

NMFS has determined that the 2012 ABC has been exceeded, therefore, NMFS is maintaining the 2012 commercial and recreational quotas in the 2013 fishing year.

The Council is currently developing a 2013 red snapper regulatory amendment, which could revise the commercial and recreational quotas for red snapper. Any increase in the commercial and recreational quotas would be released during the 2013 fishing year. This means that if the commercial quota is increased, additional pounds of allocation would be released to participants in the Gulf red snapper individual fishing quota (IFQ) program. If the recreational quota is increased, recreational fishermen could see an increase in the length of the 2013 recreational fishing season. If the 2013 regulatory amendment results in a decrease to the commercial and recreational quotas for red snapper, the decrease wouldn't become effective until the 2014 fishing year.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this temporary rule is necessary for the conservation and management of Gulf red snapper and is consistent with the Magnuson-Stevens Act and other applicable law.

This action is exempt from review under Executive Order 12866 and is exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

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)(3)(B). Allowing prior notice and opportunity for public comment is unnecessary because the final rule establishing the commercial and recreational quotas for red snapper for the 2012 and 2013 fishing years has already been subject to notice and comment. All that remains is to notify the public that the 2012 quotas will be maintained during the 2013 fishing year. Providing prior notice and opportunity for public comment would also be contrary to the public interest because the red snapper fishing year begins January 1, 2013, and IFQ allocation is released to Gulf red snapper IFQ participants on that date. Commercial red snapper fishermen need to be aware of the entire quota before the fishing year begins to help plan their business practices for the year.

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: December 18, 2012.

Emily H. Menashes,
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-XC404

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the State of New Jersey

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 State of New Jersey has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New Jersey 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 New Jersey 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 New Jersey.

DATES: Effective at 0001 hr local time, December 22, 2012, through 2400 hr local time December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Carly Bari, (978) 281-9224, or 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 New Jersey is 16.72499 percent, resulting in a commercial quota of 2,196,995 lb (996,557 kg).

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 New Jersey 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, December 22, 2012, landings of summer flounder in New Jersey 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 December 22, 2012, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in New Jersey 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: December 18, 2012.

Emily H. Menashes,
Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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