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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312235-3658-02]

RIN 0648-XF058

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Re-opening of the Commercial Sector for South Atlantic
Vermilion 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 commercial sector for vermilion snapper in the exclusive economic zone (EEZ) of the South Atlantic through this temporary rule. The most recent commercial landing data for vermilion snapper indicate the commercial annual catch limit (ACL) for the July through December 2016 fishing season has not yet been reached. Therefore, NMFS re-opens the commercial sector for vermilion snapper in the South Atlantic EEZ for 2 days to allow the commercial ACL to be caught, while minimizing the risk of the commercial ACL being exceeded.

DATES: This rule is effective 12:01 a.m., local time, December 14, 2016, until 12:01 a.m., local time, December 16, 2016.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *mary.vara@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 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 commercial ACL (equal to the commercial quota) for vermilion snapper in the South Atlantic is divided into separate quotas for two 6-month time periods each year, January through June and July through December. For the July through December 2016 period, the commercial quota is 388,703 lb (176,313 kg, gutted weight, 431,460 lb (195,707 kg), round weight), as specified in 50 CFR 622.190(a)(4)(ii)(D).

On July 1, 2016, the commercial fishing season opened for the second period of July through December for this fishing

year. Under 50 CFR 622.191(a)(6)(ii), NMFS is required to reduce the commercial trip limit for vermilion snapper from 1,000 lb (454 kg), gutted weight, 1,110 lb (503 kg), round weight, when 75 percent of the respective fishing season commercial quota is reached or projected to be reached. Accordingly, on August 25, 2016 (81 FR 58411), NMFS published a temporary rule in the **Federal Register** to reduce the commercial trip limit for vermilion snapper in or from the EEZ of the South Atlantic for the July through December 2016 period to 500 lb (227 kg), gutted weight. The commercial trip limit reduction was effective at 12:01 a.m., local time, August 28, 2016.

Under 50 CFR 622.193(f)(1), NMFS is required to close the commercial sector for vermilion snapper when the commercial quota for the July through December fishing season specified in § 622.190(a)(4)(ii)(D) 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 that the commercial quota for South Atlantic vermilion snapper for the July through December 2016 period would be reached by October 11, 2016. Therefore, NMFS published a temporary rule to close the commercial sector for South Atlantic vermilion snapper effective on October 11, 2016, through the end of the 2016

fishing year (81 FR 69008, October 5, 2016).

NMFS has received more recent landings data for vermilion snapper that indicate the commercial quota for the July through December period has not been reached. NMFS has also determined that 845 lb (383 kg) of the commercial quota was not harvested from the January through June 2016 period. Therefore, as specified at 622.190(a)(4)(iii), this 845 lb (383 kg) was added to the commercial quota for the July through December 2016 period.

In accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the commercial sector for vermilion snapper on December 14, 2016. The commercial sector will remain open for 2 days to allow for the commercial quota to be reached. During the re-opening, the trip limit of 500 lb (227 kg), gutted weight, is in effect. The commercial sector will close at 12:01 a.m., local time, December 16, 2016, and remain closed until January 1, 2017, the start of the next fishing year. NMFS has determined that this re-opening will allow for an additional opportunity to commercially harvest vermilion snapper while minimizing the risk of exceeding the July through December 2016 commercial quota.

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, December 16, 2016. During the subsequent closure, the bag limit specified in 50 CFR 622.187(b) (5) and the possession limits specified in 50 CFR 622.187(c) (1), apply to all harvest or possession of vermilion snapper in or from the South Atlantic EEZ. During the subsequent closure, the sale or purchase of vermilion snapper taken from the EEZ is prohibited. As specified in 50 CFR 622.190(c) (1) (i), 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, December 16, 2016, and were held in cold storage by a dealer or processor. For a person onboard a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and the prohibition on sale and purchase apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c) (1) (ii).

Classification

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

conservation and management of vermilion snapper and 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 622.8(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 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 are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and AMs has been subject to notice and comment, 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 commercial fishers to harvest the commercial quota of vermilion

snapper from the EEZ, while minimizing the risk of exceeding the commercial quota. Prior notice and opportunity for public comment would be contrary to the public interest because it would not allow for the re-opening of the commercial sector 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: December 8, 2016

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