

Dated: November 19, 2007.

**David I. Maurstad,**

*Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

RIN 0648-AU32

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan

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

**ACTION:** Notice of availability of a fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the New England Fishery Management Council (Council) has submitted Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP) (Amendment 11), incorporating the Final Supplemental Environmental Impact Statement (FSEIS) and the Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce. NMFS is requesting comments from the public on Amendment 11. Amendment 11 was developed by the Council to control the capacity of the open access general category fleet. Amendment 11 would establish a new management program for the general category fishery, including a limited access program with individual fishing quotas (IFQs) for qualified general category vessels, a specific allocation for general category fisheries, and other measures to improve management of the general category scallop fishery.

**DATES:** Comments must be received on or before January 29, 2008.

**ADDRESSES:** An FSEIS was prepared for Amendment 11 that describes the proposed action and its alternatives and provides a thorough analysis of the impacts of proposed measures and their alternatives. Copies of Amendment 11, including the FSEIS and the IRFA, are

available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

You may submit comments, identified by 0648-AU32, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Fax: (978) 281-9135, Attn: Peter Christopher.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Scallop Amendment 11."

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Peter Christopher, Fishery Policy Analyst, phone 978-281-9288, fax 978-281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

The general category scallop fishery is currently an open access fishery that allows any vessel to fish for up to 400 lb (181.44 kg) of scallops, provided the vessel has been issued a general category or limited access scallop permit. This open access fishery was established in 1994 by Amendment 4 to the FMP to allow vessels fishing in non-scallop fisheries to catch scallops as incidental catch, and to allow a small-scale scallop fishery to continue outside of the limited access and effort control programs aimed at the large-scale scallop fishery. Over time, the overall participation in the general category fishery has increased. In 1994, there were 1,992 general category permits issued. By 2005 that number had increased to 2,950. In 1994, there were 181 general category vessels that landed scallops, while in 2005 there were over 600.

Out of concern about the level of fishing effort and harvest from the

general category scallop fleet, the Council recommended that a **Federal Register** notice should be published to notify the public that the Council would consider limiting entry to the general category scallop fishery as of a specified control date. NMFS subsequently established the control date of November 1, 2004 (69 FR 63341, November 1, 2004). In January of 2006, the Council began the development of Amendment 11 to evaluate alternatives for a limited access program and other measures for general category vessels. The Council held 35 meetings open to the public on Amendment 11 between January 2006 and June 2007. After considering a wide range of issues, alternatives, and public input, the Council adopted a draft supplemental environmental impact statement (DSEIS) for Amendment 11 on April 11, 2007. Following the public comment period that ended on June 18, 2007, the Council adopted Amendment 11 on June 20, 2007.

Amendment 11 includes the following: A limited access program for the general category fishery establishing three new limited access general category (LAGC) scallop permits (IFQ scallop permit, Northern Gulf of Maine (NGOM) scallop permit, and Incidental scallop permit); initial application procedures for an LAGC scallop permit; LAGC scallop permit provisions (initial eligibility, landings history, confirmation of permit history (CPH), permit transfers, permit splitting, qualification restriction, appeal of LAGC scallop permit denial, vessel replacements, ownership cap, voluntary relinquishment of eligibility, and permit renewals and CPH issuance); provisions for limited access scallop vessels fishing under general category rules; allocation of the total annual projected scallop catch to the general category fishery under the IFQ program; IFQs for IFQ scallop vessels; measures for the transition period to IFQ; a mechanism to allow voluntary sectors in the general category fishery; separate management measures for a NGOM scallop management area; monitoring provisions, including a requirement for all LAGC scallop vessels to operate vessel monitoring systems (VMS) with catch reporting requirements; a change issuance date of general category permit; a measure to clarify the maximum trawl sweep size restriction under the scallop regulations; and an allowance for LAGC scallop vessels to possess up to 100 bu (35.24 hL) of in-shell scallops seaward of the VMS demarcation line.

Amendment 11 would establish the percentage of scallop catch allocated to the general category fleet and would

establish the IFQ program. These percentages would be applied to specific total allowable catch (TAC) amounts that were developed by the Council as part of Framework 19 to the FMP, which will establish scallop fishery management measures for the 2008 and 2009 fishing years. After determining the allowable levels of fishing based on updated survey information and fishing mortality targets, the TAC that would be allocated to the current limited access fleet and the IFQ scallop vessels, as well as the NGOM TAC and estimated landings under the Incidental catch LAGC scallop permit, would be specified through a separate rulemaking for Framework 19. Framework 19 also will specify management measures for the 2008 and 2009 fishing years that would be recommended if Amendment 11 is not approved.

Public comments are being solicited on Amendment 11 and its incorporated documents through the end of the comment period stated in this notice of availability. A proposed rule that would implement Amendment 11 will be published in the **Federal Register** for public comment. Public comments on the proposed rule must be received by the end of the comment period provided in this notice of availability of Amendment 11 to be considered in the approval/disapproval decision on the amendment. All comments received by January 29, 2008, whether specifically directed to Amendment 11 or the proposed rule for Amendment 11, will be considered in the approval/disapproval decision on Amendment 11. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 11. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

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

Dated: November 26, 2007.

**Emily H. Menashes,**

*Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. E7-23266 Filed 11-29-07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 070816465-7466-01]

RIN 0648-AV96

#### Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited Species Bycatch Management

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes to repeal regulations providing for a groundfish vessel incentive program (VIP) that was designed to reduce the rate at which Pacific halibut and red king crab are taken as incidental catch in Alaska groundfish trawl fisheries. The VIP has not performed as intended because of the cost associated with enforcement, the relatively small number of vessels impacted by the regulation, and the implementation of more effective bycatch reduction programs. This action is necessary to reduce a regulatory burden on the industry and to reduce the administrative costs necessary to support a program no longer considered an effective means to reduce bycatch rates.

**DATES:** Written comments must be received by December 31, 2007.

**ADDRESSES:** You may submit comments, identified by 0648-AV96, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>;
- Mail: Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802; Attn: Ellen Sebastian, Records Officer;
- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK; or
- Fax: 907-586-7557, Attention: Sue Salvesson.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will

accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

**FOR FURTHER INFORMATION CONTACT:** Ben Muse, 907-586-7228, or [ben.muse@noaa.gov](mailto:ben.muse@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

NMFS manages the U.S. groundfish fisheries of the exclusive economic zone off Alaska under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Fisheries off Alaska targeting groundfish incidentally catch other species as well. Some of these non-groundfish species are themselves the objects of valuable targeted fisheries and retention of these species is prohibited in the groundfish fishery. These prohibited species include Pacific halibut, Chinook and "Other" salmon, several crab species, and herring. Measures to restrict the catch of these species have been incorporated into the FMPs for the GOA and the BSAI and into regulation. Among these measures are prohibited species catch (PSC) limits. PSC limits restrict the amount of a prohibited species that may be taken incidentally in a groundfish fishery. Groundfish fisheries are routinely closed in all or part of a management area when a PSC limit is reached. These closures are expensive for industry because they mean that valuable groundfish are left unharvested.

Section 3.6.4 of the GOA FMP authorizes regulations to reduce halibut bycatch rates in fisheries subject to halibut PSC limits to increase the opportunity to fish groundfish TACs before established PSC limits are reached. Specifically, this provision is intended to encourage individual vessels to maintain average bycatch