemented by this temporary rule extension. Increased harvest of gag would be inconsistent with the purpose of implementing the interim measures under section 305(c) of the of the Magnuson-Stevens Act, which is to reduce overfishing while permanent measures can be developed and implemented.

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.

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Programs,

National Marine Fisheries Service.