

arrangements should include information required by NAFO regarding the proposed chartering operation, including: the name, registration and flag of the intended vessel; a copy of the charter; the fishing opportunities granted; a letter of consent from the vessel's flag state; the date from which the vessel is authorized to commence fishing on these opportunities; and the duration of the charter (not to exceed six months). More details on NAFO requirements for chartering operations are available from NMFS (see **ADDRESSES**). In addition, expressions of interest for chartering operations should be accompanied by a detailed description of anticipated benefits to the United States. Such benefits might include, but are not limited to, the use of U.S. processing facilities/personnel; the use of U.S. fishing personnel; other specific positive effects on U.S. employment; evidence that fishing by the chartered vessel actually would take place; and documentation of the physical characteristics and economics of the fishery for future use by the U.S. fishing industry.

In the event that multiple expressions of interest are made by U.S. fishing interests proposing the transfer of quota allocated to the U.S. or chartering operations to fish quota allocated to the United States, the information submitted regarding benefits to the United States will be used in making a selection. In the event that applications by U.S. fishing interests proposing the use of chartering operations are considered, all applicants will be made aware of the allocation decision as soon as possible. Once the allocation has been awarded for use in a chartering operation, NMFS will immediately take appropriate steps to notify NAFO and transfer the U.S. 3L shrimp quota allocation and/or the 3M shrimp effort allocation to the appropriate Contracting Party.

After reviewing all requests for allocations submitted, NMFS may decide not to grant any allocations if it is determined that no requests meet the criteria described in this notice. All individuals/companies submitting expressions of interest to NMFS will be contacted if an allocation has been awarded. Please note that if the U.S. portion of any 2010 NAFO quota allocation and/or effort allocation, or the 3LNO yellowtail flounder transferred from Canada is awarded to a U.S. vessel or a specified chartering operation, it may not be transferred without the express, written consent of NMFS.

Dated: December 3, 2009.

**Rebecca Lent,**

*Director, Office of International Affairs,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XS56

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-grouper Fishery of the South Atlantic; Closure of the 2009-2010 Commercial Fishery 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 commercial fishery 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 quota for the commercial fishery for black sea bass will have been reached by December 20, 2009. This closure is necessary to protect the black sea bass resource.

**DATES:** Closure is effective 12:01 a.m., local time, December 20, 2009, until 12:01 a.m., local time, on June 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bruger, telephone 727-824-5305, fax 727-824-5308, e-mail [Catherine.Bruger@noaa.gov](mailto:Catherine.Bruger@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). 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. Those regulations set the commercial quota for black sea bass in the South Atlantic at 309,000 lb (140,160 kg) for the current fishing year, June 1, 2009, through May 31, 2010.

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.

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 with the Office of the Federal Register. Based on current statistics, NMFS has determined that the available commercial quota of 309,000 lb (140,160 kg) for black sea bass will be reached on or before December 20, 2009.

Accordingly, NMFS is closing the commercial fishery 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, on December 20, 2009, until 12:01 a.m., local time, on June 1, 2010. The operator of a vessel that is landing black sea bass for sale must have landed and bartered, traded, or sold such black sea bass prior to 12:01 a.m., local time, December 20, 2009, and all sea bass pots must be removed from the EEZ as of that time and date.

During the closure, the applicable bag and possession limits specified in 50 CFR 622.39(d) apply to all harvest or possession of black sea bass in or from the portion of the South Atlantic EEZ through Cape Hatteras Light, North Carolina; and the sale or purchase of black sea bass taken from the EEZ is prohibited. In addition, those bag and possession limits and the prohibition on sale or purchase of black sea bass apply regardless of where the black sea bass were harvested, i.e., in state waters or in the portion of the South Atlantic EEZ through Cape Hatteras Light, North Carolina, on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued. 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, December 20, 2009, and were held in cold storage by a dealer or processor.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (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 itself 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 of the need to immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

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: December 4, 2009.

**Emily H. Menashes,**

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

[FR Doc. E9-29442 Filed 12-7-09; 4:15 pm]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 061228342-7068-02]

RIN 0648-XT19

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Rescission of Prohibition on Atlantic Herring Fishing in Management Area 2**

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

**ACTION:** Temporary rule; rescission of prohibition on herring fishing.

**SUMMARY:** NMFS announces rescission of the prohibition on fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of Atlantic herring in or from Atlantic herring Management Area 2 (Area 2). The rescission of this prohibition is due to the fact that catch data indicate that 95 percent of the total allowable catch (TAC) threshold in Area 2 has not been fully attained. Vessels issued a Federal permit to harvest Atlantic herring may resume fishing for and landing herring in amounts greater than 2,000 lb (907.2 kg) effective 0001 hours, December 10, 2009, until it is determined that the 95-percent quota threshold is projected to be harvested.

**DATES:** Effective 0001 hours, December 10, 2009, through December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Aja Peters-Mason, Fishery Management Specialist, 978-281-9195.

**SUPPLEMENTARY INFORMATION:**

Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The 2009 TAC allocated to Area 2 (72 FR 17807, April 10, 2007) is 30,000 mt. The initial TAC included a Research Set-aside of 900 mt, which was restored to the fishery when it was not allocated for research (73 FR 74631, December 9, 2008).

The regulations at § 648.201 require the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the Atlantic herring fishery in each of the four management areas designated in the Atlantic herring Fishery Management Plan (FMP) and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to prohibit vessels from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 mt) per trip or calendar day through a publication in the **Federal Register**.

NMFS issued a notification in the **Federal Register** on April 14, 2009 (74 FR 17106), projecting that the Atlantic herring quota available in Area 2 had been harvested, based upon information that the area's quota would be reached by April 15, 2009; the prohibition was effective through December 31, 2009.

The Regional Administrator has since determined, based upon the latest dealer reports and upon other available

information, that there is approximately 1,450 mt of Atlantic herring quota still available in Area 2. Therefore, effective December 10, 2009, vessels issued a Federal permit for the Atlantic herring fishery may fish for, possess, and land in accordance with the possession limits defined for each permit category until it is projected that 95 percent of the TAC threshold has been harvested. Such closure would be announced through notification in the **Federal Register**. Effective December 10, 2009, federally permitted dealers are also advised that they may purchase Atlantic herring landed in Area 2 from federally permitted vessels for the remainder of the 2009 fishing year or until it is determined that 95 percent of the threshold quota is projected to be fully harvested.

**Classification**

This action is taken under 50 CFR part 648 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action rescinds the prohibition on the Atlantic herring fishery in Management Area 2 until December 31, 2009, under current regulations. The Atlantic herring fishery opened for the 2009 fishing year at 0001 hours on January 1, 2009. The Atlantic herring fleet was prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 mt) per trip or calendar day on April 15, 2009 based on projections that 95 percent of the available Area 2 herring quota had been harvested. Data indicating the Atlantic herring fleet did not harvest the full amount of available quota have only recently become available. If implementation of this rescission is delayed to solicit prior public comment, the remaining quota will not be available for harvest before the end of the 2009 fishing year on December 31. The AA finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the thirty (30) day delayed effectiveness period for the reasons stated above.

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

Dated: December 4, 2009.

**Emily H. Menashes,**

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

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