

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.
[FR Doc. E9-4893 Filed 3-4-09; 4:15 pm]

BILLING CODE 3510-22-S

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.
[FR Doc. E9-4896 Filed 3-4-09; 4:15 pm]

BILLING CODE 3510-22-S

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.