

size of 16.6 inches (42.2 cm) for fish in the 2003 year class. The average size of the fish in the 2003 year class is anticipated to be 19 inches (48.3 cm) by the summer of 2008, which would make them legal to retain under the existing regulations, so the current discard situation will resolve itself over the long term. However, in the short term, in order to reduce the large amount of discards and associated discard mortality that has been occurring in the haddock fishery, and enable such fish to be landed, a reduction in the haddock minimum size to 18 inches (45.7 cm) was warranted. NMFS's initial emergency action to make this change was implemented on August 10, 2007, and differed from the Council request in two aspects. Additional background for that action, including why the action differed from the Council request, an explanation of the scope of the measure (only commercial vessels, and covering the GOM and GB), and the evaluation of the emergency action with respect to NMFS policy guidelines for the use of emergency rules are contained in the preamble of the August 10, 2007, rule and are not repeated here.

As stated above, the emergency rule is scheduled to expire February 10, 2008. Because the majority of the very large 2003 year class will not reach 19 inches (48.3 cm) until the summer of 2008, NMFS extends the emergency rule through this action in order to continue to reduce the likelihood of excessive discarding.

During the initial emergency action, NMFS has monitored the haddock fishery closely in order to determine whether the reduction in haddock size has resulted in changes in fishing behavior or substantive increases in fishing effort. Monitoring results showed evidence of a decline in the discard rate and no increase in fishing effort. Pursuant to section 305(c)(3)(B) of the Magnuson-Stevens Act, management measures implemented by the August 10, 2007, emergency final rule may be extended for an additional period of 186 days, provided the public has had the opportunity to comment on the emergency regulations. NMFS will accept public comment after publication of this rule, on the effectiveness of the emergency action to date, and the extension of the emergency action implemented by this action.

Extension of the emergency rule and continuation of the lower haddock minimum size for a second 186-day period will reduce waste (discard mortality) in the fishery and may increase opportunities for the fishery to achieve optimum yield (OY). A collateral benefit of this action will be

prevention of a significant direct economic loss by allowing the landing and sale of fish that would be discarded at sea if the minimum size limit were kept at 19-inches (48.3-cm). To revert to a 19-inch (48.3-cm) minimum size at the expiration of the August 10, 2007, emergency action would likely result in an increased discard rate, the associated mortality of such discarding, the irretrievable loss of significant economic revenues from the discarded fish, and the further diminishing of the industry's ability to achieve OY. These consequences are inconsistent with National Standards 1, 7, and 9.

The benefits to be gained through the continuation of the reduction of the haddock minimum size limit (e.g., reduced discarding and enhanced opportunities to achieve OY) justify the extension of this emergency action.

This action is not expected to interfere with any conservation objective of the FMP. Although GB and GOM haddock are still considered overfished, overfishing is not occurring. In recent years, less than 50 percent of the annual target TAC for GB haddock has been harvested. Allowing fish to be landed that would otherwise be discarded dead is not expected to increase fishing mortality or delay the rebuilding of the GB haddock stock. An increase in fishing effort is not expected due to the fact that, at current levels of fishing effort, trips under an 18-inch (45-cm) minimum haddock size may be more profitable because the same amount of fishing effort will yield more legal catch that can be landed and sold. A shift to target smaller fish is not likely because haddock in the 18 to 19-inch (45 to 48.3-cm) range are caught together, and there is limited selectivity of the fishing gear. Therefore, there appears to be, in the short term, no incentive or effective way to target 18-inch (45.7-cm) haddock. NMFS will continue to monitor this fishery closely in order to determine whether this action results in significant changes in fishing behavior or substantive increases in fishing effort. If necessary, inseason implementation of management measures through existing Regional Administrator authority could be taken to control catch. The Northeast Fisheries Science Center estimates that the average total length of GB haddock will not be 19 inches (48.3 cm) or above until the summer of 2008.

Classification

NMFS has determined that the emergency management measure extended by this temporary rule is necessary to respond to an emergency situation in the NE multispecies fishery

and is consistent with the Magnuson-Stevens Act and other applicable law.

This emergency rule has been determined to be not significant for purposes of E.O. 12866.

This rule is exempt from the procedures of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment.

This emergency action meets the Categorical Exclusion requirements of NOAA Administrative Order 216-6, and therefore no analysis was prepared pursuant to the National Environmental Policy Act.

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

Dated: November 7, 2007.

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 679

[Docket No. 070213032-7032-01]

RIN 0648-XD83

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish for Vessels Participating in the Rockfish Entry Level Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of northern rockfish allocated to vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), November 8, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 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.

The 2007 northern rockfish TAC allocated to vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA is 169 metric tons as established by the 2007 and 2008 final harvest specifications (72 FR 9676, March 5, 2007) for groundfish in the GOA and as listed on the website at <http://www.fakr.noaa.gov/sustainablefisheries/goarat/07rppallocations.xls>. Section 679.83(a)(2) allows trawl or longline gear vessels participating in the entry level rockfish fishery to harvest any unused northern rockfish after 1200 hrs, A.l.t., September 1, 2007.

As of September 1, 2007, 169 mt remained in the entry level allocation of northern rockfish. In accordance with § 679.20(d)(1)(iii), the Administrator,

Alaska Region, NMFS (Regional Administrator), has determined that the 2007 TAC of northern rockfish allocated to vessels participating in the entry level rockfish fishery in the Central Regulatory Area has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e)(1)(i) and (f) and § 679.81(h)(5) apply at any time during a trip.

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 closure of northern rockfish for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 7, 2007.

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 § 679.20 and § 679.83 and is exempt from review under Executive Order 12866.

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

Dated: November 8, 2007.

Emily H. Menashes

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