

under FFDC section 408(d), such as the temporary tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDC section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

#### V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 174

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 22, 2018.

**Robert McNally**,

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

#### PART 174—[AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Revise § 174.535 to read as follows:

#### § 174.535 Spinach Defensin proteins; temporary exemption from the requirement of a tolerance.

Residues of the defensin proteins SoD2, SoD2\*, SoD7, and SoD8 derived from spinach (*Spinacia oleracea* L.) in or on citrus food commodities are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in citrus plants in accordance with the terms of Experimental Use Permit No. 88232–EUP–1. This temporary exemption from the requirement of a tolerance expires on May 31, 2021.

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 100812345–2142–03]

RIN 0648–XG253

#### Snapper-Grouper Fishery of the South Atlantic; 2018 Commercial Accountability Measure and Closure for South Atlantic Yellowtail Snapper

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) for the commercial sector for yellowtail snapper in the South Atlantic exclusive economic zone (EEZ). NMFS projects that commercial landings of yellowtail snapper will reach the commercial annual catch limit (ACL) for the August 2017 through July 2018 fishing year by June 5, 2018. Therefore, NMFS closes the commercial sector for yellowtail snapper in the South Atlantic EEZ on June 5, 2018, and it will remain closed until August 1, 2018, the start of the

August 2018 through July 2019 fishing year. This closure is necessary to protect the South Atlantic yellowtail snapper resource.

**DATES:** This rule is effective at 12:01 a.m., local time, June 5, 2018, until 12:01 a.m., local time, August 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic includes yellowtail 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 yellowtail snapper commercial ACL is 1,596,510 lb (724,165 kg), round weight, as specified in 50 CFR 622.193(n)(1)(i). The yellowtail snapper fishing year is August 1 through July 31, as specified in 50 CFR 622.7(f). Under 50 CFR 622.193(n)(1)(i), NMFS is required to close the yellowtail snapper commercial sector when the commercial ACL has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has projected that the yellowtail snapper commercial sector will reach its ACL on June 5, 2018. Therefore, this temporary rule implements an AM to close the yellowtail snapper commercial sector in the South Atlantic EEZ, effective from 12:01 a.m., local time, June 5, 2018, until August 1, 2018, the start of the 2018–2019 fishing year.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having yellowtail snapper on board must have landed and bartered, traded, or sold such species prior to June 5, 2018. During the commercial closure, all sale or purchase of yellowtail snapper from the South Atlantic EEZ is prohibited. The harvest or possession of yellowtail snapper in or from the South Atlantic EEZ is limited to the bag limit specified in 50 CFR 622.187(b)(4) and the possession limits specified in 50 CFR 622.187(c). These bag and possession limits apply on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, regardless of whether such

species were harvested in state or Federal waters.

### Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic yellowtail snapper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(n)(1)(i) 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 close the yellowtail snapper commercial sector 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 AM has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because there is a need to immediately implement this action to protect the yellowtail snapper resource, as the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and could result in a harvest well in excess of the established commercial ACL.

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: May 25, 2018.

**Jennifer M. Wallace,**

*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. 180220193-8488-02]

RIN 0648-BH79

#### Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2018

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

**ACTION:** Final rule.

**SUMMARY:** NMFS announces management measures for the 2018 summer flounder, scup, and black sea bass recreational fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the fishing year. The intent of these measures is to constrain recreational catch to established limits and prevent overfishing of summer flounder, scup, and black sea bass.

**DATES:** This rule is effective May 31, 2018.

**ADDRESSES:** Copies of the Environmental Assessment (EA) and other supporting documents for the recreational harvest measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The recreational harvest measures document is also accessible via the internet at: <http://www.mafmc.org/s/2018-sf-bsb-rec-measures-EA.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Emily Gilbert, Fishery Policy Analyst, (978) 281-9244.

#### SUPPLEMENTARY INFORMATION:

##### Summary of Management Measures

In this rule, NMFS specifies management measures for the 2018 summer flounder, scup, and black sea bass recreational fisheries consistent with the recommendations of the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). NMFS is establishing measures that would apply in the Federal waters of the exclusive economic zone (EEZ). Additionally, these measures apply to all Federally permitted party/charter vessels with applicable summer

flounder, scup, and black sea bass permits, regardless of where they fish, unless the state in which they land implements measures that are more restrictive. These measures are intended to achieve, but not exceed, the previously established 2018 recreational harvest limits established in a final rule published on December 22, 2017 (82 FR 60682).

#### 2018 Summer Flounder Recreational Management Measures

NMFS is implementing conservation equivalency to manage the 2018 summer flounder recreational fishery, as proposed on April 11, 2018 (83 FR 15535). These measures are consistent with the recommendation of the Council and Commission. Additional information on the development of these measures is provided in the proposed rule and not repeated here.

Conservation equivalency, as established by Framework Adjustment 2 (July 29, 2001; 66 FR 36208), allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit established by the Commission from the coastwide recreational harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as Federal coastwide measures. Framework Adjustment 6 (July 26, 2006; 71 FR 42315) allowed states to form regions for conservation equivalency in order to minimize differences in regulations for anglers fishing in adjacent waters.

The Commission is maintaining the provisions of Addendum XXVIII to its fishery management plan (FMP), which continues regional conservation equivalency for fishing year 2018. The Commission maintained regions that are consistent with those in place since 2016: (1) Massachusetts; (2) Rhode Island; (3) Connecticut and New York; (4) New Jersey; (5) Delaware, Maryland, and Virginia; and (6) North Carolina. The Commission's Summer Flounder Management Board specified any adjustments to state measures in 2018 should result in no more than a 17-percent liberalization in coastwide harvest relative to the projected 2017 harvest of 3.23 million lb (1,465 mt), the harvest estimate available at the December 2017 meeting. The Board specified this maximum liberalization due to concerns about the status of the summer flounder stock, as well as concerns that harvest estimates for 2017 appeared to be anomalously low in terms of effort and landings. The cap on liberalization is to address concerns that