

analysis of data regarding population size or trends; biology or ecology of the subspecies; effects of current land management on population distribution and abundance; current condition of habitat; and conservation measures that have been implemented to benefit the subspecies specific to the marine and estuarine areas of the Southwestern Washington/Columbia River DPS. Additionally, we request information on threats to the coastal cutthroat trout in the marine and estuarine areas of the Southwestern Washington/Columbia River DPS in relation to the five listing factors (as defined in section 4(a)(1) of the Act).

At the conclusion of our review, we will issue a new determination on the April 5, 1999 proposed rule concerning whether the marine and estuarine areas of the Southwestern Washington/Columbia River DPS of the coastal cutthroat trout constitute a significant portion of the range of the DPS, and if so, whether such significant portion of the range warrants listing. We will base our determination on a review of the best scientific and commercial information available, including all information received as a result of this notice.

#### References Cited

A complete list of all references we cited in this document is available on the Internet at <http://www.regulations.gov> or by contacting the Oregon Fish and Wildlife Office (see FOR FURTHER INFORMATION CONTACT).

#### Author

The primary authors of this notice are the staff of the Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266.

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 11, 2009

**Paul R. Schmidt**

*Acting Director, Fish and Wildlife Service*  
[FR Doc. E9-5890 Filed 3-23-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

#### RIN 0648-AX42

### Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska Rockfish Program; Amendment 85

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

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

**SUMMARY:** The North Pacific Fishery Management Council submitted Amendment 85 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) to NMFS for review. If approved, Amendment 85 would modify the GOA FMP and the Central Gulf of Alaska Rockfish Program to remove a restriction that prohibits certain catcher/processors from participating in directed groundfish fisheries in the Bering Sea and Aleutian Islands Management Area in July. This action is necessary to improve flexibility and reduce operating costs for catcher/processors that participate in the Central Gulf of Alaska Rockfish Program. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the GOA FMP, and other applicable laws.

**DATES:** Comments on the amendment must be received on or before May 26, 2009.

**ADDRESSES:** Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-AX42," 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.

Copies of Amendment 85 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), the categorical exclusion prepared for this action, and the Environmental Assessment (EA), RIR, and Final Regulatory Flexibility Analysis (FRFA) prepared for the Central Gulf of Alaska Rockfish Program are available from the NMFS Alaska Region at the address above or from the Alaska Region website at <http://www.alaskafisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Glenn Merrill, 907-586-7228, or Rachel Baker, 907-586-7425.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 85 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) is available for public review and comment.

The groundfish fisheries in the exclusive economic zone of Alaska are managed under the GOA FMP and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act. Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108-199) granted NMFS specific authority to manage Central Gulf of Alaska (GOA) rockfish fisheries, and directed the Secretary, in consultation with the Council, to

develop a program that recognizes the historical participation of fishing vessels and fish processors for Central GOA rockfish species. The Central Gulf of Alaska Rockfish Program (Rockfish Program) was recommended by the Council in June 2005 as Amendment 68 to the GOA FMP. Regulations implementing Amendment 68 were published on November 20, 2006 (71 FR 67210), and are located at 50 CFR part 679. Fishing began under the Rockfish Program on May 1, 2007.

Amendment 85 would make minor changes to the GOA FMP to enable catcher/processors that fish in the Central GOA under the Rockfish Program to participate in groundfish fisheries in the BSAI in July.

Under the Rockfish Program, NMFS issued quota share (QS) to persons who held a License Limitation Program (LLP) license that has been associated with a trawl catcher vessel or a trawl catcher/processor vessel that made legal landings of rockfish species and species harvested incidentally in the Central GOA rockfish fisheries during the rockfish fishing seasons from 1996 to 2002. Each year, an eligible rockfish harvester who received a QS allocation at the time the Rockfish Program was implemented may assign all QS associated with the LLP license either to a cooperative formed with other QS holders, or to a limited access fishery in which eligible harvesters compete for a share of the total allowable catch (TAC) for the Central GOA rockfish species. The total amount of QS assigned to all members of a cooperative yields cooperative quota (CQ), an exclusive annual harvest privilege for a portion of the TAC assigned to the Central GOA rockfish species. In addition, a cooperative receives CQ that may be used to harvest certain species caught incidentally in the rockfish fisheries. Eligible harvesters in either the catcher vessel sector or the catcher/processor sector may join cooperatives formed in their respective sectors.

Vessels that fish under the Rockfish Program are subject to a suite of catch and fishery participation limits called sideboards. Sideboard limits are intended to prevent program participants from using the economic benefits and improved flexibility provided by exclusive harvesting privileges to increase effort in other fisheries and adversely affect participants that depend on those fisheries. The Rockfish Program sideboard limits were developed to restrict fishing by eligible Central GOA rockfish harvesters in non-Rockfish Program fisheries during the historical timing of the rockfish fishery, which

generally began on July 1 and lasted two to three weeks. Several harvesters that participate in the Rockfish Program also historically participated in other groundfish fisheries in the GOA and BSAI after completing the Central GOA rockfish fisheries. Hence, the sideboard restrictions were limited to the month of July to enable these harvesters, particularly in the catcher/processor sector, to continue participating in these fisheries.

Under current Rockfish Program regulations, all vessels in the catcher/processor sector that are assigned to a Central GOA rockfish cooperative and some vessels that participate in the limited access fishery are prohibited from fishing in BSAI groundfish fisheries, other than pollock and fixed-gear sablefish, for a period beginning July 1. This type of fishery participation sideboard is commonly called a stand down. When the Rockfish Program was implemented, the season opening date for the Central GOA rockfish fishery shifted from July 1 to May 1 for vessels that join a cooperative. In the first year of the Rockfish Program, most cooperative participants in the catcher/processor sector had completed fishing in the Rockfish Program fisheries and other GOA fisheries in June, but were prohibited from participating in BSAI groundfish fisheries in early July by the Rockfish Program stand down. Some catcher/processor vessels remained idle for the two-week stand down period, which was costly to vessel operators because maintenance and crew costs continue to accrue while a vessel is idle.

The Council was prompted to reexamine the BSAI stand downs by participants in the catcher/processor sector of the Rockfish Program, who suggested that some Rockfish Program sideboard limits may be too restrictive. In April 2007, the Council initiated an analysis to examine the impacts of relieving certain catcher/processors that participate in the Rockfish Program from the BSAI stand downs. Based on the analysis and public comment, the Council adopted Amendment 85 to the GOA FMP in October 2008 and submitted it to NMFS for review by the Secretary.

Amendment 85 to the GOA FMP would remove the BSAI stand downs that apply to catcher/processors that participate in the cooperative and limited access fisheries in the Rockfish Program. All other sideboard limits in the Rockfish Program would remain unchanged. The Council determined that the BSAI stand down requirements for vessels participating in the catcher/processor sector were no longer necessary to protect fishery participants

in BSAI groundfish fisheries. Since implementation of the Rockfish Program, NMFS implemented Amendments 80 and 85 to the BSAI FMP. Amendment 80 allocated exclusive harvesting privileges for several BSAI directed trawl groundfish fisheries and Amendment 85 refined sector allocations for Pacific cod, which is a directed fishery. These management changes significantly increased the number of BSAI directed groundfish fisheries for which participants can receive exclusive harvesting privileges, and reduced the likelihood that catcher/processors participating in the Rockfish Program could increase effort in BSAI groundfish fisheries to the detriment of other participants, particularly during the short period in early July when the BSAI stand downs are in effect. The Council recommended Amendment 85 to the GOA FMP to improve flexibility and reduce operating costs for catcher/processors that participate in the Rockfish Program.

The RIR/IRFA prepared for this action describes the costs and benefits of the proposed amendment (see **ADDRESSES** for availability). All of the directly regulated entities would be expected to benefit from this action relative to the status quo because the proposed amendment would allow greater flexibility for catcher/processors that participate in the Rockfish Program to coordinate harvesting operations in the GOA and BSAI.

Public comments are being solicited on proposed Amendment 85 to the GOA FMP through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 85, following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 85 to be considered in the approval/disapproval decision on Amendment 85. All comments received by the end of the comment period on Amendment 85, whether specifically directed to the GOA FMP amendment or the proposed rule, will be considered in the FMP approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendment. 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.

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

Dated: March 19, 2009.

**Emily H. Menashes**

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

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