

seasons. The February 17, 2005, report on commercial shark landings was the first report received from dealers since the end of the 2004 second semi-annual season, as well as the first report received for the 2005 first trimester season. If the 30-day delay in effective date is not waived, then commercial fishermen in the SCS, pelagic, blue, and porbeagle shark fisheries will not be able to fish on May 1, 2005. Not allowing them to fish for these species, which are not overfished and are not at risk of an overharvest, would have negative economic impacts. Negative economic impacts would include elimination of all shark landings during a time in which fishermen have historically been allowed to fish, loss of anticipated revenues, marketing opportunities, predictability in the supply and availability of shark products, and general disruption to the Atlantic commercial shark fishery. Since the LCS commercial fishing season has been shortened in recent years to adjust for lower LCS landings quotas, fishermen have come to rely on landings of SCS, pelagic, blue, and porbeagle sharks during times when the LCS fishery is closed. Not allowing the fishery to remain open during this period would likely result in fishermen having to target other species, switch to new gears, or leave the fishery entirely. Other provisions of this final rule, including the opening dates for LCS, would have a 30-day delay in effectiveness from the date of publication of this rule. Accordingly, pursuant to 5 U.S.C. 553(d)(1), a delay in effective date is waived for the above-referenced May 1, 2005, start date.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the enforceable policies of the approved coastal zone management (CZM) programs of coastal states in the Atlantic, Gulf of Mexico, and Caribbean. NMFS asked for states concurrence with this determination during the proposed rule stage. Three states replied affirmatively regarding the consistency determination, and one state (Texas) indicated that its CZM program no longer issues consistency determinations for federally managed fishing activities. NMFS presumes that the remaining states that have not yet responded concur with the determination.

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: April 22, 2005.

Rebecca Lent,

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. 041126333-5040-02; I.D. 042105C]

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: Modification of a closure.

SUMMARY: NMFS is opening 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 to allow the deep-water species fisheries by vessels using trawl gear in the GOA to resume.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 24, 2005, through 1200 hrs, A.l.t., July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 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.

NMFS closed directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the GOA under § 679.21(d)(7)(i) on April 8, 2005 (70 FR 19338, April 13, 2005).

NMFS has determined that approximately 60 metric tons of halibut

remain in the second seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA. Therefore, in accordance with §§ 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to allow the deep-water species fisheries by vessels using trawl gear in the GOA to resume, NMFS is terminating the previous closure and is reopening directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the GOA. The reopening is effective 1200 hrs, Alaska local time (A.l.t.), April 24, 2005, through 1200 hrs, A.l.t., July 5, 2005. The species and species groups that comprise the deep-water species fishery are all rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

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 opening of the fishery, not allow the full utilization of the species and species groups that comprise the deep-water species fisheries, and therefore reduce the public's ability to use and enjoy the fishery resource.

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 22, 2005.

Galen R. Tromble

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

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