

be addressed by the Council and Commission in an amendment to the FMP. NMFS has no authority to alter the allocation as part of the annual specifications process.

Comment 3: The Rhode Island Division of Fish and Wildlife (RI DFW) provided extensive comment on the challenges state agencies face in administering permits for and tracking landings associated with the research set-aside (RSA) program. The RI DFW recommends that RSA landings be included as a landing disposition code in the Northeast Standard Atlantic Fisheries Information System (SAFIS) dealer landing reporting system for improved landing tracking. Several additional suggestions for improving the permit issuance, monitoring, and compliance monitoring of the RSA program were also provided.

Response: NMFS recognizes that improvements can always be made in the administration of the RSA program, and NMFS also recognizes that the states may face unique challenges with this program; however, the Council and Commission continue to value the RSA program as an important mechanism to facilitate research on Council trust resources. NMFS will explore changes to the SAFIS system as RI DFW suggest, but acknowledge at the outset that such a change is unlikely to completely capture the information as RI DFW expects due to the fact that seafood dealers (who use SAFIS to report purchases) often do not know whether landings by a fishing vessel were RSA landings or not and so could not be expected to accurately code such landings as RSA. Because none of these comments are specifically germane to the annual specifications, no changes to the 2012 measures will be made.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date as such a delay is unnecessary. This final rule makes no changes to the interim specifications implemented on January 1, 2012, so any delay in effectiveness of this final rule has no effect on the management measures to which the participants in the summer flounder, scup, and/or black sea bass commercial and/or recreational fisheries are currently subject.

These final specifications are exempt from review under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

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

Dated: April 17, 2012.

Alan D. Risenhoover,
Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737-2141-02]

RIN 0648-XC001

Fisheries of the Economic Exclusive 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 second 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.), April 19, 2012, through 1200 hrs, A.l.t., July 1, 2012.

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 second seasonal apportionment of the Pacific halibut bycatch allowance

specified for the deep-water species fishery in the GOA is 300 metric tons as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012), for the period 1200 hrs, A.l.t., April 1, 2012, through 1200 hrs, A.l.t., July 1, 2012.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second 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. This closure does not apply to fishing by vessels participating in the cooperative fishery in the Rockfish Program for the Central GOA.

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 Acting 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 April 17, 2012.

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: April 18, 2012.

Emily H. Menashes,

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

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