



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230427-0115; RTID 0648-XD523]

**Fisheries of the Caribbean, Gulf of Mexico, and South
Atlantic; Reef Fish Resources of the Gulf of Mexico;
Partial Holdback of Commercial Quota for Gag in the Gulf of
Mexico**

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

ACTION: Temporary rule; commercial quota holdback.

SUMMARY: NMFS issues this temporary rule to withhold a
portion of the commercial allocation of gag for the 2024
fishing year in anticipation of the upcoming rulemaking for
Amendment 56 to the Fishery Management Plan for the Reef
Fish Resources of the Gulf of Mexico (FMP) that would amend
the FMP by implementing measures to end overfishing of gag
and establish a rebuilding plan for the stock. These
measures would, in part, reduce the commercial sector
annual catch limit (ACL) and commercial quota. This
temporary rule will withhold the distribution of gag
individual fishing quota (IFQ) allocation on January 1,
2024, to shareholders in the Groupers and Tilefishes IFQ
(GT-IFQ) program in the amount equal to the anticipated
reduction in the commercial quota and set the red grouper

multi-use allocation to zero as required when gag is in a rebuilding plan.

DATES: This temporary rule is effective from January 1, 2024, until June 1, 2024.

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

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

The Gulf gag fishery is divided into commercial and recreational sectors, with a stock ACL that is allocated 39 percent to the commercial sector and 61 percent to the recreational sector. The commercial sector is managed under the GT-IFQ program and landings are constrained to the commercial quota, which is reduced from the commercial ACL. Recreational harvest is currently permitted from June 1 each year until NMFS projects that recreational landings reach the recreational ACL. If the recreational ACL is exceeded, recreational harvest is constrained the following year to the recreational annual catch target. All weights described in this temporary rule are in gutted weight.

In January 2022, NMFS notified the Council that gag is overfished and undergoing overfishing. In July 2022, the Council sent a letter to NMFS recommending interim measures to reduce overfishing beginning in the 2023 fishing year while the Council developed Amendment 56 to the FMP to implement permanent measures to end overfishing and rebuild the stock. The interim measures, effective from May 3, 2023, through May 2, 2024, reduced the gag catch limits and modified the recreational season (88 FR 27701, May 3, 2023). Therefore, the current commercial ACL and commercial quota, implemented through those interim measures, are 258,000 lb (117,027 kg) and 199,000 lb (90,265 kg), respectively.

On October 18, 2023, NMFS published an announcement of availability for Amendment 56 (88 FR 71812, October 18, 2023), and on November 9, NMFS published a proposed rule to implement Amendment 56 (88 FR 77246, November 9, 2023). As described in the announcement of availability and proposed rule, if Amendment 56 is approved and implemented the commercial ACL and commercial quota for the 2024 fishing year would be further reduced to 155,000 lb (70,307 kg) and 147,000 lb (66,678 kg). Under the GT-IFQ program, annual quota is distributed to IFQ shareholders as allocation (including multi-use allocation) on January 1, and most IFQ program participants begin to use or transfer their allocation early in each year. After shareholders begin

transferring or landing allocation, NMFS is not able to retroactively withdraw allocation from shareholder accounts if a commercial quota decrease became effective after the beginning of the fishing year. Regulations at 50 CFR 622.22(a)(4), authorize NMFS to withhold distribution of IFQ allocation on January 1 in the amount equal to an expected reduction in the commercial quota. Accordingly, through this temporary rule NMFS withholds distribution of the portion of the 2024 commercial quota of gag equal to the anticipated reduction recommended by the Council in Amendment 56. Because Amendment 56 would also establish a rebuilding plan for gag, multi-use allocation of red grouper would be set a zero on implementation. Therefore, through this temporary rule, NMFS will set the red grouper IFQ multi-use allocation at zero.

NMFS will distribute the available gag allocation, on January 1, 2024.

If NMFS does not implement Amendment 56, including the revised commercial quota, by June 1, 2024, then NMFS will distribute the withheld allocation back to the current shareholders, as determined by the shares held on the same date that NMFS distributes the withheld IFQ quota.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is taken under 50 CFR 622.22(a)(4), which was issued pursuant to section 304(b)

of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866, and other applicable laws.

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 is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulation at 50 CFR 622.22(a) (4) has already been subject to notice and public comment, and the public is aware that the Council has submitted Amendment 56 to end overfishing of gag beginning in the 2024 fishing year. Therefore, all that remains is to notify the public that a portion of the commercial gag allocation in 2024 will be withheld to allow for the implementation of the Amendment 56 in 2024, if approved. Such procedures are contrary to the public interest because notice and comment would not allow NMFS to implement the Amendment 56 measures to end overfishing during the 2024 fishing year. If NMFS does not withhold the necessary commercial gag allocation, shareholders can begin transferring or landing allocation on January 1, 2024, and NMFS would not be able to retroactively withdraw allocation from shareholder accounts.

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

Dated: November 22, 2023

Kelly Denit,

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

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