

59. Given the urgent need, the rules set forth herein shall take effect immediately upon release, and without prior public notice and comment. Section 553 of the Administrative Procedures Act (APA) permits any agency to implement a rule without public notice and opportunity for comment "when the agency for good cause finds \* \* \* that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Commission rules permit us to render an *Order* effective upon release where good cause warrants. As a general matter, we firmly believe that public notice requirements are an essential component of our rulemaking process. We find, however, that while receipt of public comment clearly is necessary to the formulation of final rules, the devastation caused by Hurricane Katrina and the need for prompt attention for the victims of Hurricane Katrina present good cause to make this *Order* effective immediately upon release of this *Order*.

#### IV. Congressional Review Act

60. The Commission will send a copy of this *Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A). For the reasons stated herein, we find good cause for the rule changes made by this *Order* to take effect upon the release of this *Order*, see 5 U.S.C. 808(2).

#### V. Procedural Matters

61. This *Order* contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Pursuant to 5 CFR 1320.18(d), the Office of Management and Budget (OMB) has granted the Commission a temporary waiver of the PRA requirements for this rulemaking. Accordingly, this *Order* will not be submitted to OMB for review.

#### VI. Ordering Clauses

62. Pursuant to the authority contained in sections 4(i), 4(j), 10, 201-205, 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 254, 303(r), and 403 this *Order* is adopted, and the temporary *Order* shall become effective immediately upon release of this *Order*, pursuant to 5 U.S.C. 408, 553(d)(3), 47 U.S.C. 408, 553(d)(3).

63. Pursuant to 4(i) and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 251(e), and §§ 1.1 and 1.3 of the Commission's rules, 47 CFR 1.1 and 1.3, that our procedural rules relating to the

universal service fund are waived to the extent herein described.

64. Pursuant to sections 1, 4(i), 251(b)(2), and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 251(b)(2) and 251(e), and § 1.3 of the Commission's rules, 47 CFR 1.3, that § 54.603(b)(3) of the Commission's rules is waived to the extent herein described.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-21728 Filed 10-31-05; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 050302053-5120-03; I.D. 042605G]

RIN 0648-AT38

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Spiny Dogfish; Open Access; Routine Management Measure; Closure Authority

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

**ACTION:** Emergency rule and extension of expiration date.

**SUMMARY:** This action extends an emergency rule, now in effect, that establishes routine management measure authority, under the Pacific Coast Groundfish Fishery Management Plan (Pacific Coast Groundfish FMP), to reduce trip limits to incidental levels in the open access fishery for groundfish before the sector has taken its full target groundfish species' allocations, to minimize impacts on overfished species. The mechanism established by this action is necessary to quickly restrict the directed open access groundfish fishery if NMFS estimates that the incidental catch of an overfished species is too high.

**DATES:** The amendments in this rule are effective November 1, 2005, through May 1, 2006, except for § 660.383(f), which is effective November 1, 2005. The expiration date of the emergency rule published on May 5, 2005 (70 FR 23804) is extended until May 1, 2006.

**ADDRESSES:** Copies of the Final Environmental Impact Statement (FEIS) for the harvest specifications and

management measures for the 2005-2006 groundfish fisheries are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280. Copies of the Record of Decision, final regulatory flexibility analysis (FRFA), and the Small Entity Compliance Guide for the groundfish harvest specifications for 2005-2006 are available from D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way, NE, Seattle, WA 98115-0070.

**FOR FURTHER INFORMATION CONTACT:** Yvonne deReynier (Northwest Region, NMFS), phone: 206-526-6129; fax: 206-526-6736 and; e-mail: [yvonne.dereynier@noaa.gov](mailto:yvonne.dereynier@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This rule is accessible via the Internet at the Office of the **Federal Register's** Web site at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). Background information and documents are available at the NMFS Northwest Region Web site at <http://www/nwr.noaa.gov/1sustfsh/gdfsh01.htm> and at the Council's Web site at <http://www.pcouncil.org>.

##### Background

On May 5, 2005, NMFS published an emergency rule (70 FR 23804) establishing bycatch limits of 1.0 mt of canary rockfish and 0.6 mt of yelloweye rockfish for the directed open access fishery for groundfish. If those limits were estimated to be achieved inseason, the trip limit levels for the open access fishery would be reduced via NMFS automatic action at § 660.370(d) to a level that would accommodate incidental catch in the non-directed open access fishery. This emergency rule implemented a provision setting the incidental trip limit level for the open access fishery at 200 lb (90.7 kg) of groundfish per month.

The impetus for this emergency rule was a high capacity freezer-longliner announcing its intent to join the open access fishery for spiny dogfish. Historical data indicated that traditional dogfish longliners operating off the Washington coast have had incidental catch of canary and yelloweye rockfish that concerned the agency. When applied to the expected catch of spiny dogfish by that a high-capacity vessel inexperienced with operating in northern West Coast waters, these bycatch rates could have jeopardized the optimum yields (OYs) for these

overfished rockfish bycatch species. Bycatch limits for the directed open access fishery were intended to ensure that any increased open access harvest levels that could result from the participation of any high capacity vessels in the open access fishery would not jeopardize either overfished species' OYs or the availability of incidental overfished species catch in fisheries other than the directed open access fishery.

The Council reviewed NMFS's action at its June 13–17, 2005, meeting and recommended raising the open access bycatch limits for canary and yelloweye rockfish to 3.0 mt each. The Council also determined that a more direct way of addressing the potential for canary and yelloweye rockfish bycatch in the open access fisheries would be to review the need for spiny dogfish trip limits. Thus, the Council has been following the groundfish fishery management plan's (FMP's) procedures for establishing new routine management measures by considering dogfish trip limits at its September and November 2005 Council meetings. Once the Council finalizes its decision on whether to implement spiny dogfish trip limits, NMFS will publish a proposed rule to send the Council's action out for public review and comment.

NMFS implemented the Council recommendation to set annual canary and yelloweye rockfish bycatch limits for the open access fishery at 3.0 mt each via an inseason action published on July 5, 2005 (70 FR 38596.) Therefore, NMFS is both renewing this emergency action through May 1, 2006, and re-publishing the Council-recommended annual open access bycatch limits for canary and yelloweye rockfish at 3.0 mt each. NMFS anticipates publishing a proposed rule to implement spiny dogfish trip limits in late 2005.

Additional information concerning the open access fisheries for groundfish may be found in the EIS for the 2005–2006 West Coast groundfish harvest specifications and management measures. NMFS provided a 30–day comment period on both the emergency rule published on May 5 and on the inseason action published on July 5, 2005. No comments were received on either action. Extension of this emergency rule is authorized under section 305(c)(3)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**Classification**

The Assistant Administrator for Fisheries, NOAA (AA,) has determined

that this extension is needed to prevent the canary and yelloweye rockfish OYs from being exceeded in either 2005 or 2006. Both of these species are overfished and are managed under rebuilding plans. This emergency rule needs to be extended in order to address concerns that high-capacity entrants to the directed open access fisheries could jeopardize the OYs for canary and yelloweye rockfish, and thereby take away fishing opportunities from hundreds of other commercial vessels and thousands of recreational vessels that also take these species incidentally. Maintaining the 2005–2006 bycatch limits set by the emergency rule (70 FR 23804, May 5, 2005,) will serve to protect canary and yelloweye rockfish from overharvest for the remainder of 2005 and in the early part of 2006. Accordingly, the AA is extending the expiration date of this emergency rule until May 1, 2006.

**List of Subjects in 50 CFR Part 660**

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: October 25, 2005.

**John Oliver,**  
Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

**PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC**

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.370, paragraph (c)(1)(iv) is added and paragraph (i) is revised to read as follows:

**§ 660.370 Specifications and management measures.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iv) *Differential trip landing limits and frequency limits based on gear type, closed seasons.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, the Pacific whiting primary seasons described at § 660.373(b), may be closed for any or

all of the fishery sectors identified at § 660.373 (a) before the sector allocation is reached if any of the bycatch limits identified at § 660.373(b)(4) are reached. To achieve the rebuilding of an overfished or depleted stock, groundfish trip limits in the open access fishery may be reduced to an incidental level if any of the bycatch limits identified at § 660.383(f) are reached.

\* \* \* \* \*

(i) *Automatic actions.* Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the **Federal Register** making the action effective if good cause exists under the APA to waive notice and comment. Automatic actions are used in the Pacific whiting fishery to close the fishery or reinstate trip limits when a whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached; or to reapportion unused allocation to other sectors of the fishery. An automatic action may also be used in the open access fishery to reduce groundfish trip limits to an incidental level when overfished species bycatch limits at § 660.383(f) are reached.

■ 3. In § 660.383, paragraph (f) is revised to read as follows:

**§ 660.383 Open access fishery management measures.**

\* \* \* \* \*

(f) *2005 and 2006 bycatch limits in the directed open access fishery.* Bycatch limits for the directed open access fishery may be used inseason to reduce overall groundfish trip limits to incidental levels to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at § 660.370(c)(1)(ii). These limits are routine management measures under § 660.370(c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. For 2005 and 2006, the directed open access fishery bycatch limits are 3.0 mt of canary rockfish and 3.0 mt of yelloweye rockfish in each year. Under automatic action authority at § 660.370(d), if either of these limits is reached, groundfish trip limits will be reduced to an incidental level. Under this authority, reducing groundfish trip limits to an incidental level means that any vessel operating off the West Coast that is not registered for use with a limited entry

permit will be constrained to a trip limit for all groundfish, excluding Pacific whiting of no more than 200 lb (90.7 kg) per month.

[FR Doc. 05-21618 Filed 10-31-05; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 041126333-5040-02; I.D. 102605A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of 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 pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 24 hours. This action is necessary to fully use the 2005 total allowable catch (TAC) of pollock specified for Statistical Area 630.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 27, 2005, through 1200 hrs, A.l.t., October 28, 2005.

**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.

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on October 8, 2005 (70 FR 59676, October 13, 2005). NMFS reopened directed fishing for pollock in Statistical Area 630 of the GOA for 48 hours under 679.25(a)(2)(i)(C) and (a)(2)(iii)(D) on October 17, 2005 (70 FR 61067, October 20, 2005).

NMFS has determined that approximately 588 mt of pollock remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the 2005 TAC of pollock in Statistical Area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that the directed fishing allowance for pollock in Statistical Area 630 of the GOA will be reached after 24 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA effective 1200 hrs, A.l.t., October 28, 2005.

#### 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 opening of pollock in Statistical Area 630 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 October 25, 2005.

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: October 26, 2005.

**Ann M. Lange,**

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

[FR Doc. 05-21773 Filed 10-27-05; 4:02 pm]

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