

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622****[I.D. 060705B]****Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2005 Deep-Water Grouper Commercial Fishery**

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for deep-water grouper (misty grouper, snowy grouper, yellowedge grouper, warsaw grouper, and speckled hind) in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined the deep-water grouper quota for the commercial fishery will have been reached by June 22, 2005. This closure is necessary to protect the deep-water grouper resource.

DATES: Closure is effective 12:01 a.m., local time, June 23, 2005, until 12:01 a.m., local time, on January 1, 2006.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone 727-824-5305, fax 727-824-5308, e-mail Phil.Steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico 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

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. Those regulations set the commercial quota for deep-water grouper in the Gulf of Mexico at 1.02 million lb (463,636 kg) for the current fishing year, January 1 through December 31, 2005.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 1.02 million lb (463,636 kg) for deep-water grouper will be reached on or before June 22, 2005. Accordingly, NMFS is closing the commercial deep-water grouper fishery in the Gulf of Mexico EEZ from 12:01 a.m., local time, on June 23, 2005, until 12:01 a.m., local time, on January 1, 2006. The operator of a vessel with a valid reef fish permit having deep-water grouper aboard must have landed and bartered, traded, or sold such deep-water grouper prior to 12:01 a.m., local time, June 23, 2005.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of deep-water grouper in or from the Gulf of Mexico EEZ, and the sale or purchase of deep-water grouper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of deep-water grouper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, June 23, 2005, and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially result in a harvest well in excess of the established quota.

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).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: June 8, 2005.

Alan D. Risenhoover,

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