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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XC468

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
2013 Commercial Accountability Measure and Closure for South  
Atlantic Vermilion Snapper

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 commercial sector for vermilion snapper in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for vermilion snapper, as estimated by the Science Research Director (SRD), are projected to reach the commercial annual catch limit (ACL) for the January 1 through June 30, 2013 fishing period on February 13, 2013. Therefore, NMFS closes the commercial sector for vermilion snapper in the South Atlantic EEZ on February 13, 2013, and it will remain closed until the start of the July 1 through December 31, 2013, fishing period. This closure is necessary to protect the vermilion snapper

resource.

DATES: This rule is effective 12:01 a.m., local time, February 13, 2013, until 12:01 a.m., local time, July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: [Catherine.Hayslip@noaa.gov](mailto:Catherine.Hayslip@noaa.gov).

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes vermilion snapper and 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.

The commercial ACL (commercial quota) for vermilion snapper in the South Atlantic is divided into two, 6-month time periods, and is 315,523 lb (143,119 kg), gutted weight, for the current fishing period, January 1 through June 30, 2013, as specified in 50 CFR 622.42(e)(4)(i).

In accordance with regulations at 50 CFR 622.49(b)(6)(i), NMFS is required to close the commercial sector for vermilion snapper when its commercial ACL (commercial quota) for that portion of the fishing year applicable to the respective commercial ACL (commercial quota) has been reached, or is

projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL (commercial quota) for South Atlantic vermilion snapper for the January-June fishing period will have been reached by February 13, 2013. Accordingly, the commercial sector for South Atlantic vermilion snapper is closed effective 12:01 a.m., local time, February 13, 2013, until 12:01 a.m., local time, July 1, 2013. The commercial ACL (commercial quota) for vermilion snapper in the South Atlantic is 302,523 lb (137,222 kg), gutted weight, for the July 1 through December 31, 2013, fishing period, as specified in 50 CFR 622.42(e)(4)(ii).

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having vermilion snapper onboard must have landed and bartered, traded, or sold such vermilion snapper prior to 12:01 a.m., local time, February 13, 2013. During the closure, the bag limit specified in 50 CFR 622.39(d)(1)(v), applies to all harvest or possession of vermilion snapper in or from the South Atlantic EEZ, including the bag limit that may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero. During the closure, the possession limits specified in 50 CFR 622.39(d)(2) apply to all harvest or possession of vermilion snapper in or from the South

Atlantic EEZ. During the closure, the sale or purchase of vermilion snapper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of vermilion snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, February 13, 2013, 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 vermilion 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

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

The temporary rule has been determined to be not significant for purposes of 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 available scientific 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 for vermilion 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 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 vermilion snapper since 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 likely result in a harvest well in excess of the established commercial ACL (commercial 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: February 7, 2013

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Kara Meckley,  
Acting Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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