

the facts related to the criteria. Conclusive proof of the facts relating to a criterion shall not be required in order for the criterion to be considered met.

§ 4.1049 When will the hearing record close?

(a) The hearing record will close when the ALJ closes the hearing, unless he or she directs otherwise.

(b) Except as provided in § 4.1045(b)(1), evidence may not be added after the hearing record is closed, but the transcript may be corrected under § 4.1047(b).

§ 4.1050 What are the requirements for post-hearing briefs?

(a) *General.* (1) Each party may file a post-hearing brief within 20 days after the close of the hearing, unless the ALJ sets a different deadline.

(2) A party may file a reply brief only if requested by the ALJ. The deadline for filing a reply brief, if any, will be set by the ALJ.

(3) The ALJ may limit the length of the briefs to be filed under this section.

(b) *Content.* (1) An initial brief must include:

- (i) A concise statement of the case;
- (ii) A separate section containing proposed findings regarding the issues of material fact, with supporting citations to the hearing record;
- (iii) Arguments in support of the party's position; and
- (iv) Any other matter required by the ALJ.

(2) A reply brief, if requested by the ALJ, must be limited to any issues identified by the ALJ.

(c) *Form.* (1) An exhibit admitted into evidence or marked for identification in the record may not be reproduced in the brief.

(i) Such an exhibit may be reproduced, within reasonable limits, in an appendix to the brief.

(ii) Any pertinent analysis of an exhibit may be included in a brief.

(2) If a brief exceeds 30 pages, it must contain:

- (i) A table of contents and of points made, with page references; and
- (ii) An alphabetical list of citations to legal authority, with page references.

§ 4.1051 What are the requirements for the ALJ's recommended decision?

(a) *Timing.* The ALJ must issue a recommended decision within 180 days after issuance of the docketing notice under § 4.1020(a)(3), unless the ALJ issues an order finding good cause to issue the recommended decision at a later date.

(b) *Content.* (1) The recommended decision must contain all of the following:

- (i) Recommended findings of fact on all disputed issues of material fact;
- (ii) Recommended conclusions of law:
 - (A) Necessary to make the findings of fact (such as rulings on materiality and on the admissibility of evidence); and
 - (B) As to whether the applicable criteria for Federal acknowledgment have been met; and
- (iii) Reasons for the findings and conclusions.

(2) The ALJ may adopt any of the findings of fact proposed by one or more of the parties.

(c) *Service.* Promptly after issuing a recommended decision, the ALJ must:

(1) Serve the recommended decision on each party to the hearing process; and

(2) Forward the complete hearing record to the Assistant Secretary—Indian Affairs, including the recommended decision.

Dated: August 3, 2015.

Kristen J. Sarri,

Principal Deputy Assistant Secretary for Policy Management & Budget.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140918791-4999-02]

RIN 0648-XE099

Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fishery by Non-Rockfish Program Catcher Vessels Using Trawl Gear in the Western and Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA). This action is necessary to fully use the 2015 groundfish total allowable catch available for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 10, 2015, through 2400 hours, A.l.t., December 31, 2015. Comments must be received at the following address no later than 4:30 p.m., A.l.t., August 25, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2014-0118, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2014-0118>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. 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, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 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 groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA, effective 1200 hours, A.l.t., May 3, 2015 (May 6, 2015, 80 FR 25967) under § 679.21(i)(7)(i).

On August 10, 2015, NMFS published an emergency rule (80 FR 47864, August 10, 2015) establishing a Chinook salmon prohibited species catch (PSC) limit of 1,600 for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA that is available from August 10, 2015 until December 31, 2015 (§ 679.21(i)(8)). Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2015 groundfish total allowable catch available for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA, NMFS is terminating the previous closure and is opening directed fishing for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA.

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 § 679.25(c)(1)(ii) as such a 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 opening directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of 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 August 7, 2015.

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 fishery for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of 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 August 25, 2015.

This action is required by §§ 679.20, 679.21, and 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 10, 2015.

Alan D. Risenhoover,

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

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