

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: November 17, 2004.

**David I. Maurstad,**

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[FR Doc. 04-26600 Filed 12-2-04; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 112604A]

#### **Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Fall Commercial Red Snapper Component**

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

**ACTION:** Closure.

**SUMMARY:** NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the fall portion of the annual commercial quota for red snapper will be reached on December 15, 2004. This closure is necessary to protect the red snapper resource.

**DATES:** Closure is effective noon, local time, December 15, 2004, until noon, local time, on February 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Phil Steele, telephone 727-570-5305, fax 727-570-5583, e-mail [Phil.Steele@noaa.gov](mailto:Phil.Steele@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 red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 2004. The red snapper commercial fishing season is split into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.10 million lb (1.41 million kg)) available, and the second commencing at noon on October 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 10th of each month, until the applicable commercial quotas are reached.

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 in the **Federal Register**. Based on current statistics, NMFS has determined that the available fall commercial quota of 1.60 million lb (0.73 million kg) for red snapper will be reached when the fishery closes at noon on December 15, 2004. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until noon, local time, on February 1, 2005. The operator of a vessel with a valid reef fish permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, December 15, 2004.

During the closure, a person aboard a vessel for which a commercial permit for Gulf reef fish has been issued may not harvest or possess red snapper from the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. The prohibition on

sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, December 15, 2004, and were held in cold storage by a dealer or processor.

#### **Classification**

This action is required by 50 CFR 622.43(a) and is exempt from review under Executive Order 12866. This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds the need to immediately implement this action to close the fishery 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)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has 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 it requires time during which harvest would likely exceed the quota. Similarly, NMFS finds good cause that the implementation of this action cannot be delayed for 30 days. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. Given the capacity of the fishing fleet to exceed the quota quickly, there is a need to implement this measure in a timely fashion to prevent an overage of the commercial quota of Gulf red snapper. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

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

Dated: November 29, 2004.

**Alan D. Risenhoover,**

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

[FR Doc. 04-26637 Filed 12-2-04; 8:45 am]

BILLING CODE 3510-22-S