

apportionment of the 2008 Pacific halibut bycatch allowance specified for the deep-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA. For the Amendment 80 sideboards, the species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder, and do not include northern rockfish, Pacific ocean perch, and pelagic shelf rockfish in the Central GOA.

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 the deep-water species fishery by Amendment 80 vessels subject to sideboard limits using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 8, 2008.

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: September 9, 2008.

**James P. Burgess,**

*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. 071106671-8010-02]

RIN 0648-XK44

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

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for shallow-water species by vessels using trawl gear in the Gulf of Alaska (GOA) for 36 hours. This action is necessary to fully use the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in of the GOA.

**DATES:** Effective 0800 hrs, Alaska local time (A.l.t.), September 10, 2008, through 2000 hrs, A.l.t., September 11, 2008. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 24, 2008.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-XK44," by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586-7557.
- Hand delivery to the Federal Building: 709 West 9<sup>th</sup> Street, Room 420A, Juneau, AK.

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 (e.g., name, address) 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 (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic

comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish 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.

NMFS prohibited directed fishing for shallow-water species by vessels using trawl gear in the GOA under § 679.21(d)(7)(i) on September 3, 2008 (73 FR 51601, September 4, 2008).

NMFS has determined that approximately 134 mt remain in the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA, NMFS is terminating the previous closure and is opening directed fishing for trawl shallow-water species by vessels using trawl gear in the GOA. In accordance with § 679.21(d)(7)(i), the Regional Administrator finds that the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA will be reached after 36 hours. Consequently, NMFS is prohibiting directed fishing for shallow-water species by vessels using trawl gear in the GOA, effective 2000 hrs, A.l.t., September 11, 2008.

#### 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) and 50 CFR 679.25(c)(1)(ii) 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 opening of the shallow-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 8, 2008.

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.

Without this inseason adjustment, NMFS could not allow the shallow-water species fishery for vessels using trawl gear in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 24, 2008.

This action is required by § 679.21 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: September 9, 2008.

**James P. Burgess,**

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

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