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[FR Doc. E9-16369 Filed 7-9-09; 8:45 am]

BILLING CODE 6560-50-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 040205043-4043-01]

RIN 0648-XO54

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Closure of the 2009 Commercial Fishery for Golden Tilefish in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for golden tilefish in the exclusive economic zone (EEZ) of the South Atlantic. In addition, 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 provisions of the closure (restriction to the bag and possession limits and prohibition of sale or purchase) apply regardless of whether the golden tilefish are harvested in state waters or the South Atlantic EEZ. NMFS has determined that the quota for the commercial fishery for golden tilefish will have been reached by July 15, 2009. This closure is necessary to protect the golden tilefish resource.

DATES: Closure is effective 12:01 a.m., local time, July 15, 2009, through December 31, 2009.

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

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic 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. Those regulations, found at 50 CFR 622.42(e)(2), set the commercial quota for golden tilefish in the South Atlantic at 295,000 lb (133,810 kg) for the current fishing year, January 1 through December 31, 2009.

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**. Based on current statistics, NMFS has determined that the available commercial quota of 295,000 lb (133,810 kg) for golden tilefish will be reached on or before July 15, 2009. Accordingly, NMFS is closing the commercial fishery for golden tilefish in the South Atlantic EEZ from 12:01 a.m., local time, on July 15, 2009, through December 31, 2009.

During the closure, the applicable bag and possession limits specified in 50 CFR 622.39(d)(1)(ii) and (d)(2), respectively, apply to all harvest or possession of golden tilefish in or from the South Atlantic EEZ, and the sale or purchase of golden tilefish taken from the EEZ is prohibited. In addition, 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, those provisions of the closure for golden tilefish apply regardless of whether the fish are harvested in state waters or the South Atlantic EEZ. The operator of a vessel with golden tilefish in excess of the bag or possession limit aboard must have landed such golden tilefish prior to 12:01 a.m., local time,

July 15, 2009, and all sale or purchase of golden tilefish must occur prior to 12:01 a.m., local time, July 15, 2009. The prohibition on sale or purchase does not apply to sale or purchase of golden tilefish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 15, 2009, and were held in cold storage by a dealer or processor.

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 and contrary to the public interest. Such procedures would be unnecessary because the rule itself has already 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 the fishery 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 potentially result in a harvest well in excess of the established 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: July 7, 2009.

Kristen C. Koch,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E9-16378 Filed 7-7-09; 8:45 am]

BILLING CODE 3510-22-S