

Executive Order 13132 (Federalism)

A rulemaking has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on State or local governments. FMCSA analyzed this action in accordance with Executive Order 13132. This final rule does not preempt or modify any provision of State law, impose substantial direct unreimbursed compliance costs on any State, or diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have Federalism implications.

Executive Order 13211 (Energy Supply, Distribution, or Use)

FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA determined that it is not a "significant energy action" under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 395

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, FMCSA amends 49 CFR chapter III as set forth below:

PART 395—HOURS OF SERVICE OF DRIVERS

■ 1. The authority citation for part 395 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31137, and 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; sec. 229, Pub. L. 106–159 (as transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743, 1744); sec. 4133, Pub. L. 109–59, 119 Stat. 1144, 1744; sec. 108, Pub. L. 110–432, 122 Stat. 4860–4866; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.73.

■ 2. Revise § 395.3(a)(3)(ii), (c), and (d) to read as follows:

§ 395.3 Maximum driving time for property-carrying vehicles.

(a) * * *

(3) * * *

(ii) *Rest breaks.* Except for drivers who qualify for either of the short-haul exceptions in § 395.1(e)(1) or (2), driving is not permitted if more than 8 hours have passed since the end of the driver's

last off-duty or sleeper-berth period of at least 30 minutes.

* * * * *

(c)(1) Any period of 7 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours that includes two periods from 1:00 a.m. to 5:00 a.m.

(2) Any period of 8 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours that includes two periods from 1:00 a.m. to 5:00 a.m.

(d) A driver may not take an off-duty period allowed by paragraph (c) of this section to restart the calculation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days until 168 or more consecutive hours have passed since the beginning of the last such off-duty period. When a driver takes more than one off-duty period of 34 or more consecutive hours within a period of 168 consecutive hours, he or she must indicate in the Remarks section of the record of duty status which such off-duty period is being used to restart the calculation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days.

Issued in Washington, DC, on October 22, 2013, under authority delegated in 49 CFR 1.87.

Anne S. Ferro,
Administrator.

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

[Docket No. 100812345–2142–03]

RIN 0648–XC900

Snapper-Grouper Fishery of the South Atlantic; Reopening of the Commercial Harvest of Gray Triggerfish in the South Atlantic

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

ACTION: Temporary rule; reopening.

SUMMARY: NMFS reopens the 2013 commercial sector for gray triggerfish in the South Atlantic exclusive economic zone (EEZ). NMFS previously determined the commercial annual catch limit (ACL) for gray triggerfish had been reached, and closed the commercial sector for gray triggerfish at 12:01 a.m., local time, on July 7, 2013.

However, updated landings estimates indicate the commercial ACL for gray triggerfish has not been reached at this time. Therefore, NMFS is reopening the commercial sector for gray triggerfish in the South Atlantic EEZ at 12:01 a.m., local time, on October 28, 2013, and it will close at 12:01 a.m., local time, on November 14, 2013. The intended effect of this temporary rule is to maximize harvest benefits for the commercial sector for gray triggerfish.

DATES: This temporary rule is effective 12:01 a.m., local time, October 28, 2013, until 12:01 a.m., local time, November 14, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, or email: *catherine.hayslip@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS and the South Atlantic Fishery Management Council (Council) manage South Atlantic snapper-grouper including gray triggerfish under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

NMFS determined that the commercial ACL for gray triggerfish was reached and published a temporary rule on July 1, 2013 (78 FR 39188), to close gray triggerfish on July 7, 2013. However, since that closure, the Science and Research Director (SRD) has received additional landings data and has determined that the ACL was not harvested prior to July 7, 2013. Therefore, in accordance with 50 CFR 622.8(c), NMFS is reopening the commercial sector for gray triggerfish in the South Atlantic EEZ beginning at 12:01 a.m., on October 28, 2013, and closing at 12:01 a.m., on November 14, 2013.

After the commercial sector closes, the bag limit specified in 50 CFR 622.187(b)(8), applies to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the sale or purchase of gray triggerfish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of gray triggerfish that were harvested, landed ashore, and sold prior

to 12:01 a.m., local time, November 14, 2013, 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 bag and possession limit and sale and purchase provisions of the commercial closure for gray triggerfish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.193(q)(1)(i). The commercial sector for gray triggerfish will reopen on January 1, 2014, the beginning of the 2014 commercial fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic gray triggerfish 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 available scientific information, and pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and the opportunity for public comment on this temporary rule. Such procedures are unnecessary and contrary to the public interest because NMFS previously determined the commercial ACL for gray triggerfish would be reached by July 7, 2013, and therefore, closed the commercial sector for gray triggerfish in the South Atlantic at 12:01 a.m., local time, on July 7, 2013. However, updated landings estimates indicate the commercial ACL for gray triggerfish has not been reached at this time, and therefore additional harvest is available in order to achieve optimum yield. All that remains is to notify the public that additional harvest is available under the

established ACL and, therefore, the commercial sector for gray triggerfish will reopen.

Additionally, reopening the commercial sector for gray triggerfish will likely result in revenue increases to commercial vessels. Fishermen will be able to keep the gray triggerfish that they are currently required to discard. Delaying the implementation of this rulemaking to provide prior notice and the opportunity for public comment would reduce the likelihood of reopening the commercial sector for gray triggerfish in the 2013 fishing year.

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: October 23, 2013.

Kelly Denit,

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

[FR Doc. 2013-25297 Filed 10-23-13; 11:15 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130104009-3416-02]

RIN 0648-XC921

Fisheries of the Northeastern United States; Bluefish 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 New Jersey is transferring a portion of its 2013 commercial bluefish quota to the State of New York. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective October 25, 2013, through December 31, 2013.

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

SUPPLEMENTARY INFORMATION:

Regulations governing the bluefish 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 Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.162.

The final rule implementing Amendment 1 to the Bluefish Fishery Management Plan, which was published on July 26, 2000 (65 FR 45844), provided a mechanism for bluefish 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 bluefish commercial quota under § 648.162(e). The Regional Administrator is required to consider the criteria in § 648.162(e)(1) in the evaluation of requests for quota transfers or combinations.

New Jersey has agreed to transfer 300,000 lb (136,078 kg) of its 2013 commercial quota to New York. This transfer was prompted by the diligent efforts of state officials in New York not to exceed the commercial bluefish quota. The Regional Administrator has determined that the criteria set forth in § 648.162(e)(1) have been met. The revised bluefish quotas for calendar year 2013 are: New Jersey, 1,044,713 lb (473,874 kg); and New York, 1,242,548 lb (563,610 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: October 23, 2013.

James P. Burgess,

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

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