

which differs from the design type only in a lesser design height; or

\* \* \* \* \*

## PART 179—SPECIFICATIONS FOR TANK CARS

■ 28. The authority citation for part 179 is revised to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 29. In Appendix B to Part 179, paragraphs 2.a.(1) and 3.a.(1) are revised to read as follows:

### Appendix B to Part 179—Procedures for Simulated Pool and Torch-Fire Testing.

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#### 2. Simulated pool fire test.

a. A pool-fire environment must be simulated in the following manner:

(1) The source of the simulated pool fire must be hydrocarbon fuel with a flame temperature of 871 °C plus or minus 55.6 °C (1600 °F plus-or-minus 100 °F) throughout the duration of the test.

\* \* \* \* \*

#### 3. Simulated torch fire test.

a. A torch-fire environment must be simulated in the following manner:

(1) The source of the simulated torch must be a hydrocarbon fuel with a flame temperature of 1,204 °C plus-or-minus 55.6 °C (2,200 °F plus or minus 100 °F), throughout the duration of the test. Furthermore, torch velocities must be 64.4 km/h ±16 km/h (40 mph ±10 mph) throughout the duration of the test.

\* \* \* \* \*

Issued in Washington, DC, on September 27, 2012 under authority delegated in 49 CFR part 1.

**Timothy P. Butters,**

*Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 0907271173–0629–03]

RIN 0648–XC152

### 2012–2013 Accountability Measure and Closure for Commercial Black Sea Bass in the South Atlantic

**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 of black sea bass in the exclusive economic zone (EEZ) of the South Atlantic through this temporary final rule. NMFS has determined that the annual catch limit (ACL) (equal to the commercial quota) for black sea bass will have been reached by October 8, 2012. Therefore, NMFS closes the commercial sector for black sea bass in the EEZ of the South Atlantic. This closure is necessary to protect the black sea bass resource.

**DATES:** Closure is effective 12:01 a.m., local time, October 8, 2012, through 12:01 a.m., local time, on June 1, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Catherine Hayslip, telephone 727–824–5305, email

*Catherine.Hayslip@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), and black sea bass is a species contained in that FMP. The FMP was prepared by the South Atlantic Fishery Management Council (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. NMFS published a temporary rule to delay the start of the 2012–2013 fishing season for the commercial sector of black sea bass from June 1, 2012 to July 1, 2012 (77 FR 28305, May 14, 2012). The commercial ACL (commercial quota) for black sea bass in the South Atlantic is 309,000 lb (140,160 kg), gutted weight, for the current fishing year (July 1, 2012, through May 31, 2013) as specified in 50 CFR 622.42(e)(5).

### Background

Black sea bass are managed throughout their range. In the South Atlantic EEZ, black sea bass are managed under the FMP by the Council from 35°15.19' N. lat., the latitude of Cape Hatteras Light, North Carolina, south to the boundary between the South Atlantic and Gulf of Mexico (Gulf) Councils, off of Key West, Florida. The boundary between the South Atlantic and Gulf Councils coincides with the line of demarcation between the Atlantic Ocean and the Gulf, which begins at the intersection of the outer boundary of the EEZ, as specified in the Magnuson-Stevens Act, and 83°00' W. long., proceeds northward along that meridian to 24°35' N. lat., (near the Dry Tortugas Islands), thence eastward along that parallel,

through Rebecca Shoal and the Quicksand Shoal, to the Marquesas Keys, and then through the Florida Keys to the mainland at the eastern end of Florida Bay, the line so running that the narrow waters within the Dry Tortugas Islands, the Marquesas Keys and the Florida Keys, and between the Florida Keys and the mainland, are within the Gulf. From Cape Hatteras Light, North Carolina, through Maine, black sea bass are managed jointly by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. Therefore, the closure provisions contained in this notice are applicable to those vessels harvesting or possessing black sea bass from Cape Hatteras Light, North Carolina, through to the boundary between the South Atlantic and Gulf Councils (off of Key West, Florida), as described above.

The AM at 50 CFR 622.49(b)(5)(i) requires NMFS to close the commercial sector for black sea bass when the ACL (quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Also, under 50 CFR 622.43(a), 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. Based on the best scientific information available, NMFS has determined that the available commercial ACL (commercial quota) of 309,000 lb (140,160 kg), gutted weight, for black sea bass will be reached on or before October 8, 2012. Accordingly, NMFS is implementing an AM to close the commercial sector for black sea bass in the South Atlantic EEZ at 12:01 a.m., local time, on October 8, 2012 from 35°15.19' N. lat., the latitude of Cape Hatteras Light, North Carolina, south to the boundary between the South Atlantic and Gulf Councils, as previously described in this temporary rule. The commercial sector for black sea bass will remain closed until 12:01 a.m., local time, on June 1, 2013. The operator of a vessel with a valid commercial vessel permit for snapper-grouper having black sea bass onboard must have landed and bartered, traded, or sold such black sea bass prior to 12:01 a.m., local time, October 8, 2012.

During the closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1)(vii) and (d)(2), respectively, apply to all harvest or possession of black sea bass in or from the South Atlantic EEZ, and the sale or purchase of black sea bass taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or

purchase of black sea bass that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 8, 2012, and 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 black sea bass would apply regardless of whether the fish were harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

#### Classification

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial sector to the harvest of black sea bass 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 would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the regulations have already been subject to notice and comment, and all that remains is to notify the public of the closure.

Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the black sea bass stock because it is subject to overfishing and the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota), which would impede the rebuilding of the stock by the end of the rebuilding period set at 2016.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: October 2, 2012.

#### Lindsay Fullenkamp,

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XC273

#### Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2012-2013 Accountability Measure and Closure for Gulf King Mackerel in Northern Florida West Coast Subzone

**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 commercial king mackerel in the northern Florida west coast subzone of the eastern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary final rule. NMFS has determined that the commercial annual catch limit (ACL) (equal to the commercial quota) for king mackerel in the northern Florida west coast subzone of the Gulf EEZ will have been reached by October 5, 2012. Therefore, NMFS closes the northern Florida west coast subzone to commercial king mackerel fishing in the EEZ. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective noon, local time, October 5, 2012, until 12:01 a.m., local time, on July 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, 727-824-5305, email: [Steve.Branstetter@noaa.gov](mailto:Steve.Branstetter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) 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.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Gulf migratory group king mackerel's Florida west coast subzone of the Gulf eastern zone into northern and southern subzones, and established their separate

quotas. The Florida west coast subzone is that part of the eastern zone located south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County, FL boundary) along the west coast of Florida to 87°31.1' W. long. (a line directly south from the Alabama/Florida boundary). The Florida west coast subzone is further divided into northern and southern subzones. The northern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL boundary) and 87°31.1' W. long. (a line directly south from the Alabama/Florida boundary).

The commercial ACL (commercial quota) for the Gulf migratory group king mackerel in the northern Florida west coast subzone is 197,064 lb (89,397 kg) (50 CFR 622.42(c)(1)(i)(A)(2)(ii)), for the current fishing year, July 1, 2012, through June 30, 2013.

Because 75 percent of the northern Florida west coast subzone's quota had been harvested, NMFS published a temporary rule on August 30, 2012, to reduce the trip limit for the commercial sector of king mackerel in the northern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the EEZ (77 FR 52623).

Regulations at 50 CFR 622.49(h)(1)(i) and 50 CFR 622.43(a)(3) require NMFS to close the commercial sector for Gulf migratory group king mackerel in the northern Florida west coast subzone when the ACL (quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on the best scientific information available, NMFS has determined the commercial ACL (commercial quota) of 197,064 lb (89,397 kg) for Gulf migratory group king mackerel in the northern Florida west coast subzone will be reached by October 5, 2012. Accordingly, the northern Florida west coast subzone is closed effective noon, local time, October 5, 2012, through June 30, 2013, the end of the fishing year, to commercial fishing for Gulf migratory group king mackerel.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for or retain Gulf group king mackerel in the EEZ in the closed zones or subzones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided