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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345-2142-03]

RIN 0648-XC132

Snapper-Grouper Fishery of the South Atlantic; Accountability Measures and Commercial Closures for Two Snapper-Grouper Species and Two Snapper-Grouper Species Complexes in the South Atlantic

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 of two snapper-grouper species and two snapper-grouper species complexes in the South Atlantic for the 2012 fishing year through this temporary rule. NMFS has determined that the respective annual catch limit (ACLs) for the deep-water complex (including yellowedge grouper, blueline tilefish, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper), as well as the porgy complex (including jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy) will have been reached by September 8, 2012. NMFS has determined that the

respective ACLs for yellowtail snapper and gray triggerfish will have been reached by September 11, 2012. Therefore, NMFS closes the commercial sector for these two snapper-grouper species and two snapper-grouper species complexes in the exclusive economic zone (EEZ) of the South Atlantic. This closure is necessary to protect the snapper-grouper resource.

DATES: The closure for the deep-water complex as well as the porgy complex (including jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy) is effective 12:01 a.m., local time, September 8, 2012, until 12:01 a.m., local time, January 1, 2013. The closure for yellowtail snapper and gray triggerfish is effective 12:01 a.m., local time, September 11, 2012, until 12:01 a.m., local time, January 1, 2013.

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SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic, which includes yellowtail snapper, gray triggerfish, the deep-water complex, and the porgy complex, is managed under the Fishery Management Plan (FMP) for Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The Snapper-Grouper 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.

Background

The 2006 reauthorization of the Magnuson-Stevens Act implemented new requirements that established ACLs and AMs to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur.

The Comprehensive ACL Amendment to the Snapper-Grouper FMP, the Golden Crab Fishery of the South Atlantic Region FMP, the Dolphin and Wahoo Fishery off the Atlantic States FMP, and the Pelagic Sargassum Habitat of the South Atlantic Region FMP published March 16, 2010 (77 FR 15916). In part, the final rule for the Comprehensive ACL Amendment specified ACLs and AMs for species in the Snapper-Grouper FMP that are not undergoing overfishing, including the two snapper-grouper species and two snapper-grouper species complexes affected by this temporary rule. Implementation of ACLs and AMs for these two snapper-grouper species and two snapper-grouper species complexes is intended to prevent overfishing from occurring in the future, while maintaining catch levels consistent with achieving optimum yield for the resources.

Pursuant to the AMs established in the FMP and codified at

50 CFR 622.49(b)(8)(i)(A), 622.49(b)(14)(i)(A), 622.49(b)(17)(i)(A), and 622.49(b)(23)(i)(A), NMFS closes the commercial sector for these two snapper-grouper species and two snapper-grouper species complexes in the exclusive economic zone (EEZ) of the South Atlantic.

Deep-water complex

The AM at 50 CFR 622.49(b)(8)(i) requires NMFS to close the commercial sector for the deep-water complex (including yellowedge grouper, blueline tilefish, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper) for the remainder of the fishing year when the ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. The commercial ACL for the deep-water complex, implemented through the Comprehensive ACL Amendment, is 343,869 lb (155,976 kg), round weight. Based on the best scientific information available, NMFS has determined that the commercial ACL of 343,869 lb (155,976 kg), round weight, for the deep-water complex will be reached on or before September 8, 2012.

Accordingly, NMFS is implementing an AM to close the commercial sector for the deep-water complex in the South Atlantic EEZ at 12:01 a.m., local time, on September 8, 2012.

Porgy complex

The AM at 50 CFR 622.49(b)(23)(i) requires NMFS to close the commercial sector for the porgy complex (jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy), for the remainder of the fishing year when the ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. The commercial ACL for the porgy complex, implemented through the Comprehensive ACL Amendment, is 35,129 lb (15,934 kg), round weight. Based on the best scientific information available, NMFS has determined that the commercial ACL of 35,129 lb (15,934 kg), round weight, for the porgy complex will be reached on or before September 8, 2012. Accordingly, NMFS is implementing an AM to close the commercial sector for the jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy complex in the South Atlantic EEZ at 12:01 a.m., local time, on September 8, 2012.

Yellowtail snapper

The AM at 50 CFR 622.49(b)(14)(i) requires NMFS to close the commercial sector for yellowtail snapper for the remainder of the fishing year when the ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. The commercial ACL for yellowtail snapper, implemented through the Comprehensive ACL Amendment, is 1,142,589 lb (518,270 kg), round weight. Based on

the best scientific information available, NMFS has determined that the commercial ACL of 1,142,589 lb (518,270 kg), round weight, for yellowtail snapper will be reached on or before September 11, 2012. Accordingly, NMFS is implementing an AM to close the commercial sector for yellowtail snapper in the South Atlantic EEZ at 12:01 a.m., local time, on September 11, 2012.

Gray triggerfish

The AM at 50 CFR 622.49(b)(17)(i) requires NMFS to close the commercial sector for gray triggerfish for the remainder of the fishing year when the ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. The commercial ACL for gray triggerfish, implemented through the Comprehensive ACL Amendment, is 305,262 lb (138,465 kg), round weight. Based on the best scientific information available, NMFS has determined that the commercial ACL of 305,262 lb (138,465 kg), round weight, for gray triggerfish will be reached on or before September 11, 2012. Accordingly, NMFS is implementing an AM to close the commercial sector for gray triggerfish in the South Atlantic EEZ at 12:01 a.m., local time, September 11, 2012.

Closure provisions that apply to all of these two snapper-grouper species and two snapper-grouper species complexes

During the closure, all sale or purchase of these two

snapper-grouper species and two snapper-grouper species complexes is prohibited and harvest or possession of these two snapper-grouper species and two snapper-grouper species complexes in or from the South Atlantic EEZ is limited to the bag and possession limit, as specified at 50 CFR 622.39(d)(1) and (d)(2). This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters. The commercial sector for these two snapper-grouper species and two snapper-grouper species complexes will reopen on January 1, 2013, the beginning of the 2013 commercial fishing season.

Classification

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

This action is taken under 50 CFR 622.49(b)(8)(i)(A), 622.49(b)(14)(i)(A), 622.49(b)(17)(i)(A), and 622.49(b)(23)(i)(A) 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.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary and contrary to the public interest because the AMS established by the Comprehensive ACL Amendment and located at 50 CFR 622.49(b)(8)(i)(A), 622.49(b)(14)(i)(A), 622.49(b)(17)(i)(A), and 622.49(b)(23)(i)(A) have already been subject to notice and comment and authorize the Assistant Administrator for Fisheries, NOAA, (AA) to file a notification with the Office of the Federal Register to close the commercial sector for these two snapper-grouper species and two snapper-grouper species complexes for the remainder of the fishing year, if commercial landings for these two snapper-grouper species and two snapper-grouper species complexes, as estimated by the SRD, reach or are projected to reach their respective commercial sector ACL. All that remains is to notify the public of the commercial closures for these two snapper-grouper species and two snapper-grouper species complexes for the remainder of the 2012 fishing year. Additionally, there is a need to immediately

implement the closure for these two snapper-grouper species and two snapper-grouper species complexes for the 2012 fishing year, to prevent further commercial harvest and prevent the ACL from being exceeded, which will protect the snapper-grouper resources in the South Atlantic. Therefore, providing prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the closure need as much time as possible to adjust business plans to account for the reduced commercial 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: August 29, 2012

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