

require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 19, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. Section 180.950 is amended by adding and reserving paragraph (d) and adding a new paragraph (e) to read as follows:

§ 180.950 Tolerance exemptions for minimal risk active and inert ingredients.

* * * * *

(d) [Reserved]

(e) *Specific chemical substances.* Residues resulting from the use of the following substances as either an inert or an active ingredient in a pesticide chemical formulation, including antimicrobial pesticide chemicals, are exempted from the requirement of a tolerance under FFDCA section 408, if such use is in accordance with good agricultural or manufacturing practices.

Chemical	CAS No.
Lactic acid, n-butyl ester	138-22-7
Lactic acid, ethyl ester	197-64-3

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020306047-2047-01; I.D. 082302A]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustment to the 2002 Black Sea Bass Total Allowable Landings (TAL)

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

ACTION: Notification of restoration to the 2002 black sea bass TAL.

SUMMARY: NMFS restores 10,000 lb (4,534 kg) of unused research set-aside to the 2002 black sea bass TAL, and makes corresponding adjustments to the 2002 black sea bass recreational harvest limit and the 2002 Quarter 4 commercial quota. This action complies with Framework Adjustment 1 to Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), which implemented procedures for setting aside up to 3 percent of the annual TAL to fund research activities for the summer flounder, scup, and black sea bass fisheries. Framework Adjustment 1 also specified that, if a research proposal is disapproved by NMFS or the NOAA Grants Office, the research set-aside for that proposal would be reallocated (i.e., added back) into the TAL. On June 21, 2002, NMFS disapproved a research project for which 10,000 lb (4,534 kg) of the black sea bass TAL had been set-aside. The intent of this action is to restore 10,000 lb (4,536 kg) to the overall 2002 black sea bass TAL.

DATES: Effective September 3, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, (978) 281-9279.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a final rule in the **Federal Register** on August 10, 2001 (66 FR 42156), implementing Framework Adjustment 1 to the FMP. Framework Adjustment 1 implemented procedures for setting aside up to 3 percent of the annual TAL to fund research activities for the summer flounder, scup, and black sea bass fisheries. Framework Adjustment 1 also specified that, if a proposal is disapproved by NMFS or the NOAA Grants Office, the research set-

aside for that proposal would be reallocated (i.e., added back) into the TAL.

On December 26, 2001, NMFS published a final rule in the **Federal Register** (66 FR 66348) announcing specifications for the 2002 summer flounder, scup, and black sea bass fisheries. An initial TAL of 6,800,000 lb (3,084,428 kg) was established for the black sea bass fishery. Four research projects utilizing the black sea bass research quota set-aside were recommended for approval by a review committee. As a result, 76,005 lb (34,475 kg) of black sea bass quota was set aside for those four research projects. Therefore, a TAL of 6,723,995 lb (3,049,953 kg) was implemented in the final rule. Under procedures in the FMP, the overall TAL is then allocated 49 percent to the commercial sector and 51 percent to the recreational sector, which resulted in a 2002 commercial quota of 3,294,758 lb (1,494,477 kg) and a 2002 recreational harvest limit of 3,429,237 lb (1,555,476 kg).

NMFS formally disapproved one of the black sea bass research projects on June 21, 2002. The disapproved project had been allocated 10,000 lb (4,536 kg) of the black sea bass research quota set-aside. This action is necessary to restore 10,000 lb (4,536 kg) to the overall 2002 black sea bass TAL. The resulting 2002 black sea bass TAL is 6,733,994 lb (3,054,488 kg). Of the 10,000 lb (4,536 kg) being restored, 4,900 lb (2,223 kg) is added to the commercial quota and 5,100 lb (2,313 kg) is added to the recreational harvest limit. The resulting commercial quota is 3,299,657 lb (1,496,699 kg) and the recreational harvest limit is 3,434,337 lb (1,557,789 kg).

Because the first three quarters of the 2002 black sea bass commercial fishing year have already closed, the entire portion of the additional commercial quota (4,900 lb (2,223 kg)) is being added to Quarter 4. The resulting adjusted 2002 black sea bass commercial quota for Quarter 4 is 656,274 lb (297,681 kg).

Although 5,100 lb (2,313 kg) of black sea bass is being restored to the recreational harvest limit, it does not alter the existing recreational management measures that have been established to ensure that the recreational harvest limit is not exceeded. A minimum fish size of 11.5 inches (29.2 cm), a 25-fish recreational possession limit, and a year-round open season will remain in effect.

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 27, 2002.

Virginia M. Fay,

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. 011218304-1304-01; I.D. 082702A]

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the fourth seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA was reached during the third seasonal apportionment.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2002, until 1200 hrs, A.l.t., October 1, 2002.

FOR FURTHER INFORMATION CONTACT:

Andrew Smoker, 907-586-7228, or Andy.Smoker@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery 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 Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), was established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002, and 67 FR 34860, May 16, 2002) for the fourth season, the period September 1, 2002, through October 1, 2002, as 150 metric tons. Section 679.21(d)(5)(iv) specifies that if a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, or pot gear is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year. Current data indicate that the Pacific halibut bycatch allowance for the fourth season was taken during the third seasonal allocation. Therefore, there is no fourth seasonal apportionment available for the GOA deep-water species fishery by vessels using trawl gear.

Therefore, in accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the fourth seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA was reached during the third seasonal apportionment. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the deep-water species fishery are: pollock, Pacific cod, deep-water flatfish, flathead sole, Atka mackerel, and "other species."

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, 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 contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the fourth seasonal halibut bycatch allowance specified for the deep water species