

to correct or mitigate the ACL if an overage occurs.

On December 30, 2010, NMFS issued a final rule (75 FR 82280) to implement Amendment 17B to the FMP (Amendment 17B). The final rule for Amendment 17B established ACLs for eight snapper-grouper species in the FMP that are undergoing overfishing, including black sea bass, and AMs if these ACLs are reached or exceeded. The recreational ACL for black sea bass is 409,000 lb (185,519 kg), gutted weight.

On June 1, 2012, NMFS issued a final rule (77 FR 32408) to implement Amendment 18A to the FMP (Amendment 18A). In part, the final rule for Amendment 18A modified the recreational sector AMs for black sea bass. The AMs described at 50 CFR 622.49(b)(5)(ii) require NMFS to close the recreational sector for black sea bass when the recreational ACL is reached, or is projected to be reached by filing a notification to that effect with the Office of the Federal Register. Based on the best scientific information available, NMFS has determined that the black sea bass recreational ACL of 409,000 lb (185,519 kg), gutted weight; 482,620 lb (218,913 kg), round weight, has been reached. Accordingly, NMFS is implementing the necessary AM to close the black sea bass recreational sector in the South Atlantic EEZ at 12:01 a.m., local time, on September 4, 2012, for the remainder of the 2012–2013 fishing year, from 35°15.19' N. lat., the latitude of Cape Hatteras Light, North Carolina, south to the boundary between the South Atlantic and Gulf Councils, as previously described in this temporary rule.

On, and after, the effective date of the closure, the recreational bag and possession limit of black sea bass in or from the South Atlantic EEZ is zero. This zero bag and possession limit also applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters. The black sea bass recreational sector will reopen on June 1, 2013, the start of the 2013–2014 recreational fishing season.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the South Atlantic black sea bass component of the South Atlantic snapper-grouper fishery and is

consistent with the Magnuson-Stevens Act and other applicable laws.

The temporary rule has been determined to be not significant for purposes of Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because this temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the AMs established by Amendment 18A and located at 50 CFR 622.49(b)(5)(ii) have already been subject to notice and comment and authorize the Assistant Administrator for Fisheries, NOAA, (AA) to file a notification with the Office of the Federal Register to close the recreational sector for black sea bass for the remainder of the fishing year, if recreational landings for black sea bass, reach or are projected to reach the recreational sector ACL. All that remains is to notify the public of the closure of the recreational sector for black sea bass for the remainder of the 2012–2013 fishing year.

Additionally, there is a need to immediately notify the public of the closure of the black sea bass recreational sector because South Atlantic black sea bass are undergoing overfishing and there is a 10-year rebuilding plan in place. Failure to close the recreational harvest of black sea bass in a timely fashion could result in negative biological effects and affect the rebuilding plan for black sea bass within the timeline specified by the Magnuson-Stevens Act. The current ACL is projected to have been met at this time and the delay in effectiveness of the actual closure date is solely to allow for sufficient notice to the recreational sector, including private and for-hire fishers.

To allow for adequate notice to the fishers while simultaneously protecting the black sea bass resource, this temporary rule provides notice to the public prior to the closure of recreational black sea bass to minimize disruption to the activities of the recreational sector. This notice will provide time to schedule and prepare for trips and to purchase the appropriate amount of supplies.

Therefore, the timing for this temporary rule is intended to maximize the biological benefits to the resource while attempting to minimize the negative economic harm to fishermen.

For the aforementioned reasons, the AA also finds good cause to waive the

30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: August 24, 2012.

**Lindsay Fullenkamp,**

*Acting Deputy 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. 111220786–1781–01]

RIN 0648–XC176

#### Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the Commonwealth of Massachusetts

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the 2012 summer flounder commercial quota allocated to the Commonwealth of Massachusetts has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Massachusetts for the remainder of calendar year 2012, unless additional quota becomes available through a transfer from another state. Regulations governing the summer flounder fishery require publication of this notification to advise Massachusetts that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing summer flounder in Massachusetts.

**DATES:** Effective at 0001 hr local time, August 28, 2012, through 2400 hr local time December 31, 2012.

**FOR FURTHER INFORMATION CONTACT:** Carly Bari, (978) 281–9224, or [Carly.Bari@noaa.gov](mailto:Carly.Bari@noaa.gov).

#### 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 on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the

percent allocated to each state is described in § 648.102.

The initial total commercial quota for summer flounder for the 2012 fishing year is 13,136,001 lb (5,958,490 kg) (76 FR 82189, December 30, 2011). The percent allocated to vessels landing summer flounder in Massachusetts is 6.82046 percent, resulting in a commercial quota of 895,936 lb (406,396 kg). The 2012 allocation was reduced to 868,226 lb (393,827 kg) after deduction of research set-aside and adjustment for 2011 quota overages.

The Administrator, Northeast Region, NMFS (Regional Administrator), monitors the state commercial quotas and determines when a state's commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that,

effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined based upon dealer reports and other available information that Massachusetts has harvested its quota for 2012.

Section 648.4(b) provides that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available.

Therefore, effective 0001 hours, August 28, 2012, landings of summer flounder in Massachusetts by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2012 calendar year, unless additional quota becomes available through a transfer and is

announced in the **Federal Register**. Effective 0001 hours, August 28, 2012, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in Massachusetts for the remainder of the calendar year, or until additional quota becomes available through a transfer from another state.

#### **Classification**

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

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

Dated: August 23, 2012.

**Emily H. Menashes,**

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

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