

**Authority:** 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

**§ 160.151–57 [Amended]**

■ 58. Amend § 160.151–57(b)(8) by removing the word “Transponder” and adding, in its place, the word “Transmitter”.

**PART 177—CONSTRUCTION AND ARRANGEMENT**

■ 59. The authority citation for part 177 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

**§ 177.820 [Amended]**

■ 60. Amend § 177.820 in paragraphs (d)(1) and (2) by removing the words “3.8 meters” and adding, in their places, the words “4.572 meters”.

**PART 184—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT**

■ 61. The authority citation for part 184 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

**§ 184.510 [Amended]**

■ 62. Amend § 184.510(a)(7) by removing the words “LORAN coordinates,”.

**PART 401—GREAT LAKES PILOTAGE REGULATIONS**

■ 63. The authority citation for part 401 continues to read as follows:

**Authority:** 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

**§ 401.110 [Amended]**

■ 64. Amend § 401.110(a)(9) by removing the text “CG–54122” and adding, in its place, the text “CG–5522”.

Dated: September 17, 2010.

**Sandra Selman,**

*Acting Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

[FR Doc. 2010–23766 Filed 9–28–10; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**49 CFR Part 71**

[OST Docket No. OST–2010–0046]

**Relocation of Standard Time Zone Boundary in the State of North Dakota: Mercer County**

**AGENCY:** Office of the Secretary, Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** DOT is moving all of Mercer County, North Dakota to the central time zone. Prior to this action, all of Mercer County was located in the mountain time zone. This action is taken in response to a petition filed by the Board of County Commissioners for Mercer County and is based on comments made at a public hearing and filed in the docket.

**DATES:** *Effective Date:* This final rule will be effective November 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room W94–302, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–9310, [bob.ashby@dot.gov](mailto:bob.ashby@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

For more than a century, time zone boundaries in North Dakota have had an interesting and varied history. Beginning in 1883, mountain time was observed in the southwest portion of the State and a few locations in the northwest, with central time being used elsewhere. In 1929, the Interstate Commerce Commission (ICC), which then had jurisdiction over time zone boundaries, extended central time to cover all but a cluster of counties in the southwest corner of the State. Congress transferred the ICC’s time zone boundary powers to the Department of Transportation (DOT) in 1967. DOT exercises these powers under the provisions of the Uniform Time Act of 1966 (15 U.S.C. 260–64).

The Department has exercised its authority under this statute in several proceedings affecting North Dakota. In 1968, in response to a petition from the Governor of North Dakota, the Department placed 14 counties lying south and west of the Missouri River into mountain time. The change was made to accommodate the historical pattern of time observance in the State. In 1992, in response to a petition from

the Board of Commissioners of Oliver County (which is adjacent to Mercer County), the Department moved that county into the central time zone. The Department took similar action with respect to Morton County and a portion of Sioux County in 2003.

In 2000–2003, the Department considered a petition from the Mercer County Commission to move the county to the central time zone. The proposal was controversial in the county. A 2000 referendum favored changing to central time by a vote of 1,180 to 1,038.

However, a majority of written comments to the Department’s docket, and much of the sentiment of persons attending a public hearing, favored keeping the county in the mountain time zone. After considering the comments, and while acknowledging the reasons supporting a change, the Department decided to deny the petition (68 FR 53082; September 9, 2003). The Department’s decision noted that the Commission was free to file a new petition on the subject in the future. In a petition dated October 9, 2009, Mr. Lyle L. Latimer, Chairman of Mercer County Board of County Commissioners, asked the Department to move the county from the mountain time zone to the central time zone.

Under the Uniform Time Act, the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is “regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce.” The principal standard for deciding whether to change a time zone is defined very broadly to include consideration of all the impacts upon a community of a change in its standard of time. DOT has developed a series of questions to assist communities and us in determining the impact of a time zone change on the “convenience of commerce.” The Department considers information bearing on these questions in making its decision on a proposed time zone change.

1. From where do businesses in the community get their supplies, and to where do they ship their goods or products?

2. From where does the community receive television and radio broadcasts?

3. Where are the newspapers published that serve the community?

4. From where does the community get its bus and passenger rail services; if there is no scheduled bus or passenger rail service in the community, to where

must residents go to obtain these services?

5. Where is the nearest airport; if it is a local service airport, to what major airport does it carry passengers?

6. What percentage of residents of the community work outside the community; where do these residents work?

7. What are the major elements of the community's economy; is the community's economy improving or declining; what Federal, State or local plans, if any, are there for economic development in the community?

8. If residents leave the community for schooling, recreation, health care, or religious worship, what standard of time is observed in the places where they go for these purposes?

### The Petition for Rulemaking

In October 2009, the Board of Commissioners for Mercer County, North Dakota, petitioned the Secretary of Transportation to move Mercer County from the mountain time zone to the central time zone. The Mercer County petition stated several reasons for the request, outlining the Commission's view of why the change would meet the "convenience of commerce" standard. The following is a summary of the reasons asserted in support of the request, which address several of the Department's questions.

- Almost all supplies for businesses in Mercer County, including the coal and agriculture industries, are shipped from the Bismarck/Mandan area and from other points in the central time zone.

- Communications media (newspapers, radio and television stations) serving Mercer County are based in the Bismarck/Mandan area.

- There is no regular passenger transportation serving Mercer County. Residents go to the Bismarck/Mandan area to catch planes, trains, and buses.

- The main offices for several Mercer County energy industry facilities are located in Bismarck.

- Many residents regularly travel to the Bismarck/Mandan area for recreation, health care, and other purposes.

- Geographically, Mercer County is adjacent to the central time zone on the east, north, and south sides of the county, and is therefore well located for inclusion in the central time zone. The Fort Berthold Indian Reservation, located in Mercer County, is currently in the central time zone.

### Public Comments

On March 3, 2010, the Department published a notice of proposed

rulemaking (75 FR 9568) announcing the proposed change and inviting public comment. A DOT representative conducted a public hearing in Hazen, North Dakota on May 14, 2010. At the meeting, 14 persons spoke in favor of switching to central time and five spoke in favor of remaining in mountain time.

Over 400 written comments were submitted to the docket. These submissions included many detailed letters, a number of anonymous comments, and some brief statements simply expressing a preference for either mountain or central time. The submissions came from individuals, businesses, medical service providers, local Chambers of Commerce, and school districts. We appreciate the time and effort of the people who expressed their opinion at the public meeting and through written comments, providing the Department with the factual basis upon which to make a decision.

### Comments in Support of Central Time

Approximately 250 comments, including written submissions and those comments made at the hearing, favored a switch to central time. Our decision, however, is not based on the number of comments supporting a particular time zone. As discussed above, the decision is based on the statutory "convenience of commerce" standard and the comments help us to make the decision by providing factual information regarding the impact of a time zone change on a community. The comments supporting a move to central time addressed five impacted areas that would be improved by a change of time zones: (1) Transportation, (2) business, (3) schools and other public agencies, (4) health care, and (5) family life.

In the area of transportation, many submissions noted that the closest transportation hub is Bismarck, which is on central time. Numerous individuals explained that catching a morning flight out of Bismarck is inconvenient, because they either have to get up very early in the morning to account for the one hour time difference, or pay to spend the night before their flight in a hotel.

The docket included abundant comments focusing on the impact of a time zone switch on businesses in Mercer County. Most of the power plants and mines, which are major employers in Mercer County, already run on central time. The manager of Coyote electric generating plant expressed how confusing it is to be located in mountain time, but operating on central time.

From the comments submitted, it appears that the majority of the county's

businesses have their suppliers and customers in central time and believe that moving Mercer County to central time would serve the convenience of commerce. Many people explained that because their businesses primarily conduct transactions with entities located in central time, they lose valuable work time every day—at least an hour in the morning, an hour at lunch time, and an hour at the end of the day. The manager of the Beulah Motor Vehicle Branch Office wrote that all their office support comes from the State office in Bismarck, and they therefore lose three hours a day of contact with key support functions. The President of Dakota Helicopters, Inc. explained that they are in a "constant battle" to complete their daily activities with their vendors in a shortened time span, because the vendors are all on central time. Other comments focused on the ongoing struggle businesses face to schedule meetings, teleconferences, and seminars with businesses located in central time.

Being on mountain time also adversely affects the quality of services that businesses in Mercer County provide, commenters asserted. A submission from the secretary and treasurer of Knife River Indian Heritage Foundation portrayed how frequently tourists get confused about the time and arrive too early or too late for events at the Foundation. The owner of Beulah Drug Company explained that all of their suppliers and technical support are located on central or eastern time; on many occasions they have needed a service or product, but have had to wait an extra day because the supplier was already closed. The Beulah Public Library is one of only two libraries in a 25-member consortium that is on mountain time, which creates scheduling issues. The Library also believes that switching to central time would allow them to better serve their patrons, because their hours would coincide with the area power plants and mines. Moreover, several business owners suggested that they would have an easier time recruiting employees who live in central time if Mercer County switched to central time.

The Mercer County time zone also has a major impact on the schools. The Center-Stanton Public School Board, the Beulah Board of Education, and the Hazen Public School Board all submitted comments favoring a switch to central time. The Center-Stanton school district is currently divided, with half of the district on central time and half on mountain time. The Superintendent explained how this makes scheduling meetings difficult,

and it also requires the students residing in Stanton to wake up very early in the morning to be ready for the bus.

The Beulah School Board said that in the 2008–2009 school year school athletic teams participated in 180 varsity-level extracurricular contests, with 119 of those in central time. The comment explained that the students leaving school early for these events lose an hour of instruction more than they would if Mercer County were on central time. The Hazen School Board, as well as many parents of children in Mercer County schools, also expressed concern over the lost educational time. An added difficulty relates to the present trend of schools in North Dakota to move to distance education; the different time zones make the coordination of distance education cumbersome.

A recurrent theme in the comments was that mountain time negatively impacts health care for Mercer County residents. A number of health care providers submitted comments to the docket addressing the operational issues that arise from the time zone difference. Some of the issues mentioned were that communications with health care facilities in Bismarck are more difficult to schedule, that patients often miss appointments because of the time difference, and that it is confusing for physicians in Bismarck to review charts of patients seen in Mercer County because they have to readjust the timeframe to determine when events occurred. The Medical Center noted that it is difficult for their providers to schedule follow-up appointments for patients who are seen in the middle to late afternoon at their clinics in Hazen, because the clinics in Bismarck and Minot are already closed.

A large number of individuals described the inconvenience of making and attending medical appointments in central time. Many medical procedures are only offered in the larger medical facilities in Bismarck. These appointments are usually scheduled first thing in the morning. Thus, the Mercer County residents have to leave very early in the morning to get to appointments in central time. The Administrator of the Knife River Care Center, a long-term care facility in Beulah, wrote that they frequently transport residents to medical appointments in Bismarck. Having to leave so early in the morning makes it harder for the resident, the van driver, and the staff. The belief that medical care would be much more convenient if Mercer County switched to central time was mentioned numerous times in both

the public hearing comments and the written comments.

Many people also described the strain on family life that results from constantly coping with two time zones. They depicted households with two sets of clocks set to different time zones to accommodate the fact that the parents work in central time while the children attend school in mountain time. One commenter illustrated how confusing it is to make arrangements to see a high school basketball game and have dinner beforehand, when some of the family works on central time and some on mountain time. People wrote in to say that they feel like they live in a “peninsula” or “pocket” of mountain time and that their lives would be simpler if they lived in the same time zone as surrounding counties, the counties on three sides of Mercer County being on central time.

#### *Comments in Favor of Mountain Time*

About 100 comments from individuals and businesses in Mercer County expressed support for mountain time. Comments voiced at the public hearing and also mentioned in the written submissions conveyed concern about children going to school in the dark. A high school teacher explained that she does not want to walk to school in the dark.

Several individuals said they found living and working in different time zones to be very convenient. Some said that they enjoy finishing work in central time and still having time to shop in Mercer County where the businesses are still open. They can go to the drug store, the post office, and the banks after work. Other comments stated that a switch to central time would harm local businesses, because they would no longer offer the convenience of being open after the workers on central time, particularly those who work at the power plants, finish the workday. Additional commenters said that working on central time and having their children go to school on mountain time allows them to be home when their children get out of school and to attend school events without missing work. Several people enjoy that the evening TV news comes on earlier in mountain time than in central time. Some of the comments noted that Mercer County had been on mountain time throughout its history, and that the inconveniences of living on a time zone border (*e.g.*, having two sets of clocks in the house) were things people were used to and could easily live with.

Many comments asserted that mountain time is much preferred by the farmers and ranchers. Farmers were said

to enjoy the extra daylight in the morning hours provided by mountain time, because they can finish their chores in time to attend evening events or to order parts from suppliers.

#### *Other Issues*

Close to 50 written comments, most of them anonymous, requested that the matter be put to a vote, such as an advisory referendum on the November 2010 ballot. As a Federal agency, DOT has no authority to tell a county whether or not to hold a referendum, and it would be very inappropriate for us to do so. In addition, even if Mercer County were to hold a referendum on the time zone issue, the outcome of the vote would not necessarily be determinative. Rather, the Department is required to apply the statutory criteria set forth in the Uniform Time Act.

Finally, several comments called for an end to daylight saving time observance in North Dakota. Under the Uniform time Act, State governments may decide to opt out of observing daylight saving time for all of the portion of a State in a given time zone. This issue is therefore outside the scope of this rulemaking. Those interested in the daylight saving time issue should explore the matter with their State officials.

#### **The Decision**

After weighing all the material in the record for this rulemaking, DOT has decided to place all of Mercer County on central time. We find that the proposed change requested by the County Commissioners suits “the convenience of commerce.”

We believe that the change to central time will benefit the community in a variety of ways. Many individuals and businesses in Mercer County look to areas in the central time zone for commercial, health care, and transportation services. The change will improve access to medical care by making it easier to attend appointments in Bismarck. It will also simplify travel arrangements for those using the Bismarck airport. Employees of the coal or electric power industry in Mercer County, as well as those commuting to Bismarck-Mandan for work, will be on the same schedule at home and at work. The change should aid commerce by placing suppliers and businesses on the same schedule, thus eliminating the shortened workday that has arisen for many businesses in Mercer County. In addition, school children will no longer have to miss extra instructional time when they participate in extracurricular activities. Mercer County will now be in the same time zone as its main

television broadcasts and newspapers. Finally, having Mercer County on central time should alleviate much of the confusion and scheduling complexity that have become a part of many residents' daily lives.

We understand that there are a number of individuals who are satisfied with mountain time and that this change will not be an easy transition for them. However, the Department is required to apply the statutory criteria set forth in the Uniform Time Act, and the reasons advanced by proponents of mountain time were fewer and considerably less strong, with respect to the "convenience of commerce" criteria, than those made by persons favoring the change.

This decision will go into effect on November 7, 2010, at the same time that North Dakota changes from daylight saving time to standard time. Because the time zone change and the change from daylight saving time to standard time will coincide, Mercer County residents and organizations will not have to change their clocks this fall.

### Regulatory Analyses and Notices

#### *Executive Order 12866 and Regulatory Flexibility Act*

The Department has determined that this action is not a significant regulatory action for purposes of Executive Order 12866 or the Department's regulatory policies and procedures. The rule primarily affects the convenience of individuals in scheduling their activities. It imposes no direct costs. Its impact is localized in nature, affecting only the residents of, and people who do business in, a single county. We expect the economic impact of this final rule to be so minimal that full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. While some small entities (*i.e.*, small business or governmental entities in Mercer County) will be affected by setting their clocks differently than in the past, the economic effects of doing so would not be significant, and would largely be economically favorable to them. Therefore, the Department certifies that the rule would not have a significant economic impact on a substantial number of small entities.

#### *Federalism*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the

policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

#### *Unfunded Mandates*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership (58 FR 58093; October 28, 1993), govern the issuance of Federal regulations that impose unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government, or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. This rule does not impose an unfunded mandate.

#### *Protection of Children*

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety as defined by the Executive Order that may disproportionately affect children.

#### *Environment*

This rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

#### *Consultation With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 6, 2000) requires DOT to have an accountable process to ensure "meaningful and timely input by Tribal officials" in the development of rules with Tribal implications. The Fort Berthold Indian Reservation is located in Mercer County. However, the Reservation already observes central time. This rule helps the Fort Berthold Indian Reservation by placing the surrounding areas in Mercer County in the same time zone as the Reservation. Furthermore, the representatives of the Reservation did not comment on the rule. This rule does not have substantial direct effects on an Indian tribe, or on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Therefore, this rule does not have Tribal implications and does not preempt Tribal law.

#### *Privacy Act*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

#### *Paperwork Reduction Act*

This rule does not create any information collection requirements covered by the Paperwork Reduction Act.

#### List of Subjects in 49 CFR Part 71

Time zones.

Issued this 20th day of September, 2010, at Washington, DC.

**Ray LaHood,**

*Secretary of Transportation.*

■ For reasons discussed in the preamble, the Office of the Secretary amends Title 49 of the Code of Federal Regulations, Part 71, as follows:

#### **PART 71—STANDARD TIME ZONE BOUNDARIES**

■ 1. The authority citation for 49 CFR Part 71 continues to read as follows:

**Authority:** Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; Pub. L. 106–564, 15 U.S.C. 263, 114 Stat. 2811; 49 CFR 1.59(a), unless otherwise noted.

■ 2. Revise § 71.7 (a) to read as follows:

#### **§ 71.7 Boundary line between central and mountain zones.**

(a) *Montana-North Dakota.* Beginning at the junction of the Montana-North Dakota boundary with the boundary of the United States and Canada southerly along the Montana-North Dakota boundary to the Missouri River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Missouri and Yellowstone Rivers; thence southerly and easterly along the middle of the Yellowstone River to the north boundary of T. 150 N., R. 104 W.; thence east to the northwest corner of T. 150 N., R. 102 W.; thence south to the southwest corner of T. 149 N., R. 102 W.; thence east to the northwest corner of T. 148 N., R. 102 W.; thence south to the northwest corner of 147 N., R. 102 W.; thence east to the southwest corner

of T. 148 N., R. 101 W.; thence south to the middle of the Little Missouri; thence easterly and northerly along the middle of that river to the midpoint of its confluence with the Missouri River; thence southerly and easterly along the middle of the Missouri River to the midpoint of its confluence with the western land boundary of Mercer County; thence south along the western county line of Mercer County to the southwest boundary; thence east and south along the southwestern county boundary of Morton County to the intersection with the boundary with Sioux County; thence west and south along the northern boundary of Sioux County to the center of State Highway 31; thence south along the center of State Highway 31 to the State border with South Dakota; thence east along the southern boundary of Sioux County in the middle of the Missouri River.

\* \* \* \* \*

[FR Doc. 2010-24376 Filed 9-28-10; 8:45 am]

BILLING CODE 4910-9X-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XY48

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Closure of the 2010-2011 Commercial 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 commercial sector for black sea bass in the exclusive economic zone (EEZ) of the South Atlantic. NMFS has determined that the quota for the commercial sector for black sea bass will have been reached by October 7, 2010. This closure is necessary to protect the black sea bass resource.

**DATES:** Closure is effective 12:01 a.m., local time, October 7, 2010, through 12:01 a.m., local time, on June 1, 2011.

**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 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, 2010, through May 31, 2011, as specified in 50 CFR 622.42(e)(5)(iii).

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 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 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 October 7, 2010. Accordingly, NMFS is closing the commercial sector for black sea bass in the South Atlantic EEZ from 12:01 a.m., local time, on October 7, 2010, through 12:01 a.m., local time, on June 1, 2011. 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 7, 2010.

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 7, 2010, and were 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 are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

#### Classification

This action responds to the best available information recently obtained from the fishery. 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 rule itself already 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 of the need to immediately implement this action to protect the black sea bass stock because 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 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: September 24, 2010.

**Carrie Selberg,**

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

[FR Doc. 2010-24450 Filed 9-24-10; 4:15 pm]

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