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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170803719-7719-01]

RIN 0648-XF848

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Snapper-Grouper Fishery of the South Atlantic; Re-opening of
the Recreational Sector for Red Snapper**

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

ACTION: Temporary rule; re-opening.

SUMMARY: NMFS announces the re-opening of the recreational sector for red snapper in the exclusive economic zone (EEZ) of the South Atlantic through this temporary rule. The most recent preliminary recreational harvest information for red snapper indicate the recreational annual catch limit (ACL) for the limited 2017 fishing season has not yet been reached. Therefore, NMFS re-opens the recreational sector for red snapper in the South Atlantic EEZ for 3 days (see **DATES**) to allow the recreational ACL to be caught, while minimizing the risk of the recreational ACL being exceeded.

DATES: This rule is effective 12:01 a.m., local time, December 8, 2017, and closes at 12:01 a.m., local time, on December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *nikhil.mehta@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes red 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 by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On November 2, 2017, NMFS published a temporary rule through emergency action for South Atlantic red snapper in the 2017 fishing year (82 FR 50839). The temporary rule authorized the limited harvest and possession of red snapper in or from the South Atlantic EEZ in the 2017 fishing year. The 2017 commercial ACL was set at 124,815 lb (56,615 kg), round weight, and the 2017 recreational ACL was set at 29,656 fish. The recreational season was open for two consecutive weekends made

up of Fridays, Saturdays, and Sundays. The recreational season opened for the weekends of November 3 through 5, 2017, and November 10 through 12, 2017. The temporary rule additionally set a 1 fish per person recreational bag limit. No size limits were implemented for either sector through the temporary rule in an effort to decrease regulatory discards. The temporary rule also set a daily commercial trip limit 75 lb (34 kg), gutted weight. The intended effect of the temporary rule through emergency action is to reduce, to the extent practicable, existing adverse socio-economic impacts to fishermen and fishing communities that utilize the red snapper portion of the snapper-grouper fishery, without allowing overfishing or preventing the stock from rebuilding. Additionally, limited commercial and recreational harvest of red snapper in 2017 provides an opportunity to collect fishery-dependent data that will be useful for future red snapper stock assessments and management decisions.

During the limited harvest season in 2017, the South Atlantic states and NMFS collected harvest information through fishing effort and dockside surveys, survey of private anglers and charter and headboat captains, and voluntary donations of fish carcasses from recreational anglers. NMFS notes that the

majority of recreational harvest of red snapper occurs off Florida and the majority of the sector landings are attributable to private anglers.

NMFS is required to close the recreational sector for red snapper when the recreational ACL specified at 50 CFR 622.193(aa)(2) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS previously projected and announced in the *Federal Register* that the recreational ACL for South Atlantic red snapper for the 2017 limited fishing season would be reached by the end of the second recreational open weekend at 12:01 a.m., local time, on November 13, 2017 (82 FR 50839, November 2, 2017). However, preliminary recreational harvest information indicates that the recreational ACL for red snapper was not met as of that date. Based on these preliminary data, NMFS has projected that the recreational sector may reopen for additional 3 days, which is not expected to result in harvest exceeding the 2017 recreational sector ACL.

Therefore, in accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the recreational sector for 3 days (Friday, Saturday, and Sunday) beginning at 12:01 a.m., local time, December 8, 2017, to allow the recreational sector to have

the opportunity to harvest the red snapper ACL. The recreational sector will close 3 days later, at 12:01 a.m., local time, December 11, 2017, and will remain closed in accordance with the effectiveness of the implemented emergency measures (82 FR 50839, November 2, 2017). NMFS has determined that this re-opening will allow for an additional opportunity to recreationally harvest red snapper while minimizing the risk of exceeding the recreational ACL. NMFS notes that the commercial harvest of red snapper that was authorized through the temporary rule implementing emergency measures is currently open through December 31, 2017, unless the commercial ACL is projected to be reached prior to that date.

Once the recreational sector closes, the bag and possession limits are zero for red snapper in or from the South Atlantic EEZ. Additionally, these bag and possession limits apply to the harvest of red snapper in both state and Federal waters in the South Atlantic on board a vessel with a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper.

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the

conservation and management of red snapper and the South Atlantic snapper-grouper fishery and is consistent with the temporary rule implementing emergency measures, the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) 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 temporarily re-open the recreational sector for red 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 are unnecessary and contrary to the public interest. Such procedures are unnecessary because the conditions and justification for temporary rule implementing the recreational ACL in 2017 are still in effect, and all that remains is to notify the public of the re-opening. Such procedures are contrary to the public interest because of the need to immediately implement

this action to allow recreational fishers to harvest the recreational ACL of red snapper from the EEZ, while minimizing the risk of exceeding the recreational ACL. Prior notice and opportunity for public comment would be contrary to the public interest because it would not allow for harvest of the recreational ACL before the end of the 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: November 22, 2017.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.