

**§ 64.604 [Amended]**

■ 2. In § 64.604, remove and reserve paragraph (c)(5)(iii)(J).

**§ 64.2401 [Amended]**

■ 3. In § 64.2401, remove the “Note to § 64.2401”.

[FR Doc. 2011–26515 Filed 10–12–11; 8:45 am]

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

[Docket No. 0907271173–0629–03]

RIN 0648–XA686

**Snapper-Grouper Fishery of the South Atlantic; Closure of the 2011–2012 Recreational Sector for 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 closes the recreational sector for black sea bass in the portion of the exclusive economic zone (EEZ) of the South Atlantic through 35°15.19' N. lat., the latitude of Cape Hatteras Light, North Carolina. NMFS has determined that the recreational annual catch limit (ACL) for black sea bass has been reached. This closure is necessary to protect the black sea bass resource.

**DATES:** The closure is effective 12:01 a.m., local time, October 17, 2011, until 12:01 a.m., local time, on June 1, 2012.

**FOR FURTHER INFORMATION CONTACT:**

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**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). 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. These regulations set the recreational ACL for black sea bass in the South Atlantic at 409,000 lb (185,519 kg), gutted weight. However, NMFS published a temporary rule on October 4, 2011, which implemented a reduced recreational ACL beginning

October 4, 2011, for the 2011–2012 fishing year (76 FR 61285) due to an ACL overage in the recreational sector of 67,253 lb (30,505 kg), gutted weight in the 2010–2011 fishing year. Therefore, the 2011–2012 recreational ACL for black sea bass in the South Atlantic is now 341,747 lb (155,014 kg), gutted weight, effective October 4, 2011, through May 31, 2012.

**Background**

Black sea bass are managed throughout their range. In the South Atlantic EEZ, black sea bass are managed by the Council from 35°15.19' N. lat., the latitude of Cape Hatteras Light, North Carolina, south. 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 Key West, Florida, through Cape Hatteras Light, North Carolina.

Regulations effective January 31, 2011 (75 FR 82280, December 30, 2010), set the recreational ACL for black sea bass in the South Atlantic EEZ and established accountability measures (AMs), and require NMFS to close the recreational sector for black sea bass when the ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. The AMs state if black sea bass are overfished and if recreational landings reach or are projected to reach the recreational ACL of 341,747 lb (155,014 kg), gutted weight, the Assistant Administrator for Fisheries, NOAA (AA), will close the recreational sector for black sea bass for the remainder of the fishing year (50 CFR 622.49(b)(5)(ii)). On, and after, the effective date of the closure, the bag and possession limit of black sea bass in or from the South Atlantic EEZ is zero. This zero bag and possession limit also applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in State or Federal waters.

Based on current statistics, NMFS has determined that the recreational ACL of 341,747 lb (155,014 kg), gutted weight, for black sea bass has been reached. Accordingly, NMFS is closing the recreational sector for black sea bass in the portion of the South Atlantic EEZ through Cape Hatteras Light, North Carolina, from 12:01 a.m., local time,

October 17, 2011, until 12:01 a.m., local time, on June 1, 2012. In order to announce this closure and provide relevant information to interested parties, NMFS will contact state marine fishery agencies and fish houses, announce the closure on NOAA Weather Radio, and distribute a fishery bulletin to provide additional notice to the recreational fishermen. The closure is intended to prevent overfishing and increase the likelihood that the current recreational ACL will not be exceeded even further.

**Classification**

This action responds to the best scientific information available recently obtained from the fishery. Black sea bass are overfished and are currently in a rebuilding plan, and exceeding the ACLs could jeopardize the rebuilding plan. The AA finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule implementing the sector ACL and the associated requirement for closure of the sector when the ACL is met or projected to be met has already 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 any additional delay in the closure of the recreational black sea bass sector could result in the recreational ACL being exceeded, which would result in another reduced ACL for the recreational sector in the 2012–2013 fishing season, and would produce additional adverse economic impacts for black sea bass fishermen.

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).

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 7, 2011.

**Steven Thur,**

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

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