

neither supported or opposed the proposed rule.

A summary of the public comments in opposition to the action follows, along with NMFS' responses. NMFS made no changes to the action based on public comment.

*Comment 1:* The commenter supported this action but also felt that a commercial trip limit of 28 to 32 gray triggerfish could also work and still not result in a commercial ACL overage.

*Response:* The Council considered alternatives to increase the commercial trip limit to 30 and 40 gray triggerfish during the development of the framework action, and heard public testimony that the trip limit should be increased as high as 40 fish. However, the Council was concerned that if the commercial trip limit was increased too much from the limit of 16 fish, more commercial fishermen would begin to harvest gray triggerfish. If enough additional harvest occurred, the commercial sector would be at an increased risk of an early season closure, which the Council wanted to avoid. Therefore, the Council removed the alternative for a 40-fish commercial trip limit from the framework action and selected a more conservative approach as its preferred alternative for revising the trip limit. The Council indicated that an increase to a 25-fish trip limit would allow more opportunity for the commercial sector to harvest its ACT, but not exceed its ACL, and maintain the gray triggerfish stock rebuilding timeline.

*Comment 2:* Three commenters expressed opposition to an increase in the commercial "limit" or "commercial harvest" because there is no proposed increase for the recreational sector. One commenter asked if an increase in the commercial trip limit meant there would also be an increase in the recreational limit.

*Response:* This final rule is not changing the commercial ACL or ACT for gray triggerfish. This rule is only increasing the maximum number of gray triggerfish that commercial fishermen can harvest per trip, because commercial landings have been below the established commercial catch limits since 2019. Regarding the request for an increase in the recreational limit, the problem addressed in this framework action and proposed rule occurs only in the commercial sector, and the Council did not address recreational management of gray triggerfish in this action. Therefore, any adjustment to recreational management measures for gray triggerfish is outside the scope of this final rule.

## Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the framework action, the Reef Fish FMP, the Magnuson-Stevens Act, and other applicable laws.

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

The Magnuson-Stevens Act provides the legal basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

## List of Subjects in 50 CFR Part 622

Fish, Fisheries, Gray triggerfish, Gulf of Mexico.

Dated: July 26, 2023.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS amends 50 CFR part 622 as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.43, revise paragraph (b) to read as follows:

### § 622.43 Commercial trip limits.

\* \* \* \* \*

(b) *Gray triggerfish*—25 fish. The commercial trip limit applies until the commercial quota specified in § 622.39(a)(1)(vi) is reached, which is equal to the commercial ACT. See

§ 622.39(b) for the limitations regarding gray triggerfish after the commercial quota is reached.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 220711-0151; RTID 0648-XD202]

### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Gulf of Maine Cod Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

**ACTION:** Temporary rule; area closure.

**SUMMARY:** This action closes the Gulf of Maine Cod Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear, through August 31, 2023. The closure is required because the common pool fishery is projected to have caught over 90 percent of its Trimester 1 quota for Gulf of Maine cod. This closure is intended to prevent an overage of the common pool's quota for this stock.

**DATES:** This action is effective July 27, 2023, through August 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Spencer Talmage, Fishery Policy Analyst, (978) 281-9232.

**SUPPLEMENTARY INFORMATION:** Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock, and remains in effect for the remainder of the trimester. During the closure, affected common pool vessels may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from the Trimester TAC Area for the stock.

The Trimester 1 TAC for Gulf of Maine (GOM) cod is 9,480 lb (pounds) (4.3 metric tons (mt)). Catch data (including landings and discards) indicate that the common pool fishery caught 9,066 lb (4.1 mt) of GOM cod, or

95.6 percent of the Trimester 1 TAC, through July 18, 2023. Based on best available data, we estimate that the common pool has achieved over 90 percent of the Trimester 1 TAC.

Effective July 27, 2023, the GOM Cod Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2023. The GOM Cod Trimester TAC Area consists of statistical areas, 513 and 514. During the closure, common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear, may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from this area. The area reopens at the beginning of Trimester 1 of fishing year 2023 on September 1, 2023.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to July 27, 2023, it may complete its trip within the GOM Cod Trimester TAC Area. A vessel that has set gillnet gear prior to July 27, 2023, may complete its trip by hauling such gear.

If the common pool fishery exceeds its annual sub-Allowable Catch Limit (sub-ACL) for a stock in the 2023 fishing year, the overage must be deducted from the common pool's sub-ACL for that stock for fishing year 2024.

Weekly quota monitoring reports for the common pool fishery are on our website at: <https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/nemultispecies.html>. We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, will make additional adjustments to common pool management measures.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information through July 18, 2023, only recently became available indicating that the common pool fishery is projected to have caught 90 percent of its Trimester 1 TAC for GOM cod. The time necessary to provide for prior

notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the GOM Cod Trimester TAC Area. This would be contrary to the regulatory requirement and would increase the likelihood that the common pool fishery would exceed its annual quota of GOM cod. Any overage of the Trimester 1 TAC is deducted from the Trimester 3 TAC, and any overage of the annual quota would be deducted from common pool's quota for the next fishing year, to the detriment of this stock. This could undermine conservation and management objectives of the Northeast Multispecies Fishery Management Plan. Fishermen expect these closures to occur in a timely way to prevent overages and their payback requirements. Overages of the trimester or annual common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks deducted from a future trimester or fishing year.

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

Dated: July 26, 2023.

**Jennifer M. Wallace,**

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

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