

custody and control, or was not located following a reasonable search, DOT provides the requester with the written statement described in § 7.31(a)(3).

(b) *Denial of fee waiver.* When the responsible DOT official denies, in whole or in part, a request for a waiver of fees made pursuant to § 7.24(b) or § 7.43(c), DOT provides the requester with written notification of that determination, the reasons for the determination, the right of the requester to appeal the determination within DOT, and the requester's right to seek assistance in resolution of disputes from the FOIA Public Liaison or Office of Government Information Services.

(c) *Denial of expedited processing.* When the responsible DOT official denies a request for expedited processing made pursuant to § 7.31(c), DOT provides the requester with written notice of that determination, the reasons for the determination, the right to appeal the determination within DOT, and the requester's right to seek dispute resolution services from the FOIA Public Liaison or Office of Government Information Services.

(d) * * *

(1) Each appeal must be made in writing to the appropriate DOT appeal official and postmarked or, in the case of electronic or facsimile transmissions transmitted, within ninety calendar days from the date the initial determination is signed and should include the DOT file or reference number assigned to the request and all information and arguments relied upon by the person making the request. The contact information for all DOT component appeal officials is identified in the DOT FOIA Reference Guide available at <https://www.transportation.gov/foia>. The envelope in which a mailed appeal is sent or the subject line of an appeal sent electronically or by facsimile should be prominently marked: "FOIA Appeal." The twenty Federal working day limit described in § 7.33(a) will not begin to run until the appeal has been received by the appropriate office and identified as an appeal under FOIA, or would have been so identified with the exercise of due diligence, by a DOT employee.

* * * * *

■ 9. Amend § 7.34 by revising paragraph (b) to read as follows:

§ 7.34 When and how are time limits applicable to DOT extended?

* * * * *

(b) When the extension is for more than ten Federal working days, the written notice provides the requester with an opportunity to either modify the request (e.g., by narrowing the record

types or date ranges) so that it may be processed within the extended time limit, or arrange an alternative time period with the DOT component for processing the request (e.g., by prioritizing portions of the request). The written notice also will notify the requester of the right to seek dispute resolution services from the Office of Government Information Services.

* * * * *

■ 10. Amend § 7.43 by revising paragraph (f) to read as follows:

§ 7.43 When are fees waived or reduced for records requested under subpart C of this part?

* * * * *

(f) Except as provided in paragraphs (f)(1) through (3) of this section, DOT does not assess search fees otherwise chargeable under § 7.42(h) and (j) or duplication fees otherwise chargeable under § 7.42(i) when DOT fails to comply with the time limits under § 7.31 or § 7.33.

(1) If DOT has determined that unusual circumstances apply (as defined in § 7.34(a)), 5,000 pages or less are necessary to respond to the request, and DOT has provided a timely written notice to the requester in accordance with § 7.34(a), a failure to comply with the time limits under § 7.31 or § 7.33 is excused for an additional 10 days. If DOT does not comply with the extended time limit, DOT does not assess search fees otherwise chargeable under § 7.42(h) and (j) or duplication fees otherwise chargeable under § 7.24(i);

(2) If DOT has determined that unusual circumstances apply (as defined under § 7.34(a)) and more than 5,000 pages are necessary to respond to the request, DOT may charge search fees under § 7.42(h) and (j) or duplication fees under § 7.42(j) if DOT has provided timely written notice to the requester in accordance with § 7.34(a) and (b), and DOT has discussed with the requester via written mail, electronic mail, or telephone (or made not less than three good faith attempts to do so) how the requester could effectively limit the scope of the request.

(3) If a court determines that exceptional circumstances exist (as that term is defined in 5 U.S.C. 552(a)(6)(C)), failure to comply with time limits under § 7.31 or § 7.33 shall be excused for the length of time provided by the court order.

Issued on: April 25, 2017.

Judith S. Kaleta,
Deputy General Counsel.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140818679-5356-02]

RIN 0648-XF369

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; 2017 Recreational Fishing Seasons for Red Snapper in the Gulf of Mexico

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

ACTION: Temporary rule; closures.

SUMMARY: NMFS announces the 2017 recreational fishing seasons for the private angling and Federal charter vessel/headboat (for-hire) components for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) through this temporary rule. The Federal recreational season for red snapper in the Gulf EEZ begins at 12:01 a.m., local time, on June 1, 2017. For recreational harvest by the private angling component, the season closes at 12:01 a.m., local time, on June 4, 2017. For recreational harvest by the Federal for-hire component, the season closes at 12:01 a.m., local time, on July 20, 2017. These closures are necessary to prevent the private angling and Federal for-hire components from exceeding their respective quotas (annual catch limits (ACLs)) for the 2017 fishing year and to prevent overfishing of the Gulf red snapper resource.

DATES: The closure is effective at 12:01 a.m., local time, June 4, 2017, until 12:01 a.m., local time, January 1, 2018, for the private angling component. The closure is effective at 12:01 a.m., local time, July 20, 2017, until 12:01 a.m., local time, January 1, 2018, for the Federal for-hire component. The 2018 Federal recreational fishing seasons for the respective components will begin on June 1, 2018.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305, email: kelli.odonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes red snapper, 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 by NMFS under the authority of the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing Amendment 40 to the FMP established two components within the recreational sector fishing for Gulf red snapper: The private angling component and the Federal for-hire component (80 FR 22422, April 22, 2015). Amendment 40 also allocated the red snapper recreational ACL (recreational quota) between the components and established separate seasonal closures for the two components. The recreational seasonal closures are projected from the component ACTs (set 20 percent less than the component quotas) to reduce the likelihood of harvests exceeding the component quotas and the total recreational ACL.

The final rule for Amendment 28 to the FMP revised the allocation between the commercial and recreational sectors for red snapper to be 48.5 percent and 51.5 percent, respectively, and consequently revised quotas and ACTs for the private angling and for-hire components of the recreational sector (81 FR 25576, April 28, 2016). However, a decision in *Guindon v. Pritzker*, 2017 WL 875775 (D.D.C. March 3, 2017), vacated Amendment 28 and its implementing final rule. As a result, NMFS has projected the length of the recreational seasons based on the allocations, quotas, and ACTs in effect before promulgation of the Amendment 28 final rule. Those allocations are 51 percent for the commercial sector and 49 percent for the recreational sector, which results in a 2017 total recreational quota of 6,733,000 lb (3,054,037 kg), round weight; a 2017 private angling quota and ACT of 3,885,000 lb (1,762,000 kg), round weight, and 3,108,000 lb (1,410,000 kg), round weight, respectively; and a 2017 Federal for-hire component quota and ACT of 2,848,000 lb (1,292,000 kg), round weight, and 2,278,000 lb (1,033,000 kg), round weight, respectively.

In addition, for the 2017 fishing year, the total recreational quota and the private angling quota and ACT must be reduced due to an overage in the 2016 fishing year. The 2016 private angling component quota was exceeded, which also resulted in an overage of the 2016 total recreational quota by 129,906 lb (58,924 kg), round weight; the for-hire component quota was not exceeded. Therefore, as specified at 50 CFR

622.41(q)(2)(ii), NMFS must reduce the total recreational quota and the private angling component quota for the 2017 fishing year by the amount of the quota overage. For that reason, the 2017 total recreational quota is set at 6,603,094 lb (2,995,113 kg), round weight, the private angling component quota is set at 3,755,094 lb (1,703,282 kg), round weight, and the private angling component ACT is set at 3,004,075 lb (1,362,625 kg), round weight. The for-hire component quota in 2017 will remain at 2,848,000 lb (1,292,000 kg), round weight, and the component ACT will remain at 2,278,000 lb (1,033,000 kg), round weight.

The 2017 red snapper recreational fishing seasons have been determined based on projection of when landings would reach the component ACTs (as adjusted), using catch rates and mean weights, and taking into account the red snapper harvest expected to occur during the recreational seasons set by the five Gulf states. The 2017 Federal season for the private angling component will be 3 days and the 2017 Federal season for the for-hire component will be 49 days.

Therefore, the 2017 Federal recreational season for the private angling component will begin at 12:01 a.m., local time, June 1, 2017, and close at 12:01 a.m., local time, June 4, 2017. The Federal season for the Federal for-hire component will begin at 12:01 a.m., local time, June 1, 2017, and close at 12:01 a.m., local time, July 20, 2017. The 2018 Federal recreational fishing seasons for the respective components will begin on June 1, 2018.

On and after the effective date of a recreational component closure, the bag and possession limits for red snapper in the respective component are zero. When the Federal charter vessel/headboat component or entire recreational sector is closed, these bag and possession limits apply 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.

Classification

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

This action is taken under 50 CFR 622.41(q)(2)(i) and (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.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the private angling and Federal for-hire components for the red snapper recreational sector constitute good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the recreational red snapper ACLs and ACTs, and the rule implementing the requirement to close the recreational components when the ACTs are projected to be reached have already been subject to notice and comment, and all that remains is to notify the public of the closures. Providing prior notice and opportunity for public comment are contrary to the public interest because of the need to immediately implement this action to protect Gulf red snapper by timely closing the federal recreational seasons. In addition, prior notice and opportunity for public comment would require time and many of those affected by the length of the recreational fishing seasons, particularly charter vessel and headboat operations that book trips for clients in advance, need as much advance notice as NMFS is able to provide to adjust their business plans to account for the recreational fishing seasons.

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 2, 2017.

Alan D. Risenhoover,

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

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