

prohibit the recreational harvest of gray triggerfish (a recreational sector closure) if the recreational ACT is reached or projected to be reached. This in-season AM is intended to provide an additional level of protection to ensure that the recreational ACL is not exceeded and that the risk of overfishing will be reduced. The final temporary rule also implemented a post-season AM, similar to the post-season AM in Amendment 30A, except in the final temporary rule, the ACL overage is based on a single year of landings instead of a 3-year running average.

Based on the 2012 projected recreational landings estimates, the recreational ACT for Gulf gray triggerfish will be met by June 11, 2012. Therefore, NMFS implements the in-season AM and will close the recreational sector for Gulf gray triggerfish on June 11, 2012. The recreational sector will remain closed through December 31, 2012. This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

#### Classification

This action responds to the best scientific information available. The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.49(a)(17)(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. The AMs state that NMFS will file a notification with the Office of the Federal Register to close the recreational sector for Gulf gray triggerfish for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACT specified in 50 CFR 622.49(a)(17)(ii). All that remains is to notify the public of the reduced recreational fishing season for gray triggerfish for the remainder of the fishing year. Additionally, there is a need to immediately notify the public of the reduced recreational fishing season for gray triggerfish, since gray triggerfish are overfished and undergoing overfishing and this waiver will help further protect the Gulf gray triggerfish resource.

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 gray triggerfish resource. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota. Also, providing prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the length of the recreational fishing season, particularly charter vessel and headboat operations, book trips for clients in advance and, therefore need as much time as possible to adjust business plans to account for the reduced recreational fishing season.

For the aforementioned reasons, the Assistant Administrator, NMFS, 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: May 30, 2012.

**Carrie Selberg,**

*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 622

[Docket No. 0907271173-0629-03]

RIN 0648-XC025

#### Snapper-Grouper Fishery of the South Atlantic; 2012 Recreational Accountability Measure and Closure for South Atlantic Golden Tilefish

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements accountability measures (AMs) for the recreational sector of golden tilefish in the South Atlantic for the 2012 fishing year through this temporary rule. Average recreational landings from 2010 and 2011 exceeded the recreational annual catch limit (ACL) for golden tilefish. To account for this overage and to prevent an overage in 2012, this rule reduces the length of the 2012 recreational fishing season and NMFS closes the recreational sector for golden tilefish on June 8, 2012. This closure is

necessary to protect the golden tilefish resource.

**DATES:** This rule is effective 12:01 a.m., local time, June 8, 2012, until 12:01 a.m., local time, January 1, 2013.

**ADDRESSES:** Copies of the final rule for Amendment 17B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), (Amendment 17B), the Environmental Assessment for Amendment 17B, and other supporting documentation may be obtained from Catherine Bruger, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone: 727-824-5305.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bruger, telephone: 727-824-5305, fax: 727-824-5308, email: [Catherine.Bruger@noaa.gov](mailto:Catherine.Bruger@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic, which includes golden tilefish, is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

#### Background

The 2006 reauthorization of the Magnuson-Stevens Act implemented new requirements that ACLs and AMs be established to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur.

The final rule for Amendment 17B established ACLs for eight snapper-grouper species in the FMP undergoing overfishing, including golden tilefish, and AMs to be implemented if these ACLs are reached or exceeded (75 FR 82280, December 30, 2010).

The recreational ACL for golden tilefish, implemented through Amendment 17B, is 1,578 fish. In accordance with regulations at 50 CFR 622.49(b)(1)(ii), if the ACL is exceeded, the Assistant Administrator, NMFS (AA) will file notification with the Office of the Federal Register to reduce the length of the following fishing season by the amount necessary to ensure landings do not exceed the recreational sector ACL in the following fishing year. Additionally, in accordance with these regulations, the average of 2010 and 2011 recreational landings are compared to the ACL. Finalized landings data from the NMFS Southeast Fisheries Science Center

indicate that the recreational golden tilefish ACL was exceeded by 2,805 fish in 2010 and by 8,286 fish in 2011. Therefore, this temporary rule implements an AM to reduce the fishing season for the recreational golden tilefish component of the snapper-grouper fishery in 2012. NMFS used the average landings from the 2010 and 2011 fishing years (5,546 fish) to determine a reduced recreational season for the 2012 fishing year. Only the first two months of Marine Recreational Fisheries Statistical Survey (MRFSS) data were available for 2012, with reported landings of 1,012 fish. Because average 2010 and 2011 landings exceeded the ACL, and 2012 landings are extremely close to the ACL after only two months, AMs require the season to be shortened to prevent the ACL from being exceeded. As a result of this reduced season, the recreational sector for golden tilefish will be closed effective 12:01 a.m., local time June 8, 2012.

During the closure, the bag and possession limit for golden tilefish in or from the South Atlantic exclusive economic zone is zero. The recreational sector for golden tilefish will reopen on January 1, 2013, the beginning of the 2013 recreational fishing season.

#### Classification

The Regional Administrator, Southeast Region, NMFS, (RA) has determined this temporary rule is necessary for the conservation and management of the South Atlantic golden tilefish component of the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under § 622.49(b)(1)(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 17B and located at 50 CFR 622.49(b)(1)(ii) have already been subject to notice and comment and authorize the AA to file a notification with the Office of the Federal Register to reduce the duration of the recreational fishing season the following fishing year if an overage occurs. All that remains is to notify the public of the reduced recreational fishing season

for golden tilefish for the 2012 fishing year. Additionally, there is a need to immediately notify the public of the reduced recreational fishing season for golden tilefish for the 2012 fishing year, to prevent further golden tilefish recreational harvest and prevent the ACL from being exceeded, which will protect the South Atlantic golden tilefish resource. Also, providing prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the length of the recreational fishing season, particularly charter vessel and headboat operations, book trips for clients in advance and, therefore need as much time as possible to adjust business plans to account for the reduced recreational fishing season.

For the aforementioned reasons, the AA 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: May 30, 2012.

**James P. Burgess,**

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

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