

to reduce the harvest and discard of red snapper in the Gulf commercial and recreational directed snapper fishery and shrimp fishery. Regulatory changes for the recreational fishery included reducing the recreational quota to 2.45 million lb (1.11 million kg), reducing the recreational bag limit from 4 to 2 fish per person, prohibiting for-hire captain and crew from retaining bag limits of red snapper while under charter, and reducing the recreational season length from 194 days (April 21–October 31) to 122 days (June 1–September 30).

On March 25, 2008, NMFS announced the Gulf red snapper recreational fishery was being closed effective August 5, 2008, for the remainder of the 2008 fishing year (73 FR 15674). Projections at that time indicated the quota would be met or exceeded by that date due to incompatible regulations with some Gulf states. Despite the early closure and new regulatory measures, 2008 recreational red snapper landings were 3.65 million lb (1.66 million kg)—exceeding the quota by 1.2 million lb (0.5 million kg). This overage was in part due to incompatible regulations with some Gulf states, as well as larger, heavier red snapper being landed in 2008.

In 2009, red snapper state fishing season changes are proposed for the states of Alabama and Florida to further reduce recreational red snapper harvest. Both Florida and Alabama are proposing fishing seasons in state waters consistent with the Federal fishing season. No changes to fishing seasons are proposed for the remaining Gulf states. The fishing season in state waters off Mississippi will be the same as the Federal red snapper season, Louisiana's season currently extends from June 1 through September 30 but compatibility with the Federal fishing season is anticipated, and Texas will maintain a year-round fishing season in state waters.

Using reported landings for 2008, and taking into account state regulatory changes in 2009, NMFS projects the 2009 recreational red snapper quota will be met on August 14, 2009. Therefore, in accordance with 50 CFR 622.43(a), NMFS is closing the recreational red snapper fishery in the Gulf EEZ effective 12:01 a.m. local time on August 15, 2009; the recreational fishery will reopen on June 1, 2010, the beginning of the 2010 recreational fishing season. This quota closure also complies with section 407(d) of the Magnuson-Stevens Act, which requires that the retention of red snapper be prohibited for the remainder of the fishing year once the quota is met.

In addition to the Gulf EEZ closure, as specified in 50 CFR 622.4(a)(1)(iv), a person aboard a vessel for which a Federal charter vessel/headboat permit for Gulf reef fish has been issued must also abide by these closure provisions in state waters if Federal regulations regarding this closure are more restrictive than applicable state law. The closure is intended to prevent overfishing and increase the likelihood that the 2009 quota will not be exceeded. A detailed summary of the quota closure analysis can be found at <http://sero.nmfs.noaa.gov/>.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(3)(B). Such procedures would be unnecessary because the rule implementing the quota and the associated requirement for closure of the fishery when the quota is reached or projected to be reached already has been subject to notice and comment, and all that remains is to notify the public of the closure. NMFS is mandated by section 407(d) of the Magnuson-Stevens Act, to establish this quota; keep harvest within the quota; and close the fishery when the quota is reached. NMFS also has a legal obligation to keep harvest within the quota limits established by the stock rebuilding plan in the FMP.

Providing prior notice and opportunity for public comment on this action would be contrary to the public interest. Many of those affected by this closure, particularly charter vessel and headboat operations, book trips for clients months in advance and, therefore, need as much time as possible to adjust business plans to account for the closure. Delaying announcement of the closure rule to accommodate prior public notice and comment would result in significantly less advance notice of the definitive closure date; decrease the time available for affected participants to adjust business plans; and be very disruptive. Given the legal obligation to implement this closure in a timely manner, NMFS believes it is important to establish the closure date as soon as possible to allow affected participants the maximum amount of time to adjust their fishing activities consistent with the closure.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: May 5, 2009.

Kristen C. Koch,

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.070817467–8554–02]

RIN 0648–XP03

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Limited Access General Category Scallop Fishery to Individual Fishing Quota Scallop Vessels

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the Limited Access General Category (LAGC) Scallop Fishery will close to individual fishing quota (IFQ) scallop vessels until it re-opens on June 1, 2009, under current regulations. This action is based on the determination that the first quarter scallop total allowable catch (TAC) for LAGC IFQ scallop vessels (including vessels issued an IFQ letter of authorization (LOA) to fish under appeal), is projected to be landed. This action is being taken to prevent IFQ scallop vessels from exceeding the 2009 first quarter TAC, in accordance with the regulations implementing Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP), enacted by Framework 19 to the FMP, and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: The closure of the LAGC fishery to all IFQ scallop vessels is effective 0001 hr local time, May 6, 2009, through May 31, 2009.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fishery Management Specialist, (978) 281–9221, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Regulations governing fishing activity in the LAGC fishery are found at §§ 648.59 and 648.60. Regulations specifically governing IFQ scallop vessel operations

in the LAGC fishery are specified at § 648.53(a)(8)(iii). These regulations authorize vessels issued a valid IFQ scallop permit to fish in the LAGC fishery under specific conditions, including a TAC. The TACs were established by the final rule that implemented Framework 19 to the FMP (73 FR 30790 May 29, 2008) and included a TAC of 1,606,508 lb (728,699.8 kg) that may be landed by IFQ vessels during the first quarter of the 2009 fishing year. The regulations at § 648.53(a)(8)(iii) require the LAGC fishery to be closed to IFQ vessels once the NMFS Northeast Regional Administrator has determined that the TAC is projected to be landed.

Based on dealer reporting and vessel pre-landing reports through Vessel Monitoring Systems (VMS), a projection concluded that, given current activity levels by IFQ scallop vessels in the area, 1,606,508 lb (728,699 kg) will have been landed on May 4, 2009. Therefore, in accordance with the regulations at § 648.53(a)(8)(iii), the LAGC scallop fishery is closed to all IFQ vessels as of

0001 hr local time, May 4, 2009. IFQ scallop vessels are not allowed to fish for, possess, or retain scallops; or declare, or initiate, a scallop trip following this closure for the remainder of the 2009 first quarter, through May 31, 2009. The LAGC scallop fishery will re-open to IFQ scallop vessels on June 1, 2009.

Classification

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

This action closes the LAGC scallop fishery to all IFQ scallop vessels until June 1, 2009. The regulations at § 648.53(a)(8)(iii) require such action to ensure that IFQ scallop vessels do not exceed the 2009 first quarter TAC. The LAGC scallop fishery opened for the first quarter of the 2009 fishing year at 0001 hours on March 1, 2009. Data indicating the IFQ scallop fleet has landed all of the 2009 first quarter TAC have only recently become available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause

pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest to allow a period public comment. If implementation of this closure is delayed to solicit prior public comment, the quota for this quarter will be exceeded, thereby undermining the conservation objectives of the FMP. Also, if the magnitude of any overage is significant, it would warrant a decrease in the third quarter quota. This would have a negative economic impact on vessels that fish seasonally in that period. The AA further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30 day delay in effectiveness for the reasons stated above.

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

Dated: May 4, 2009.

Kristen C. Koch,

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

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