

Under 50 CFR 622.43(a)(5), NMFS is required to close the commercial sector 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 commercial sector for vermilion snapper in the South Atlantic would reach the quota on, or before, March 10, 2011, and closed the commercial sector on that date (76 FR 12883, March 9, 2011). However, based on current statistics, NMFS has determined that only 83 percent of the available commercial quota was landed by that date. Based on daily landings rates and the pounds remaining on the quota (approximately 53,120 lb (24,095 kg)), NMFS has determined the commercial sector can reopen for 7 days. Accordingly, NMFS is reopening the commercial sector for vermilion snapper in the South Atlantic from 12:01 a.m., local time, on May 1, 2011, until 12:01 a.m., local time, on May 8, 2011. The commercial sector will then be closed until 12:01 a.m., local time, July 1, 2011. May 1, 2011, was chosen as the reopening day for the commercial sector based on feedback from the fishing industry and expected weather conditions, which indicated that this was the best time to reopen.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper may not fish for or retain vermilion snapper in the South Atlantic prior to 12:01 a.m., local time, May 1, 2011, and must have landed and bartered, traded, or sold such vermilion snapper prior to 12:01 a.m., local time, May 8, 2011.

During the closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1)(v) and (d)(2), respectively, apply to all harvest or possession of vermilion snapper in or from the South Atlantic EEZ, and the sale or purchase of vermilion snapper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of vermilion snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, May 8, 2011, and were held in cold storage by a dealer or processor. 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 sale and purchase provisions of the commercial closure for vermilion snapper would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

### Classification

This action responds to the best available information recently obtained from the commercial sector. 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). Allowing prior notice and opportunity for public comment on the reopening is unnecessary because the rule establishing the January 1 through June 30 quota has already been subject to notice and comment, and all that remains is to notify the public that additional harvest is available under the established quota and, therefore, the commercial sector will reopen for a limited time period.

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(c) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 21, 2011.

**James P. Burgess,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 101029427-0609-02]

RIN 0648-XA371

#### Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS announces that the State of North Carolina is transferring a portion of its 2011 commercial summer flounder quota to the Commonwealth of Virginia. Vessels from North Carolina were authorized by Virginia to land summer flounder under safe harbor provisions, thereby requiring a quota transfer to account for an increase in Virginia's landings that would have otherwise accrued against the North Carolina quota. By this action, NMFS

adjusts the quotas and announces the revised commercial quota for each state involved.

**DATES:** Effective April 21, 2011, through December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Carly Knoell, Fishery Management Specialist, 978-281-9224.

#### SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 471,727 lb (213,972 kg) of its 2011 commercial quota to Virginia. This transfer was prompted by 52 summer flounder landings of North Carolina vessels that were granted safe harbor in Virginia due to hazardous shoaling in Oregon Inlet, North Carolina, severe winter storm conditions, and/or mechanical problems between March 17, 2011, and April 1, 2011. This amount also includes a correction to a landing on March 16, 2011, that was included in the quota transfer effective April 4, 2011 (76 FR 19277). This correction accounts for 2,805 lb (1,272 kg) of the total transfer amount. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised summer flounder quotas for calendar year 2011 are: North Carolina, 3,691,601 lb (1,674,482 kg); and Virginia, 4,780,967 lb (2,168,610 kg).

#### Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 21, 2011.

**Emily H. Menashes,**

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

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