

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 060216044-6044-01; I.D. 071006F]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western 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 directed fishing for Pacific Ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2006 total allowable catch (TAC) of Pacific Ocean perch in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 2006, through 2400 hrs, A.l.t., December 31, 2006.

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 2006 TAC of Pacific Ocean perch in the Western Regulatory Area of the GOA is 4,155 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 TAC of Pacific Ocean perch in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,055 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting

directed fishing for Pacific Ocean perch in the Western Regulatory Area of the 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 Pacific Ocean perch in the Western Regulatory Area 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 July 10, 2006.

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: July 11, 2006.

Alan D. Risenhoover

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 06-6234 Filed 7-11-06; 2:45 pm]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 060216044-6044-01; I.D. 071106B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District 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 directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2006 total allowable catch (TAC) of Pacific ocean perch in the West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 2006, through 2400 hrs, A.l.t., December 31, 2006.

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 2006 TAC of Pacific ocean perch in the West Yakutat District of the GOA is 1,101 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 TAC of Pacific ocean perch in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,026 mt, and is setting aside the remaining 75 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the 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 Pacific ocean perch in the West Yakutat District 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 July 10, 2006.

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: July 11, 2006.

Alan D. Risenhoover,

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

[FR Doc. 06-6235 Filed 7-11-06; 2:45 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 060330091-6185-02; I.D. 032406D]

RIN 0648-AU37

Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 21 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). This action makes changes to the arbitration system in the Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Program (Program) by modifying the timing for harvesters and processors to match harvesting and processing shares and the timing for initiating arbitration proceedings to resolve price and other delivery disputes. This action is necessary to increase resource conservation and economic efficiency in the crab fisheries

that are subject to the Program. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable law.

DATES: Effective on August 14, 2006.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action, and the Bering Sea and Aleutian Islands Crab Fisheries Final Environmental Impact Statement (EIS) prepared for the Crab Rationalization Program, may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh, Records Officer, and from the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907-586-7228 or glenn.merrill@noaa.gov.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the exclusive economic zone of the BSAI are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Public Law 108-199, section 801). Amendments 18 and 19 to the FMP included the Program. A final rule implementing these amendments was published on March 2, 2005 (70 FR 10174). Regulations implementing Amendments 18 and 19 are located at 50 CFR part 680. On May 25, 2006, the Secretary approved Amendment 20 to the FMP, which authorizes the issuance of an East Bering Tanner crab quota share (QS) and West Bering Tanner crab QS. The final rule to implement Amendment 20 was published in the **Federal Register** on June 7, 2006 (71 FR 32862).

In February 2006, the Council adopted Amendment 21 to the FMP. The notice of availability for Amendment 21 was published in the **Federal Register** on March 31, 2006 (71 FR 16278), with a public comment period through May 30, 2006. NMFS received one comment on Amendment 21. That comment is addressed as Comment 1 in the Response to Comment section. NMFS approved Amendment 21 on June 30, 2006.

NMFS published the proposed rule for Amendment 21 in the **Federal Register** on April 20, 2006 (71 FR 20378), with a public comment period through June 5, 2006. NMFS received two comment letters with four unique public comments on the proposed rule.

A more in depth description of this action is provided in the preamble to the proposed rule and is briefly summarized here. Under the Program, NMFS issued harvester QS that yields annual individual fishing quota (IFQ). An IFQ is a permit to harvest a specific portion of the total allowable catch (TAC). A portion of the IFQs issued are "Class A" IFQ. Crab harvested under a Class A IFQ permit must be delivered to a specific processor. NMFS issued processor quota share (PQS) to processors that yield individual processing quota (IPQ). IPQ is a permit to receive and process a portion of the TAC harvested with Class A IFQ. A one-to-one relationship exists between Class A IFQ and IPQ.

The Program includes an arbitration system to resolve price, delivery terms, and other disputes if holders of Class A IFQ and IPQ are unable to negotiate those terms. The arbitration system provides harvesters and processors with the ability to reach price agreements through binding arbitration using two methods: (1) the "share match" approach that results in a binding arbitration decision prior to the season; and (2) the "lengthy season" approach that allows a binding arbitration proceeding to begin under a mutually agreed upon negotiation timeline.

After the annual issuance of IFQ and IPQ, the share match approach, at § 680.20(h)(3)(iv)(A), allows harvesters who are not affiliated with a processor through ownership or control linkages (unaffiliated harvesters) to unilaterally commit delivery of harvests from Class A IFQ to a processor with available IPQ. Once committed, the unaffiliated harvester is permitted to initiate a binding arbitration proceeding under § 680.20(h)(3)(v) if the parties are unable to agree to the terms of delivery. Regulations at § 680.20(h)(3)(v) require that an IFQ holder initiate binding arbitration at least 15 days prior to a season opening.

Alternatively, regulations at § 680.20(h)(3)(iii) allow unaffiliated harvesters to match IFQ with processors with available IPQ using a lengthy season approach. The lengthy season approach allows harvesters and processors to use the binding arbitration proceeding during a specific time during the fishing season rather than prior to the start of the season. The lengthy season approach requires a mutual agreement of both parties to schedule arbitration proceedings later in the season, which can affect negotiating positions.

The share match approach to resolve price disputes has not met the needs of IFQ holders because they are not able to