

existing regulatory authority. Without additional action, the AMs for non-groundfish vessels would remain in place for the entire 2017 fishing year, through April 30, 2018. Maintaining the AMs on the non-groundfish fishery presents fairness, equity, and conservation issues that were not previously apparent, as neither we nor the Council considered or foresaw the possibility of the AMs being removed for groundfish vessels but remaining in place for the non-groundfish trawl vessels, despite total catch being below the ACL. The Council intends to address this issue in Framework 57, which is scheduled for implementation for the 2018 fishing year. However, the Council cannot develop Framework 57 in time to address this issue and/or remove the AMs on the non-groundfish fishery this fishing year.

Maintaining the AMs on the non-groundfish fishery for the full fishing year would have immediate serious economic impacts without contributing further to the conservation goals of the AMs. If the AM areas are in place for the full fishing year, they are estimated to result in \$2 million in lost revenue in catch of yellowtail flounder, winter flounder, summer flounder, and scup. The AM areas do not prohibit all fishing with bottom-tending trawls, but require the use of trawl gear designed to minimize flatfish catch, which eliminates access to target species that vessels cannot recoup even if fishing in other areas. Removing the AMs this fishing year through an emergency action mitigates serious economic harm to the non-groundfish fishery while the Council develops permanent FMP measures.

For all of the reasons outlined above, NMFS finds it impracticable and contrary to the public interest to provide prior opportunity to comment on these emergency measures. Because this rule alleviates a restriction, which if continued would otherwise have serious and unnecessary economic harm on non-groundfish trawl vessels, it is not subject to the 30-day delayed effectiveness provision of the APA. Prior notice and opportunity for public comment and/or a 30-day delayed effectiveness would prevent the positive benefits that this rule is intended to provide, particularly because the fisheries most affected by the AM areas are most active in the summer months through September.

This action is being taken pursuant to the emergency provision of the Magnuson-Stevens Act and is exempt from OMB review.

This emergency rule does not contain policies with Federalism or "takings"

implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 28, 2017.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.90, add paragraph (a)(5)(i)(D)(1)(iii) effective September 1, 2017 through February 28, 2018.

The addition reads as follows:

#### § 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

(a) \* \* \*

(5) \* \* \*

(i) \* \* \*

(D) \* \* \*

(1) \* \* \*

(iii) *Emergency rule reducing the duration of southern windowpane flounder AM for non-groundfish vessels.* Effective September 1, 2017 through February 28, 2018, the southern windowpane flounder AM is removed for all vessels fishing with trawl gear with a codend mesh size equal to or greater than 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3).

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 160920866-7167-02]

RIN 0648-XF647

#### Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2017 Gulf of Alaska Pollock Seasonal Apportionments

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

**ACTION:** Temporary rule; inseason adjustment.

**SUMMARY:** NMFS is adjusting the 2017 C seasonal apportionments of the total allowable catch (TAC) for pollock in the Gulf of Alaska (GOA) by re-apportioning unharvested pollock TAC in Statistical Areas 610, 620, and 630 of the GOA. This action is necessary to provide opportunity for harvest of the 2017 pollock TAC, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), August 29, 2017, until 2400 hours A.l.t., December 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 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 (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 annual pollock TACs in Statistical Areas 610, 620, and 630 of the GOA are apportioned among four seasons, in accordance with § 679.23(d)(2). Regulations at § 679.20(a)(5)(iv)(B) allow the underharvest of a seasonal apportionment to be added to subsequent seasonal apportionments, provided that any revised seasonal apportionment does not exceed 20 percent of the seasonal apportionment for a given statistical area. Therefore, NMFS is increasing the C season apportionment of pollock in Statistical Areas 610, 620, and 630 of the GOA to

reflect the underharvest of pollock in those areas during the B season. In addition, any underharvest remaining beyond 20 percent of the originally specified seasonal apportionment in a particular area may be further apportioned to other statistical areas. Therefore, NMFS also is increasing the C season apportionment of pollock to Statistical Areas 610 and 630 based on the underharvest of pollock in Statistical Areas 620 of the GOA. These adjustments are described below.

The C seasonal apportionment of the 2017 pollock TAC in Statistical Area 610 of the GOA is 19,569 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032; February 27, 2017). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby increases the C season apportionment for Statistical Area 610 by 3,914 mt to account for the underharvest of the TAC in Statistical Areas 610 and 620 in the B season. This increase is in proportion to the estimated pollock biomass and is not greater than 20 percent of the C seasonal apportionment of the TAC in Statistical Area 610. Therefore, the revised C seasonal apportionment of the pollock TAC in Statistical Area 610 is 23,483 mt (19,569 mt plus 3,914 mt).

The C seasonal apportionment of the pollock TAC in Statistical Area 620 of the GOA is 12,341 mt as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017). In accordance with § 679.20(a)(5)(iv)(B), the Regional Administrator hereby increases the C seasonal apportionment for Statistical Area 620 by 2,468 mt to account for the underharvest of the TAC in Statistical Areas 620 in the B season. This increase is not greater than 20 percent of the C seasonal apportionment of the TAC in Statistical Area 620. Therefore, the revised C seasonal apportionment of the pollock TAC in Statistical Area 620 is 14,809 mt (12,341 mt plus 2,468 mt).

The C seasonal apportionment of pollock TAC in Statistical Area 630 of the GOA is 15,886 mt as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017). In accordance with § 679.20(a)(5)(iv)(B), the Regional Administrator hereby increases the C seasonal apportionment for Statistical Area 630 by 3,177 mt to account for the underharvest of the TAC in Statistical Areas 620 and 630 in the B season. This increase is in proportion to the estimated pollock biomass and is not greater than 20 percent of the C

seasonal apportionment of the TAC in Statistical Area 630. Therefore, the revised C seasonal apportionment of pollock TAC in Statistical Area 630 is 19,063 mt (15,886 mt plus 3,177 mt).

#### 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 provide opportunity to harvest increased pollock seasonal apportionments. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 25, 2017.

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: August 29, 2017.

**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. 160920866-7167-02]

RIN 0648-XF671

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting retention of the incidental catch allowance for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2017 total allowable catch of Pacific ocean perch apportioned to the incidental catch allowance in the Central Regulatory Area of the GOA has been reached.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), August 29, 2017, through 2400 hours, A.l.t., December 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 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.

The 2017 total allowable catch (TAC) of Pacific ocean perch apportioned to the incidental catch allowance in the Central Regulatory Area of the GOA is 2,000 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 TAC of Pacific ocean perch apportioned to the incidental catch allowance in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that catches of the incidental catch allowance for Pacific ocean perch in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b). This closure does not apply to fishing by vessels participating in the cooperative fishery of the Rockfish Program for the Central 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) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public