

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XY47

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Closure of the July-December 2010 Commercial Sector for Vermilion Snapper in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial sector for vermillion snapper in the exclusive economic zone (EEZ) of the South Atlantic. NMFS has determined that the quota for the commercial sector for vermillion snapper will have been reached by October 6, 2010. This closure is necessary to protect the vermillion snapper resource.

DATES: Closure is effective 12:01 a.m., local time, October 6, 2010, through 12:01 a.m., local time, on January 1, 2011.

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

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (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. Those regulations set the commercial quota for vermillion snapper in the South Atlantic at 302,523 lb (137,222 kg) for the current fishing period, July 1 through December 31, 2010, as specified in 50 CFR 622.42(e)(4)(ii).

Under 50 CFR 622.43(a), NMFS is required to close the commercial sector 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 with the Office of the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 302,523 lb (137,222 kg) for vermillion snapper will be reached on or before October 6, 2010. Accordingly, NMFS is closing the commercial sector for vermillion snapper in the South Atlantic EEZ from 12:01 a.m., local time, on October 6, 2010, through 12:01 a.m., local time, on January 1, 2011. The operator of a vessel with a valid commercial vessel permit for snapper-grouper having vermillion snapper onboard must have landed and bartered, traded, or sold such vermillion snapper prior to 12:01 a.m., local time, October 6, 2010.

During the closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1)(v) and (d)(2), respectively, apply to all harvest or possession of vermillion snapper in or from the South Atlantic EEZ, and the sale or purchase of vermillion snapper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of vermillion snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 6, 2010, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for vermillion snapper would apply regardless of

whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial sector to the harvest of vermillion snapper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be 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 closure.

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 vermillion snapper stock because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would 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 effectiveness of the 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: September 24, 2010.

Carrie Selberg,

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

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