

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the Nantucket Lightship Scallop Access Area (NLCA) will close to general category scallop vessels for the remainder of the 2007 scallop fishing year. This action is based on the determination that 394 general category scallop trips into the NLCA are projected to be taken as of 0001 hr local time, July 8, 2007. This action is being taken to prevent the allocation of general category trips in the NLCA from being exceeded during the 2007 fishing year, in accordance with the regulations implementing Framework 18 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** The closure is effective from 0001 hours, July 8, 2007, through February 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ryan Silva, Fishery Management Specialist, (978) 281-9326, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** Regulations governing fishing activity in the Sea Scallop Access Areas are found at §§ 648.59 and 648.60. Regulations specifically governing general category scallop vessel operations in the NLCA are specified at § 648.59(d)(5)(ii). These regulations authorize vessels issued a valid general category scallop permit to fish in the NLCA under specific conditions, including a cap of 394 trips that may be taken by general category vessels during the 2007 fishing year. The regulations at § 648.59(d)(5)(ii) require the NLCA to be closed to general category scallop vessels once the Northeast Regional Administrator has determined that the allowed number of trips are projected to be taken.

Based on Vessel Monitoring System (VMS) trip declarations by general category scallop vessels fishing in the NLCA, and analysis of fishing effort, a projection concluded that, given current activity levels by general category scallop vessels in the area, the trip cap will be attained on July 7, 2007. Therefore, in accordance with § 648.59(d)(5)(ii), the NLCA is closed to all general category scallop vessels as of 0001 hr local time, July 8, 2007. No general category scallop vessel may declare or initiate a trip into this area. This closure is in effect for the remainder of the 2007 scallop fishing year. The NLCA is scheduled to re-open to scallop fishing, including trips for general category scallop vessels, on June 15, 2009, unless the schedule for scallop

access areas is modified by the New England Fishery Management Council.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Due to the need to take immediate action to close the NLCA once the allowed number of trips have been taken, pursuant to 5 U.S.C. 553(b)(3) proposed rulemaking is waived because it would be impracticable and contrary to the public interest to allow a period for public comment. The NLCA opened for the 2007 fishing year at 0001 hours on June 15, 2007. Data indicating the general category scallop fleet has taken all of the NLCA trips have only recently become available. To allow general category scallop vessels to continue to take trips in the NLCA during the period necessary to publish and receive comments on a proposed rule would result in vessels taking much more than the allowed number of trips in the NLCA. Excessive trips and harvest from the NLCA would result in excessive fishing effort in the NLCA, where effort controls are critical, thereby undermining conservation objectives of the FMP. Should excessive effort occur in the NLCA, future management measures would need to be more restrictive. Furthermore, for the same reasons, there is good cause under 5 U.S.C 553(d)(3) to waive the 30-day delayed effectiveness period for this action.

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

Dated: July 6, 2007.

**Alan D. Risenhoover,**  
*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. 070213033-7033-01]

RIN 0648-XB33

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 Pacific ocean perch total allowable catch (TAC) in the Eastern Aleutian District of the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 6, 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 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 2007 Pacific ocean perch TAC in the Eastern Aleutian District of the BSAI is 4,598 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2007 Pacific ocean perch TAC in the Eastern Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,298 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) 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 Pacific ocean perch in the Eastern Aleutian District of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 5, 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 is exempt from review under Executive Order 12866.

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

Dated: July 5, 2007.

**Alan D. Risenhoover,**

*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. 060511126-7122-05; 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:** Final rule.

**SUMMARY:** NMFS issues this final rule for the Central Gulf of Alaska (GOA) rockfish fisheries to revise monitoring and enforcement (M&E) provisions related to catcher/processor vessels harvesting under the opt-out fishery, and to make changes to regulations governing the rockfish fisheries. This action is necessary to clarify procedures and to correct discrepancies in a November 20, 2006, final rule. This final rule is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), the Magnuson-

Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable law.

**DATES:** Effective on August 10, 2007.

**ADDRESSES:** Copies of Amendment 68; the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 68; and Final Regulatory Flexibility Analysis (FRFA) prepared for Amendment 68 may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jason Anderson, 907-586-7228, or [jason.anderson@noaa.gov](mailto:jason.anderson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

In January 2004 the U.S. Congress amended section 313(j) of the Magnuson-Stevens Act through the Consolidated Appropriations Act of 2004 (Public Law 108 199, section 802). As amended, the Magnuson-Stevens Act authorizes the Secretary of Commerce to establish a limited access privilege program for the Central GOA rockfish fisheries (Program), developed in coordination with the North Pacific Fishery Management Council (Council). The Council recommended Amendment 68 to the FMP for groundfish in the GOA on June 6, 2005, to make the Program effective.

NMFS published a notice of availability for Amendment 68 on May 15, 2006 (71 FR 27984). On June 7, 2006, NMFS published a proposed rule to implement Amendment 68 and the Program (71 FR 33040). The Secretary approved Amendment 68 on August 11, 2006. NMFS published a final rule to implement Amendment 68 on November 20, 2006 (71 FR 67210).

The Program provides 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 between 147° W. longitude and 159° W. longitude. A detailed overview of the Program is provided in the preamble to the proposed rule (71 FR 33040; June 7, 2006) and is not repeated here. However, a component of the Program allows holders of License Limitation Program (LLP) licenses that are assigned rockfish quota share (QS) for the catcher/processor sector to opt-out of many of the aspects of the Program (opt-out fishery). Participants in the opt-out fishery are subject to harvest limitations,

called sideboard limits, during the month of July. Sideboard limits applicable to participants in the opt-out fishery include measures to limit catch of specific groundfish species to historic levels, and limits on the amount of Pacific halibut bycatch, specifically termed prohibited species catch (PSC). NMFS requires a suite of M&E provisions for participants in the opt-out fishery to ensure they do not exceed their sideboard limits.

#### Need for Corrections to the November 20, 2006, Final Rule

NMFS seeks to ensure that the November 20, 2006, final rule (71 FR 67210) conforms to the intent of the Program, and to provide clarification regarding the Program's regulatory requirements.

##### Regulatory Intent Clarification

In the proposed rule to implement Amendment 68 (71 FR 33040; June 7, 2006), NMFS detailed the M&E provisions that would apply to participants in the opt-out fishery. The proposed suite of M&E provisions applicable to the opt-out fishery included requirements that each haul must be weighed separately, all catch must be made available for sampling by a NMFS-certified observer (see proposed regulatory text at § 679.84(c)(1); 71 FR 33096), and that the vessel has no more than one operational line or other conveyance for the mechanized movement of catch between the scale used to weigh total catch and the location where the observer collects species composition samples (see proposed regulatory text at § 679.84(c)(4); 71 FR 33096). The proposed rule would have required that all catcher/processor vessels in the opt-out fishery be subject to these M&E requirements during July. The effect of the full suite of these M&E requirements on the regulated industry and the environment was analyzed in the draft EA/RIR/IRFA prepared for the proposed rule to implement the Program.

In response to public comment received on the proposed rule, NMFS modified the M&E provisions that apply to the opt-out fishery. The modifications were detailed in the preamble to the final rule. Specifically, NMFS noted these changes in the Summary of Changes section to the preamble (71 FR 67213) and in its response to comment 90 (71 FR 67229). NMFS also analyzed the effect of the revised M&E provisions for the opt-out fishery in the final EA/RIR and FRFA prepared for the Program final rule (see **ADDRESSES**). The preamble to the final rule clearly indicated that NMFS intended to