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Dated: March 18, 2014.

**Michael K. Yudin,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2014-06232 Filed 3-21-14; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 120710231-2473-01]

RIN 0648-BC33

#### Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Atlantic Sea Scallop Fishery

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

**ACTION:** Proposed rule, withdrawal.

**SUMMARY:** NMFS withdraws a proposed rule considering an emergency action that would have partially exempted the scallop fishery from fishing year 2012-related Georges Bank yellowtail flounder accountability measures. Because annual catch limit thresholds were not exceeded, there are no accountability measures from which to exempt the scallop fishery. As a result, the proposed rule is no longer necessary.

**DATES:** The proposed rule published on October 1, 2012 (77 FR 59883) is withdrawn as of March 24, 2014.

**FOR FURTHER INFORMATION CONTACT:**

William Whitmore, Fishery Policy Analyst, phone (978) 281-9182, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** On

October 1, 2012, NMFS published a proposed rule considering emergency action to partially exempt the scallop fishery from fishing year 2012 Georges Bank (GB) yellowtail flounder accountability measures (77 FR 59883). Under the proposed rule, an accountability measure would have been triggered if either: (1) The scallop fishery exceeded its GB yellowtail flounder sub-annual catch limit (ACL) by more than 50 percent; or (2) the initial scallop GB yellowtail flounder sub-ACL was exceeded and the total GB yellowtail flounder fishery ACL was exceeded.

NMFS previously revised both the groundfish and scallop GB yellowtail flounder sub-ACLs for the 2012 fishing year (77 FR 41704; July 16, 2012). The revisions were based on updated projections of GB yellowtail flounder catch by the scallop fleet. As a result, the scallop fishery GB yellowtail flounder sub-ACL was substantially reduced from 307.5 mt to 156.9 mt, while the groundfish fishery's sub-ACL was increased from 217.7 mt to 368.3 mt.

As a result of this mid-year change, accountability measures for the scallop fleet could have been triggered at a much lower level of catch than originally anticipated at the start of the 2012 scallop fishing year. Recognizing this, the New England Fishery

Management Council requested that NMFS utilize emergency rulemaking authority to exempt the scallop fishery from any accountability measure for catch below the initial scallop sub-ACL of 307.5 mt. The rationale for the proposed rule was that uncertainties remained about the projected yellowtail flounder catch, there was concern that the scallop fishery should not be subjected to accountability measures based on a significant decrease of the sub-ACL midway through the fishing year, and a backstop accountability measure would still take effect, should the entire ACL be exceeded.

Neither of the thresholds that would have resulted in the need to exempt the scallop fishery from accountability measures were met. In fishing year 2012, the scallop fishery harvested 164 mt of its 156.9 mt GB yellowtail flounder sub-ACL (or 104 percent of its allocation), but it did not exceed its initial GB yellowtail flounder sub-ACL of 307.5 mt by more than 50 percent as was the trigger. Further, only 70.3 percent of the entire GB yellowtail flounder ACL was harvested. Because neither of the accountability measure triggers were met, there is no need to partially exempt the scallop fishery from fishing year 2012 accountability measures, and we are withdrawing the proposed rule.

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

Dated: March 18, 2014.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2014-06421 Filed 3-21-14; 8:45 am]

**BILLING CODE 3510-22-P**