

paragraph (a)(1) of this section do not apply to:

(1) Vessels issued a summer flounder moratorium permit, a summer flounder small-mesh exemption area letter of authorization (LOA), required under paragraph (b)(1)(i) of this section, and fishing from November 1 through April 30 in the exemption area, which is east of the line that follows 72°30.0' W. long. until it intersects the outer boundary of the EEZ (copies of a map depicting the area are available upon request from the Regional Administrator). Vessels fishing under the LOA shall not fish west of the line. Vessels issued a permit under § 648.4(a)(3)(iii) may transit the area west or south of the line, if the vessel's fishing gear is stowed in a manner prescribed under § 648.104(e), so that it is not "available for immediate use" outside the exempted area. The Regional Administrator may terminate this exemption if he/she determines, after a review of sea sampling data, that vessels fishing under the exemption are discarding more than 10 percent, by weight, of their entire catch of summer flounder per trip. If the Regional Administrator makes such a determination, he/she shall publish notification in the **Federal Register** terminating the exemption for the remainder of the exemption season.

\* \* \* \* \*

4. In § 648.107, paragraph (b) is revised to read as follows:

**§ 648.107 Conservation equivalent measures for the summer flounder fishery.**

\* \* \* \* \*

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission, shall be subject to the following precautionary default measures: Season - January 1 through December 31; minimum size - 18 inches (45.7 cm); and possession limit - one fish.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[I.D. 050306E]

RIN 0648-AT71

**Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Gulf of Alaska Fishery Resources**

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

**ACTION:** Availability of fishery management plan amendment; request for comments.

**SUMMARY:** NMFS manages Gulf of Alaska (GOA) groundfish fisheries through the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Congress granted NMFS specific regulatory authority to manage Central GOA rockfish fisheries in the Consolidated Appropriations Act of 2004. Congress provided additional guidance to the North Pacific Fishery Management Council (Council) in the development of a program to allocate harvesting privileges to fishermen and permit a defined group of processors to form associations with these harvesters for the exclusive use of specific rockfish and other groundfish in the Central GOA.

The Council adopted Amendment 68 in June 2005. Amendment 68 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) would establish a program to allocate Central GOA groundfish resources among harvesters and processors (Program). Amendment 68 would modify the FMP to increase resource conservation, improve economic efficiency, and improve safety in the Central GOA rockfish fisheries and other fisheries that are subject to the Program. This action is intended to promote the goals and objectives of the Magnuson-Stevens Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be received on or before July 14, 2006.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Walsh. Comments may be submitted by:

• Mail: P.O. Box 21668, Juneau, AK 99802.

• Hand Delivery to the Federal Building; 709 West 9th Street, Room 420A, Juneau, AK.

• Facsimile: 907-586-7557.

• E-mail: 0648-AT71-GOA68-NOA@noaa.gov. Include in the subject line of the e-mail the following document identifier: "Central GOA Rockfish RIN 0648-AT71." E-mail comments, with or without attachments, are limited to 5 megabytes.

• Webform at the Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the instructions at that site for submitting comments.

Copies of Amendment 68 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the NMFS Alaska Region at the address above or from the Alaska Region website at <http://www.fakr.noaa.gov/sustainablefisheries.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Glenn Merrill, 907-586-7228 or [glenn.merrill@noaa.gov](mailto:glenn.merrill@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment.

The Council submitted Amendment 68 to the FMP for Secretarial review, which would implement the Program designed to meet the requirements of Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108-199). Section 802 states:

SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM.

The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for Pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; (2) establish catch limits for non rockfish species and non-target rockfish species currently harvested with Pacific

ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

The Council considered congressional guidance in the development of the Program, particularly in the selection of specific years on which to base participation and for the "recognition" of processor participation. Additionally, Section 802 provides NMFS with the authority to regulate processors under this Program. NMFS does not have specific authority under the Magnuson-Stevens Act to regulate on-shore processing activities.

Amendment 68 would amend the FMP to allow the implementation the Program consistent with Section 802. If approved, the proposed Program would be effective through December 31, 2008. Broadly, the Program would provide exclusive harvesting and processing privileges for a specific set of rockfish species and associated species harvested incidentally to those rockfish in the Central GOA, an area from 147° W. long. to 159° W. long. The granting of exclusive harvesting and processing privileges is commonly called rationalization. The rockfish species rationalized under the Program are: northern rockfish, Pacific Ocean perch (POP), and pelagic shelf rockfish. These rockfish species are called the primary species. The incidentally harvested groundfish taken in the primary rockfish fisheries and which also are rationalized under the Program are called the secondary species. The secondary species are: Pacific cod, roughey rockfish, shortraker rockfish, and sablefish that are harvested by vessels using trawl gear. In addition to these secondary species, the Program would allocate a portion of the halibut bycatch mortality limit annually specified for the GOA trawl fisheries to Program participants based on their historic mortality rates in the primary species fisheries. This allocation of bycatch mortality could be used by Program participants during harvest activities in the fisheries rationalized under the Program.

Basic provisions of the Program implemented under Amendment 68 would:

(1) Allocate a catch history of primary rockfish species, secondary species, and halibut bycatch mortality to harvesters that use trawl gear in the Central GOA. To receive this catch history allocation, a harvester must have harvested primary

rockfish species during a specific time period and meet other eligibility requirements. On an annual basis, this catch history allocation would yield a specific harvest amount of primary and secondary species and halibut bycatch mortality that could be exclusively caught by a group of harvesters if they are part of a harvesting cooperative. Cumulatively, these amounts, when allocated to a cooperative, are referred to as a cooperative fishing quota (CFQ);

(2) Establish eligibility criteria for processors to have an exclusive privilege to receive and process primary rockfish and secondary species allocated to harvesters in the Program;

(3) Allow a harvester that receives a catch history allocation to form a cooperative with other harvesters and a processor on an annual basis. This cooperative would be allocated an amount of fish that could be harvested in that year based on the sum of the catch history allocation held by all of the participants in the cooperative. This amount of fish could only be harvested by that cooperative. Cooperatives could only form under specific conditions. Harvesters that catch and process (catcher/processor) their catch at sea could form cooperatives with each other. Harvesters that deliver their catch onshore could only form a cooperative in association with the processor to whom they have historically delivered most of their catch;

(4) Allow cooperatives to transfer their CFQ of fish to and from other cooperatives.

(5) Provide an opportunity for harvesters not in a cooperative to fish in a limited access fishery. All harvesters in the limited access fishery compete with all other harvesters in the fishery to catch the total amount of fish assigned to the limited access fishery;

(6) Establish an entry level fishery for Central GOA rockfish for harvesters and processors not eligible to receive a catch history allocation under this Program;

(7) Allow catcher/processor harvesters to opt-out of the Program, with certain limitations;

(8) Limit the ability of processors to process catch outside of the communities in which they have traditionally processed Central GOA rockfish and associated secondary species;

(9) Establish catch limits, commonly called "sideboards," that limit the ability of participants eligible for this Program to harvest fish in other fisheries. Sideboard provisions are intended to prevent harvesters in the Program from using their economic advantage to out compete participants in other fisheries. Sideboard harvest

limits are established for groundfish outside of the Central GOA and for the amount of GOA halibut bycatch mortality annually specified for the GOA flatfish fisheries; and

(10) Establish monitoring and enforcement provisions to ensure that harvesters maintain catches within their annual allocations and do not exceed sideboard limits.

By creating an exclusive harvest privilege, the Program would provide greater security to harvesters in cooperatives. Although participants in the limited access fishery, opt-out fishery, and entry level fishery would not receive a guaranteed annual catch amount, most harvesters likely would participate in a cooperative that receives this allocation. A CFQ allocation would increase the focus on quality, promote a slower paced fishery, enhance safety by providing a vessel operator more flexibility to choose when to fish and therefore avoid poor weather, and provide greater stability for processors by spreading out production over a greater period of time.

Public comments are being solicited on proposed Amendment 68 through the end of the comment period (see DATES). NMFS intends to publish a proposed rule that would implement Amendment 68 in the **Federal Register** for public comment, following NMFS' evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on Amendment 68 to be considered in the approval/disapproval decision on Amendment 68. All comments received by the end of the comment period on Amendment 68, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendments. To be considered, comments must be received not just postmarked or otherwise transmitted by the close of business on the last day of the comment period (see DATES).

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108-199, 118 Stat. 110.

Dated: May 9, 2006.

**Alan D. Risenhoover,**

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