

DATES: This temporary rule is effective from 12:01 a.m., local time, on August 22, 2021, through September 30, 2021.

FOR FURTHER INFORMATION CONTACT:

Sarah Stephenson, NMFS Southeast Regional Office, telephone: 727-824-5305, email: sarah.stephenson@noaa.gov.

SUPPLEMENTARY INFORMATION: The spiny lobster fishery of the U.S. Caribbean is managed under the Fishery Management Plan for Spiny Lobster of Puerto Rico and the U.S. Virgin Islands (USVI) (Spiny Lobster FMP). The Spiny Lobster FMP was prepared by the Caribbean Fishery Management Council (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.

On June 26, 2020, NMFS published in the **Federal Register** a notice of availability for three island-based FMPs and requested public comment (85 FR 38350). On September 21, 2020, the Secretary of Commerce approved the three island-based FMPs under section 304(a)(3) of the Magnuson-Stevens Act. The three island-based FMPs replace the four U.S. Caribbean-wide FMPs, including the Spiny Lobster FMP. However, NMFS is still developing regulations to implement management measures for the three island-based FMPs. Therefore, this temporary rule implements the AM based on the Spiny Lobster FMP under regulations located at 50 CFR 622.12(a)(3).

The final rule implementing the 2011 Caribbean ACL Amendment, which included Amendment 5 to the Spiny Lobster FMP, among others, established an ACL and AM for spiny lobster in each island management area in the U.S. Caribbean (76 FR 82414, December 30, 2011). For Puerto Rico, the ACL for spiny lobster is 327,920 lb (148,742 kg), round weight. In accordance with regulations at 50 CFR 622.12(a)(3), if NMFS estimates landings have exceeded the spiny lobster ACL, based on an evaluation of a moving multi-year average of landings, NMFS will reduce the length of the fishing season for spiny lobster by the amount necessary to ensure landings do not exceed the ACL. If NMFS determines the ACL was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch, NMFS will not reduce the length of the fishing season.

Based on the most recent available landings data from the 2017–2019 fishing years, NMFS has determined that the spiny lobster ACL for Puerto Rico was exceeded. In addition, NMFS

determined that the ACL was exceeded because of increased catch and not as a result of enhanced data collection and monitoring efforts.

This temporary rule implements an AM for spiny lobster to reduce the length of the 2021 fishing season to ensure that landings do not exceed the spiny lobster ACL in the 2021 fishing year. Therefore, the spiny lobster fishery in the EEZ around Puerto Rico is closed from 12:01 a.m., local time, on August 22, 2021, through September 30, 2021. The EEZ around Puerto Rico consists of those waters seaward of the 9-nmi (16.7-km) boundary around the Commonwealth of Puerto Rico.

During the closure period for spiny lobster announced in this temporary rule, both the commercial and recreational sectors are closed. Spiny lobster in or from the EEZ around Puerto Rico may not be harvested, possessed, purchased, or sold, and the bag and possession limits are zero.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.12(a)(3), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the ACL and the associated AM have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Such procedures are also contrary to the public interest because of the need to immediately implement the closure to protect the spiny lobster stock around Puerto Rico. The ACL has been exceeded based on an evaluation of available landings from the 2017–2019 fishing years. Prior notice and opportunity for public comment would require time and could result in additional harvest that could negatively affect NMFS' ability to control harvest this fishing year within the established ACL.

For the aforementioned reasons, there is 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: July 26, 2021.

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 679

[Docket No. 210210-0018]

RTID 0648-XB141

Fisheries of the Exclusive Economic Zone Off Alaska; Reapportionment of the 2021 Gulf of Alaska Pacific Halibut Prohibited Species Catch Limits for the Trawl Deep-Water and Shallow-Water Fishery Categories

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

ACTION: Temporary rule; reapportionment.

SUMMARY: NMFS is reapportioning the seasonal apportionments of the 2021 Pacific halibut prohibited species catch (PSC) limits for the trawl deep-water and shallow-water species fishery categories in the Gulf of Alaska. This action is necessary to account for the actual halibut PSC use by the trawl deep-water and shallow-water species fishery categories from May 15, 2021 through June 30, 2021. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 27, 2021 through 2400 hours, A.l.t., December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Gulf of Alaska (GOA) exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2021 and 2022 harvest specifications for groundfish in the GOA (86 FR 10184, February 19, 2021) apportions the 2021 Pacific halibut PSC

limit for trawl gear in the GOA to two trawl fishery categories: A deep-water species fishery and a shallow-water species fishery. The halibut PSC limit for these two trawl fishery categories is further apportioned by season, including four seasonal apportionments to the shallow-water species fishery and four seasonal apportionments to the deep-water species fishery. The two fishery categories also are apportioned a combined, fifth seasonal halibut PSC limit. Unused seasonal apportionments are added to the next season apportionment during a fishing year.

Regulations at § 679.21(d)(4)(iii)(D) require NMFS to combine management

of the available trawl halibut PSC limits in the second season (April 1 through July 1) deep-water and shallow-water species fishery categories for use in either fishery from May 15 through June 30 of each year. Furthermore, NMFS is required to reapportion the halibut PSC limit between the deep-water and shallow-water species fisheries after June 30 to account for actual halibut PSC use by each fishery category during May 15 through June 30. As of July 23, 2021, NMFS has determined that the trawl deep-water and shallow-water fisheries used 74 metric tons (mt) and 4 mt of halibut PSC, respectively, from

May 15 through June 30. Accordingly, pursuant to § 679.21(d)(4)(iii)(A) and § 679.21(d)(4)(iii)(D), the Regional Administrator is reapportioning the combined first and second seasonal apportionments (860 mt) of halibut PSC limit between the trawl deep-water and shallow-water fishery categories to account for the actual PSC use (149 mt) in each fishery from January 1, 2021 through June 30, 2021. Therefore, Table 15 of the final 2021 and 2022 harvest specifications for groundfish in the GOA (86 FR 10184, February 19, 2021) is revised consistent with this adjustment.

TABLE 15—FINAL 2021 AND 2022 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES FISHERY AND THE SHALLOW-WATER SPECIES FISHERY CATEGORIES

[Values are in metric tons]

Season	Shallow-water	Deep-water ¹	Total
January 20–April 1	71	0	71
April 1–July 1	5	73	78
Subtotal, combined first and second season limit (January 20–July 1)	76	73	149
July 1–August 1	159	1,014	1,173
August 1–October 1	53	75	128
Subtotal January 20–October 1	288	1,162	1,450
October 1–December 31 ²			256
Total			1,706

¹ Vessels participating in cooperatives in the Central GOA Rockfish Program will receive 191 mt of the third season (July 1 through September 1) deep-water species fishery halibut PSC apportionment.

² There is no apportionment between trawl shallow-water and deep-water species fishery categories during the fifth season (October 1 through December 31).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public

interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the originally specified apportionment of the halibut PSC limits to the deep-water and shallow-water fishery categories. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 23, 2021.

The Assistant Administrator for Fisheries, NOAA also finds good cause

to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: July 26, 2021.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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