

Section 305(c)(2) of the Magnuson-Stevens Act provides the Council the authority to request interim measures, if necessary, to reduce overfishing. The Council sent a letter to NMFS, dated June 27, 2017, to request that NMFS implement interim measures to immediately reduce overfishing of golden tilefish while long-term management measures are developed to end overfishing of golden tilefish. Section 305(c)(3)(B) of the Magnuson-Stevens Act allows for interim measures to be extended for one additional period of 186 days provided that the public has had an opportunity to comment on the interim measures and that the Council is actively preparing an FMP amendment to address the overfishing on a permanent basis. NMFS published a proposed temporary rule on October 30, 2017, and requested public comments on these interim measures (82 FR 50101). NMFS responded to public comments in the final temporary rule published on January 2, 2018 (83 FR 65).

Classification

The Regional Administrator for the NMFS Southeast Region has determined that the interim measures extended through this temporary rule are necessary for the conservation and management of the South Atlantic golden tilefish stock, until long-term measures are implemented, and are consistent with the FMP, the Magnuson-Stevens Act and other applicable laws.

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

This temporary rule extension is exempt from the procedures of the RFA, because the rule is issued without the opportunity for prior notice and public comment.

NMFS prepared an EA for the interim measures contained in the January 2, 2018, final temporary rule (83 FR 65). The EA analyzed the impacts of reduced harvest through the 2018 fishing year, which includes the impacts related to extending the interim measures. Therefore, the impacts of extending the interim measures through this temporary rule have already been considered. Electronic copies of the EA are available from NMFS (see ADDRESSES).

This temporary rule extension responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action constitutes 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)(B), as such procedures for this temporary rule extension are unnecessary and contrary to the public interest. Such procedures are unnecessary because NMFS already published a proposed temporary rule on October 30, 2017, and requested public comments on these interim measures, including their potential extension (82 FR 50101). NMFS responded to public comments in the final temporary rule published on January 2, 2018 (83 FR 65). This temporary rule extension continues the interim measures unchanged for an additional 186 days.

Prior notice and opportunity for public comment are contrary to the public interest because of the need to continue these interim measures without interruption to protect the golden tilefish stock until the Council and NMFS can prepare and possibly implement management measures under Regulatory Amendment 28 to end overfishing of golden tilefish on a permanent basis. Prior notice and opportunity for public comment would require time and could result in an interruption of the interim measures and, therefore, allow harvest in excess of ACLs and quotas implemented by this temporary rule extension, which would contribute to overfishing of golden tilefish. Allowing overfishing of golden tilefish to continue would be contrary to National Standard 1 of the Magnuson-Stevens Act. National Standard 1 requires NMFS to conserve and manage ocean resources to prevent overfishing, while achieving the optimum yield from each fishery.

The AA also finds good cause to waive the 30-day delay in this temporary rule extension's effectiveness, pursuant to the authority set forth in 5 U.S.C. 553(d)(3) as such procedure for this temporary rule extension is impracticable and contrary to the public interest. A delay in effectiveness is impracticable, because it would contribute to overfishing of golden tilefish, which is contrary to National Standard 1 of the Magnuson-Stevens Act as stated previously. Without this temporary rule extension becoming effective immediately after the duration of and without interruption from the final temporary rule, which would end after July 1, 2018, the commercial and recreational sectors would be able to harvest golden tilefish under higher ACLs and quotas than those implemented by the final temporary rule and continued through this temporary rule extension. These harvests could result in further overfishing of golden tilefish, contrary to NMFS' statutory obligations. By

implementing this temporary rule extension immediately, the total harvest of golden tilefish would be reduced until the Council and NMFS can prepare and possibly implement management measures under Regulatory Amendment 28 to end overfishing of golden tilefish on a permanent basis.

In addition, delaying the effectiveness of this final temporary rule for 30 days is contrary to the public interest because of the need to immediately implement this action to protect golden tilefish. The capacity of the fishing fleet allows for rapid harvest of the ACL. Delaying the effectiveness of this temporary rule extension would require time and could potentially result in a harvest in excess of the reduced ACLs implemented by this temporary rule extension, increasing the likelihood of future overfishing and more restrictive measures to address it.

Accordingly, the 30-day delay in effectiveness of the measures contained in this temporary rule extension is waived.

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

Dated: June 14, 2018.

Samuel D. Rauch, III,

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 648

[Docket No. 180202111-8353-02]

RIN 0648-XG267

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Closed Area I Scallop Access Area to General Category 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 Closed Area I Scallop Access Area is closed to Limited Access General Category Individual Fishing Quota scallop vessels for the remainder of the 2018 fishing year. No vessel issued a Limited Access General Category Individual Fishing Quota permit may fish for, possess, or land scallops from

the Closed Area I Scallop Access Area. Regulations require this action once it is projected that 100 percent of trips allocated to the Limited Access General Category Individual Fishing Quota scallop vessels for the Closed Area I Scallop Access Area will be taken.

DATES: Effective 0001 hr local time, June 18, 2018, through March 31, 2019.

FOR FURTHER INFORMATION CONTACT:

Shannah Jaburek, Fishery Management Specialist, (978) 282-8456.

SUPPLEMENTARY INFORMATION:

Regulations governing fishing activity in the Sea Scallop Access Areas can be found in 50 CFR 648.59 and 648.60. These regulations authorize vessels issued a valid Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) scallop permit to fish in the Closed Area I Scallop Access Area under specific conditions, including a total of 571 trips that may be taken during the 2018 fishing year. Section 648.59(g)(3)(iii) requires the Closed Area I Scallop Access Area to be closed to LAGC IFQ permitted vessels for the remainder of the fishing year once the NMFS Greater Atlantic Regional Administrator determines that the allowed number of trips for fishing year 2018 are projected to be taken.

Based on trip declarations by LAGC IFQ scallop vessels fishing in the Closed Area I Scallop Access Area, analysis of fishing effort, and other information, NMFS projects that 571 trips will be taken as of June 18, 2018. Therefore, in accordance with § 648.59(g)(3)(iii), NMFS is closing the Closed Area I

Scallop Access Area to all LAGC IFQ scallop vessels as of June 18, 2018. No vessel issued an LAGC IFQ permit may fish for, possess, or land scallops in or from the Closed Area I Scallop Access Area after 0001 local time, June 18, 2018. Any LAGC IFQ vessel that has declared into the Closed Area I Access Area scallop fishery, complied with all trip notification and observer requirements, and crossed the vessel monitor system (VMS) demarcation line on the way to the area before 0001, June 18, 2018, may complete its trip without being subject to this closure. This closure is in effect for the remainder of the 2018 scallop fishing year, through March 31, 2019.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. NMFS 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 and impracticable. The Closed Area I Scallop Access Area opened for the 2018 fishing year on April 19, 2018. The regulations at § 648.59(g)(3)(iii) require this closure to ensure that LAGC IFQ scallop vessels do not take more than their allocated number of trips in the Closed Area I Scallop Access Area. The projected date on which the LAGC IFQ fleet will have taken all of its allocated trips in an Access Area becomes apparent only as trips into the area occur on a real-time basis and as activity trends begin to

appear. As a result, NMFS can only make an accurate projection very close in time to when the fleet has taken all of its trips. In order to propose a closure for purposes of receiving prior public comment, NMFS would need to make a projection based on very little information, which would result in a closure too early or too late. To allow LAGC IFQ scallop vessels to continue to take trips in the Closed Area I Scallop Access Area during the period necessary to publish and receive comments on a proposed rule would likely result in the vessels taking much more than the allowed number of trips in the Closed Area I Scallop Access Area. Excessive trips and harvest from the Closed Area I Scallop Access Area would result in excessive fishing effort in the area, where effort controls are critical, thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures. Also, the public had prior notice and full opportunity to comment on this closure process when it was enacted. For these same reasons, NMFS further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period.

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

Dated: June 14, 2018.

Jennifer M. Wallace,

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

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