

the tracking equipment while the FAD is onboard the purse seine vessel and before it is deployed in the water.

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(e) *FAD design requirements to reduce entanglements.* All FADs onboard or deployed by U.S. vessel owners, operators, or crew, must comply with the following design requirements:

(1) *Raft:* If the FAD design includes a raft (e.g., flat raft or rolls of material) and if mesh netting is used as part of the structure, the mesh netting shall have a mesh size less than 7 centimeters and the mesh net must be tightly wrapped such that no netting hangs below the FAD when deployed; and,

(2) *Subsurface:* Any netting used in the subsurface structure of the FAD must be tightly tied into bundles ("sausages"), or have stretched mesh size less than 7 centimeters in a panel that is weighted on the lower end with at least enough weight to keep the netting taut in the water column.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1710319998630-02]

RIN 0648-XG652

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Re-Opening of Commercial Harvest for South Atlantic Red 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 red snapper in the exclusive economic zone (EEZ) of the South Atlantic through this temporary rule. The most recent commercial landings of red snapper indicate that the commercial annual catch limit (ACL) for the 2018 fishing year has not yet been reached. Therefore, NMFS re-opens the commercial sector for red snapper in the South Atlantic EEZ for 10 calendar days to allow the commercial ACL to be

reached, while minimizing the risk of the commercial ACL being exceeded.

DATES: This rule is effective 12:01 a.m., local time, December 5, 2018, until 12:01 a.m., local time, December 15, 2018.

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 red 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 for red snapper in the South Atlantic is 124,815 lb (56,615 kg), round weight. Under 50 CFR 622.193(y)(1), NMFS is required to close the commercial sector for red snapper when landings reach, or are projected to reach, the commercial ACL by filing a notification to that effect with the Office of the Federal Register.

NMFS previously projected that the commercial ACL for South Atlantic red snapper for the 2018 fishing year would be reached by November 7, 2018. Accordingly, NMFS published a temporary rule in the **Federal Register** to implement accountability measures (AMs) to close the commercial sector for red snapper in the South Atlantic EEZ effective November 7, 2018 (83 FR 55292; November 5, 2018).

However, recent landings data for red snapper indicate that the commercial ACL has not yet been reached. Consequently, and in accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the commercial sector for red snapper effective at 12:01 a.m. on December 5, 2018. The commercial sector will remain open for 10 calendar days and will close at 12:01 a.m. on December 15, 2018. Re-opening the commercial sector for 10 days allows an additional opportunity to commercially harvest the red snapper ACL while minimizing the risk of exceeding the commercial ACL. For the 2019 fishing year, NMFS will announce the

commercial season opening date in the **Federal Register**.

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the conservation and management of red 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 red 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 ACL and AMs for red snapper has already 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 further harvest the commercial ACL of red snapper from the South Atlantic EEZ, while minimizing the risk of exceeding the commercial ACL. Prior notice and opportunity for public comment would require time and would delay the re-opening of the commercial sector.

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: November 30, 2018.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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