

shall include at least a summary statement of findings of the earlier images, followed by a complete reading of the last image, and dates and details of any laboratory tests and treatment for tuberculosis.

(f) *Procedure for transmitting records.* For aliens issued immigrant visas, the medical notification and chest X-ray images, if any, shall be placed in a separate envelope which shall be sealed. When more than one chest X-ray image is used as a basis for the examiner's conclusions, all images shall be included.

(g) *Failure to present records.* When a determination of admissibility is to be made at the U.S. port of entry, a medical hold document shall be issued pending completion of any necessary examination procedures. A medical hold document may be issued for aliens who:

- (1) Are not in possession of a valid medical notification, if required;
- (2) Have a medical notification which is incomplete;
- (3) Have a medical notification which is not written in English;
- (4) Are suspected to have an excludable medical condition.

(h) The Secretary of Homeland Security, after consultation with the Secretary of State and the Secretary of Health and Human Services, may in emergency circumstances permit the medical examination of refugees to be completed in the United States.

(i) All medical examinations shall be carried out in accordance with such technical instructions for physicians conducting the medical examination of aliens as may be issued by the Director. Copies of such technical instructions are available upon request to the Director, Division of Global Migration and Quarantine, Mailstop E03, HHS/CDC, Atlanta GA 30333.

Dated: June 25, 2008.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XK40

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Reopening of the 2008 Deepwater Grouper and Tilefish Commercial Fisheries

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

ACTION: Temporary rule; reopening.

SUMMARY: NMFS reopens the commercial fishery for deepwater grouper (misty grouper, snowy grouper, yellowedge grouper, warsaw grouper, and speckled hind) and tilefishes in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS previously determined that the quotas for these commercial fisheries would be reached by May 10, 2008. The latest estimates for deepwater grouper and tilefish landings indicate the quotas were not reached by that date. Consequently, NMFS will reopen these fisheries for 10 days. The purpose of this action is to allow the fisheries to maximize harvest benefits and at the same time protect the deepwater grouper and tilefish resources.

DATES: The reopening is effective 12:01 a.m., local time, November 1, 2008, until 12:01 a.m., local time, on November 11, 2008. The fisheries will then be closed until 12:01 a.m., local time, January 1, 2009.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone 727-824-5305, fax 727-824-5308, e-mail Susan.Gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico 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 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. Those regulations set the commercial quota for deepwater grouper in the Gulf of Mexico at 1.02 million lb (463,636 kg) and for tilefish in the Gulf of Mexico at 440,000 lb

(200,000 kg) for the current fishing year, January 1 through December 31, 2008.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the Office of the **Federal Register**. NMFS projected the fisheries for deepwater grouper and tilefishes would reach their respective quotas on May 10, 2008, and closed the fisheries on that date (73 FR 24883, May 6, 2008). Based on current statistics, NMFS has determined that only 89 percent of the available commercial quotas for deepwater grouper and tilefishes were landed. Based on 2008 daily landings rates and the pounds remaining on each quota (approximately 100,000 lb (45,359 kg) for deepwater grouper and 46,000 lb (20,865 kg) for tilefishes), NMFS has determined these fisheries can reopen for 10 days. Accordingly, NMFS is reopening the commercial deepwater grouper and tilefish fisheries in the Gulf of Mexico EEZ from 12:01 a.m., local time, on November 1, 2008, until 12:01 a.m., local time, on November 11, 2008. The fisheries will then be closed until 12:01 a.m., local time, on January 1, 2009. November 1 was chosen as the opening day based on feedback from the fishing industry and weather concerns. Many fishers indicated that this was the most productive time for the reopening. NMFS also chose to wait until after the peak of hurricane season to promote safety at sea, consistent with National Standard 10 of the Magnuson-Stevens Act.

The operator of a vessel with a valid commercial vessel permit for Gulf reef fish may not fish for or possess deepwater grouper or tilefishes prior to 12:01 a.m., local time, November 1, 2008, and must have landed and bartered, traded, or sold such deepwater grouper or tilefishes prior to 12:01 a.m., local time, November 11, 2008.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of deepwater grouper and tilefishes in or from the Gulf of Mexico EEZ, and the sale or purchase of deepwater grouper and tilefishes taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of deepwater grouper or tilefishes that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, November 11, 2008, and were held in cold storage by a dealer or processor. Vessels with commercial quantities of Gulf reef fish on board are prohibited from retaining a recreational bag limit of Gulf reef fish.

Thus, such a vessel may only have a commercial quantity of reef fish other than deepwater grouper or tilefishes or a recreational bag limit of Gulf reef fish.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary. Prior notice and opportunity for public comment on the reopening is unnecessary because the rule establishing the annual quota has already been subject to notice and comment, and all that remains is the annual administrative act of notifying the public of where harvest stands in relation to the quota, and in this case that additional time is needed to harvest the established quota. The rule contains a routine determination relative to harvest levels for the fishing year that are relatively insignificant in nature and impact to the industry and to the public as a whole.

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: September 29, 2008.

Alan D. Risenhoover,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622 and 697

[Docket No. 080221249-81231-02]

RIN 0648-AT13

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Atlantic Coastal Fisheries Cooperative Management Act Provisions; Atlantic Coast Red Drum Fishery off the Atlantic States; Transfer of Management Authority

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to repeal the Atlantic Coast Red Drum Fishery Management Plan (FMP) and to transfer the management authority of Atlantic red drum in the exclusive economic zone (EEZ) from the South Atlantic Fishery Management Council (South Atlantic Council), in cooperation with the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council), under the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act) to the Atlantic States Marine Fisheries Commission (Commission) under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), as requested by the Councils and the Commission. The intent of this final rule is to enhance the effectiveness and efficiency of managing Atlantic red drum.

DATES: This final rule is effective November 5, 2008.

ADDRESSES: Copies of the environmental assessment (EA), which describes the impacts of the transfer of management authority, may be obtained from Kate Michie, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727-824-5305; fax 727-824-5308.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727-824-5305.

SUPPLEMENTARY INFORMATION: The Atlantic red drum fishery off the South Atlantic and Mid-Atlantic coastal states is currently managed under two separate FMPs. Atlantic red drum located in the EEZ are managed under the Atlantic Coast Red Drum FMP prepared by the South Atlantic Council, in cooperation with the Mid-Atlantic Council (Council FMP), and implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. The Council FMP prohibits harvest or possession of red drum in the South Atlantic and Mid-Atlantic EEZ. Atlantic red drum located in state waters are managed under the Interstate Fishery Management Plan (ISFMP) for Red Drum by the Atlantic coast states (New Jersey through Florida) and the Commission. This final rule repeals the Council FMP and implementing regulations issued under the Magnuson-Stevens Act and simultaneously replaces them with substantially identical regulations under the Atlantic Coastal Act. The Atlantic Coastal Act allows the Federal government to better coordinate its management practices with the states

via the Commission process. The repeal of the Council FMP would occur at the same time as this rule is implemented.

On April 3, 2008, NMFS published a proposed rule for the transfer of management authority of Atlantic red drum and requested public comment (73 FR 18253). The rationale for this action, including the statute giving authority to the Commission to manage Atlantic red drum in the EEZ, the purpose and need for transfer of management authority, and the benefits of this transfer are included in the preamble to the proposed rule and are not repeated here.

Comments and Responses

The following is a summary of the comments NMFS received on the proposed rule and NMFS' responses. Three comments were received on this action. One comment was in favor of the transfer of management authority, one comment was opposed to the transfer of authority, and one comment was in favor of the transfer of authority but did not agree that regulations under the Atlantic Coastal Act are comparable to the current Magnuson-Stevens Act regulations.

Comment 1: The first commenter stated the transfer of authority will result in more efficient and effective management for Atlantic red drum.

Response: The purpose of this action is to manage Atlantic red drum under one FMP rather than two, thus minimizing management costs and eliminating unnecessary duplication of management efforts. This transfer of management authority furthers Magnuson-Stevens Act national standard 7, which states "Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication."

Comment 2: The second commenter stated the changes being proposed are anti-environmental in nature, and NMFS in particular is biased toward "fish profiteers."

Response: This rule will not change existing restrictions prohibiting the harvest or possession of red drum in the EEZ. NMFS and the U.S. Coast Guard will continue to enforce those prohibitions. Repealing the Council FMP under the Magnuson-Stevens Act and simultaneously implementing comparable regulations under the Commission FMP under the Atlantic Coastal Act, will provide for a more efficient and timely rebuilding of the Atlantic red drum resource.

Comment 3: One commenter stated the regulations under the Atlantic Coastal Act intended to replace those under the Magnuson-Stevens Act are