

as the delayed effectiveness for this action, because prior notice and comment and a delayed effectiveness would be impracticable and contrary to the public interest. The regulations under § 658.85(a)(3)(iv)(D) grant the Regional Administrator the authority to adjust the Eastern GB cod trip limit to prevent over-harvesting or under-harvesting the TAC allocation. This action would reduce the Eastern GB cod limit for all NE multispecies DAS vessels fishing in the U.S./Canada Management Area for the remainder of the 2008 fishing year. This action is intended to prevent the over-harvest of the Eastern GB cod TAC while allowing continued opportunities to achieve optimum yield in the NE multispecies fishery.

It is important to take this action immediately to slow the rate of Eastern GB cod harvest. Any further delay of this action is likely to result in a precipitous harvest of the Eastern GB cod TAC which may require that the Eastern U.S./Canada Area be closed for the remainder of the 2008 fishing year, preventing the harvest of the remaining portion of the Eastern GB haddock TAC, and preventing harvest of GB yellowtail flounder in the Eastern U.S./Canada Management Area, thereby reducing the ability of fishers to maximize their fishing opportunities. Exceeding the 2008 TAC for Eastern GB cod would increase mortality of this overfished stock beyond that evaluated during the development of Amendment 13, resulting in decreased revenue for the NE multispecies fishery, increased negative economic impacts to vessels operating in the Eastern U.S./Canada Management Area, a reduced chance of achieving optimum yield in the groundfish fishery, and unnecessary delays to the rebuilding of this overfished stock. Exceeding the 2008 Eastern GB cod TAC would also necessitate that any overages during the 2008 fishing year be deducted from the Eastern GB cod TAC for the 2009 fishing year. Reducing the 2009 TAC due to any 2008 TAC overage as a result of delaying this action would create an unnecessary burden on the fishing industry and further negative economic and social impacts that were not previously considered.

The Regional Administrator's authority to decrease the trip limit for Eastern GB cod in the U.S./Canada Management Area to ensure the shared U.S./Canada stocks of fish are harvested, but not exceeded, was publicly considered and open to public comment during the development of Amendment 13. Further, the potential of decreasing the Eastern GB cod trip limit was

announced to the public when the current trip limit was implemented on December 23, 2008. The public is able to obtain information on the rate of harvest of the Eastern GB cod TAC via the NMFS Northeast Regional Office website (<http://www.nero.noaa.gov>), which provides at least some advanced notice of a potential action to prevent the TAC for Eastern GB cod from being exceeded during the 2008 fishing year. Therefore, any negative effect the waiving of public comment and delayed effectiveness may have on the public is mitigated by these factors.

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

Dated: March 4, 2009

Emily H. Menashes,

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 648

[Docket No. 0809251266-81485-02]

RIN 0648-XN33

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2009 commercial summer flounder quota to the Commonwealth of Virginia. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective March 4, 2009 through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Management Specialist, (978) 281-9244, FAX (978) 281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial

quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 23,130 lb (10,492 kg) of its 2009 commercial quota to Virginia to cover the summer flounder landings of three North Carolina vessels granted safe harbor in Virginia due to mechanical issues between January 16 and January 28, 2009. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised quotas for calendar year 2009 are: North Carolina, 2,893,992 lb (1,312,693 kg) and Virginia, 2,341,054 lb (1,061,884 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: March 4, 2009.

Emily H. Menashes,

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. 09100091344-0956-02]

RIN 0648-XN71

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 3, 2009, through 1200 hrs, A.l.t., April 1, 2009.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the 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 first seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 100 metric tons as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009), for the period 1200 hrs, A.l.t., January 20, 2009, through 1200 hrs, A.l.t., April 1, 2009.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the first seasonal apportionment of the Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

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 requirement is 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 delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 2, 2009.

The AA 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.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: March 4, 2009.

Emily H. Menashes,

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. 0810141351-9087-02]

RIN 0648-XN69

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (< 18.3 meters (m)) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the A season apportionment of the 2009 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective March 4, 2009, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2009.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 A season apportionment of the 2009 Pacific cod TAC specified for vessels using jig gear in the BSAI is 1,324 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009), for the period 1200 hrs, A.l.t., January 1, 2009, through 1200 hrs, A.l.t., April 30, 2009.

The Administrator, Alaska Region, NMFS, has determined that jig vessels will not be able to harvest 1,200 mt of the A season apportionment of the 2009 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(1). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 1,200 mt of Pacific cod from the A season jig gear apportionment to catcher vessels < 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009) are revised as follows: 124 mt to the A season apportionment for vessels using jig gear and 4,337 mt to catcher vessels < 60 feet (18.3 m) LOA using hook-and-line or pot gear.

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 requirement is 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 delay the reallocation of Pacific cod specified from jig vessels to catcher vessels < 60 feet (18.3 m) LOA using hook-and-line or pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate