

scope of the demand as summarized in such statement.

(b) When information other than oral testimony is sought by a demand, the Commission shall request a summary of the information sought and its relevance to the proceeding.

(c) Permission to testify or to release documents in all cases will be limited to matters outlined in the affidavit or declaration described in § 503.41(a) and (b), or to such matters as deemed appropriate by the Commission. If the Commission, in considering the factors in § 503.39, allows the release of documents or testimony to be given by an employee, arrangements shall be made for the taking of testimony or receipt of documents by the method least disruptive to the employee's official duties. Testimony may, for example, be provided by affidavits, answers to interrogatories, written depositions, or depositions transcribed, recorded, or preserved by any other means allowable by law.

(d) Upon issuance of a final determination to not authorize testimony or release of Commission information by the Commission, the party or the party's counsel seeking testimony or documents may consult or negotiate with the Commission to refine and limit the demand.

#### **§ 503.42 Fees.**

(a) *Generally.* The Commission may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to the Commission.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication will be the same as those charged by the Commission in its regulations at subpart F of this part.

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance at the legal proceeding.

(d) *Payment of fees.* The seeking party must pay witness fees for current Commission employees and any records certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former Commission employees, applicable fees must be paid directly to the former employee in accordance with 28 U.S.C. 1821, per diem and mileage, or other applicable statutes.

(e) *Certification (authentication) of copies of records.* The Commission may certify that records are true copies in order to facilitate their use as evidence. If certified records are sought, the request for certified copies shall be made at least 45 days before the date they will be needed. The request should be sent to the General Counsel. Fees for certification will be the same as those charged by the Commission in its regulations at subpart F of this part.

(f) *Waiver or reduction of fees.* The Commission may, upon a showing of reasonable cause, waive or reduce any fees in connection with testimony, production, or certification of records.

(g) *De minimis fees.* Fees will not be assessed if the total charge would be \$10.00 or less.

By the Commission.

**Karen V. Gregory,**  
*Secretary.*

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 622**

**[Docket No. 120717247-3029-02]**

**RIN 0648-XD231**

#### **Reef Fish Fishery of the Gulf of Mexico; 2014 Recreational Accountability Measures for Red Grouper in the Gulf of Mexico**

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

**ACTION:** Temporary rule; accountability measures.

**SUMMARY:** NMFS implements accountability measures (AMs) for the recreational sector for red grouper in the Gulf of Mexico (Gulf) reef fish fishery for the 2014 fishing year through this temporary rule. Based on the 2013

recreational annual catch limit (ACL) overage, this rule reduces the red grouper bag limit in the Gulf exclusive economic zone (EEZ) from four to three fish (within the current four-fish grouper aggregate bag limit) and reduces the length of the red grouper recreational fishing season in the Gulf EEZ by the amount necessary to ensure landings do not exceed the recreational annual catch target (ACT) for the 2014 fishing year. Therefore, NMFS implements recreational post-season AMs by reducing the bag limit for red grouper in the Gulf EEZ from four to three fish effective at 12:01 a.m., local time, on May 5, 2014, until the recreational sector is projected to meet the recreational ACT. NMFS projects the recreational sector will reach the recreational ACT under the three fish bag limit by September 16, 2014. Therefore, the recreational sector for red grouper in the Gulf EEZ will close at 12:01 a.m., local time, September 16, 2014, through the end of the fishing year, December 31, 2014, unless further notification is published in the **Federal Register**. These actions are necessary to protect the Gulf red grouper resource.

**DATES:** The bag limit reduction for red grouper in the Gulf EEZ is effective at 12:01 a.m., local time, May 5, 2014, through December 31, 2014. The recreational sector closure for red grouper in the Gulf EEZ is effective at 12:01 a.m., local time, September 16, 2014, until January 1, 2015, unless further notification is published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, Southeast Regional Office, telephone 727-824-5305, email [rich.malinowski@noaa.gov](mailto:rich.malinowski@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf, which includes red grouper, is managed 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 through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights specified in this rule are gutted weight.

The Gulf red grouper recreational ACL is 1,900,000 lb (861,826 kg), and the recreational ACT is 1,730,000 lb (784,715 kg), as specified in 50 CFR 622.41(e)(2)(iv). Red grouper are not overfished, based on the most recent Status of U.S. Fisheries Report to Congress.

In accordance with regulations at 50 CFR 622.41(e)(2)(ii), without regard to

overfished status, if red grouper recreational landings exceed the recreational ACL, then during the following fishing year NMFS will reduce the red grouper bag limit in the Gulf EEZ by one fish and reduce the length of the recreational red grouper fishing season in the Gulf EEZ by the amount necessary to ensure landings do not exceed the recreational ACT in the following fishing year.

NMFS determined that the 2013 recreational landings were 2,392,113 lb (1,085,044 kg), which exceeded the 2013 recreational ACL of 1,900,000 lb (861,826 kg) by 492,113 lb (223,219 kg). Therefore, NMFS implements post-season AMs for the recreational sector for red grouper in the Gulf EEZ for the 2014 fishing year through this temporary rule.

Red grouper are part of the four-fish grouper aggregate bag limit, as specified in 50 CFR 622.38(b)(2). Through this temporary rule, NMFS implements the post-season AM to reduce the 2014 red grouper bag limit in the Gulf EEZ from four to three fish (within the current four-fish grouper aggregate bag limit). This bag limit reduction for red grouper in the Gulf EEZ is effective at 12:01 a.m., local time, on May 5, 2014.

Based on the 2013 recreational ACL overage, this rule also implements the post-season AM to reduce the length of the 2014 recreational red grouper fishing season in the Gulf EEZ by the amount necessary to ensure red grouper recreational landings do not exceed the recreational ACT in 2014. Therefore, NMFS will close the recreational sector for red grouper in the Gulf EEZ at 12:01 a.m., local time, September 16, 2014, until January 1, 2015, unless further notification is published in the **Federal Register**. If NMFS determines the red grouper recreational ACL is reached or projected to be reached before September 16, 2014, then NMFS will file a notification with the Office of the **Federal Register** to close the recreational sector as specified in 50 CFR 622.41(e)(2)(i).

During the recreational sector closure, the bag and possession limit for red grouper in or from the Gulf EEZ is zero. This bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.* in state or Federal waters.

The recreational sector for red grouper will reopen on January 1, 2015, the beginning of the 2015 recreational fishing season. The 2015 bag limit for red grouper will return to four fish, as specified at 50 CFR 622.38(b)(2), unless

AMs are implemented due to a recreational ACL overage in 2014, or the Council takes subsequent regulatory action to adjust the bag limit.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf red grouper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(e)(2)(ii) 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.

Pursuant to 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 temporary rule. Such procedures are unnecessary because the AMs established by Amendment 32 to the FMP (77 FR 6988, February 10, 2012), modified by Amendment 38 to the FMP (78 FR 6218, January 30, 2013), and located at 50 CFR 622.41(e)(2)(ii) authorize the Assistant Administrator, NMFS, to file a notification with the Office of the Federal Register to implement post-season AMs to reduce the bag limit and recreational fishing season for red grouper the year following a fishing year when the recreational ACL is exceeded. The rules establishing the AMs have already been subject to notice and comment and all that remains is to notify the public of the reduced bag limit for red grouper and the reduced recreational fishing season for Gulf red grouper in the 2014 fishing year.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the red grouper resource. Any delay in notification to the public of the 2014 reduced bag limit and recreational fishing season could result in the recreational ACT or ACL for red grouper being exceeded, which could trigger an in-season AM in 2014 or post-season AMs in 2015.

For the aforementioned reasons, the Assistant Administrator, MFS, 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.*

Dated: April 25, 2014.

**Emily H. Menashes,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 140421359-4359-01]

**RIN 0648-BE08**

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northern Red Hake Accountability Measure

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

**ACTION:** Final rule.

**SUMMARY:** This action reduces the in-season possession limit adjustment trigger for northern red hake beginning in fishing year 2014 due to an annual catch limit overage in 2012. This action also makes some minor corrections and clarifications to the accountability measure regulations. These corrections and clarifications are administrative in nature and will not affect the small-mesh multispecies fishery, possession limits, or how the accountability measures function. This action is required under the provisions of the Northeast Multispecies Fishery Management Plan.

**DATES:** This action is effective May 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Jason Berthiaume, Fishery Management Specialist, phone: (978) 281-9177, or [Jason.Berthiaume@noaa.gov](mailto:Jason.Berthiaume@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The small-mesh multispecies fishery is managed as a component of the Northeast Multispecies Fishery Management Plan (FMP), using a series of exemptions from the minimum mesh size requirements of the groundfish fishery. There are three species in the small-mesh multispecies fishery, managed as five stocks under the regulations at 50 CFR 648.80 (northern and southern silver hake, northern and southern red hake, and offshore hake). The northern stock areas are generally in the Gulf of Maine and Georges Bank,