

Carolina and Virginia to account for an increase in landings in New Jersey. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

**DATES:** Effective May 18, 2011, through December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Carly Knoell, Fishery Management Specialist, 978–281–9224.

**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 306,967 lb (139,237 kg) of its 2011 commercial quota to Virginia. This transfer was prompted by 43 summer flounder landings of North Carolina vessels that were granted safe harbor in Virginia due to hazardous shoaling in Oregon Inlet, North Carolina, severe winter storm conditions, and/or mechanical problems between April 4, 2011, and April 15, 2011, totaling 307,557 lb (139,505 kg). The transfer amount also includes a correction to a landing on March 24, 2011, that was included in the quota transfer effective April 21, 2011 (76 FR 23206). The difference is 590 lb (268 kg) less of summer flounder to be transferred; therefore, the total transfer amount is 306,967 lb (139,237 kg).

Additionally, on April 13, 2011, a vessel experienced mechanical problems and was granted safe harbor in New Jersey. This vessel landed 15,490 lb (7,026 kg) of summer flounder; North Carolina has agreed to transfer 5,490 lb (2,490 kg) of summer flounder to New Jersey and Virginia has agreed to transfer 10,000 lb (4,536 kg) of summer flounder to New Jersey. The Regional

Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised summer flounder quotas for calendar year 2011 are: North Carolina, 3,379,144 lb (1,532,754 kg); Virginia, 5,077,934 lb (2,303,312 kg); and New Jersey 2,921,480 lb (1,325,161 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: May 18, 2011.

**Margo Schulze-Haugen,**

*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 679**

[Docket No. 101126521–0640–02]

**RIN 0648–XA442**

**Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amount of Pacific cod from vessels using trawl gear to catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2011 total allowable catch of Pacific cod to be harvested.

**DATES:** Effective May 18, 2011, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 B season apportionment of the 2011 Pacific cod total allowable catch (TAC) specified for vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI) is 4,949 metric tons (mt) for the period 1200 hrs, A.l.t., April 1, 2011, through 1200 hrs, A.l.t., June 10, 2011, as established by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011).

The Administrator, Alaska Region, NMFS, has determined that trawl catcher vessels will not be able to harvest 1,300 mt of the B season apportionment of the 2011 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 1,300 mt of Pacific cod from the B season trawl catcher vessel apportionment to catcher vessels less than 60 feet length overall (LOA) using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2011 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011) are revised as follows: 3,649 mt to the B season apportionment for catcher vessels using trawl gear and 7,505 mt to catcher vessels less than 60 feet LOA using hook-and-line or pot gear.

**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 reallocation of Pacific cod specified from trawl catcher vessels to catcher vessels less than 60 feet LOA using hook-and-line or pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for

public comment because the most recent, relevant data only became available as of May 17, 2011.

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 is exempt from review under Executive Order 12866.

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

Dated: May 18, 2011.

**Margo Schulze-Haugen,**  
*Acting Director, Office of Sustainable  
Fisheries, National Marine Fisheries Service.*  
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