

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 070817467-8554-02]

RIN 0648-X152

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Elephant Trunk Scallop Access Area to General Category Scallop Vessels**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the Elephant Trunk Scallop Access Area (ETAA) will close to general category scallop vessels until it re-opens on March 1, 2009, under current regulations. This action is based on the determination that 1,671 general category scallop trips into the ETAA are projected to be taken as of 1200 hr (noon) local time, June 18, 2008. This action is being taken to prevent the allocation of general category trips in the ETAA from being exceeded during the 2008 fishing year, in accordance with the regulations implementing Framework 18 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** The closure of the ETAA to all general category scallop vessels is effective 1200 hr local time, June 18, 2008, through February 28, 2009.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fishery Management Specialist, (978) 281-9221, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:**

Regulations governing fishing activity in the Sea Scallop Access Areas are found at §§ 648.59 and 648.60. Regulations specifically governing general category scallop vessel operations in the ETAA are specified at § 648.59(e)(4)(ii). These regulations authorize vessels issued a valid general category scallop permit to fish in the ETAA under specific conditions, including a total of 1,671 trips that may be taken by general category vessels during the 2008 fishing year. The regulations at § 648.59(e)(4)(ii) require the ETAA to be closed to general category scallop vessels once the Northeast Regional Administrator has

determined that the allowed number of trips are projected to be taken.

Based on Vessel Monitoring System (VMS) trip declarations by general category scallop vessels fishing in the ETAA, and analysis of fishing effort, a projection concluded that, given current activity levels by general category scallop vessels in the area, 1,671 trips will have been taken on June 18, 2008. Therefore, in accordance with the regulations at § 648.59(e)(4)(ii), the ETAA is closed to all general category scallop vessels as of 1200 hr local time, June 18, 2008. Any vessel that has declared into the general category ETAA fishery, complied with all trip notification and observer requirements, and crossed the VMS demarcation line on the way to the area, may complete the trip. This closure is in effect for the remainder of the 2008 scallop fishing year under current regulations. The ETAA is scheduled to re-open to scallop fishing, including trips for general category scallop vessels, on March 1, 2009, unless the schedule for scallop access areas is modified by the New England Fishery Management Council.

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

This action closes the ETAA to all general category scallop vessels until March 1, 2009, under current regulations. The regulations at § 648.59(e)(4)(ii) allow such action to ensure that general category scallop vessels do not take more than their allocated number of trips in the ETAA. The ETAA opened for the 2008 fishing year at 0001 hours on June 1, 2008. Data indicating the general category scallop fleet has taken all of the ETAA trips have only recently become available. To allow general category scallop vessels to continue to take trips in the ETAA during the period necessary to publish and receive comments on a proposed rule would result in vessels taking much more than the allowed number of trips in the ETAA. Excessive trips and harvest from the ETAA would result in excessive fishing effort in the ETAA, where effort controls are critical, thereby undermining conservation objectives of the FMP. Should excessive effort occur in the ETAA, future management measures would need to be more restrictive. Based on the above, under 5 U.S.C. 553(d)(3), proposed rulemaking is waived because it would be impracticable and contrary to the public interest to allow a period for public comment. Furthermore, for the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day

delayed effectiveness period for this action.

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

Dated: June 17, 2008.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 680**

[Docket No. 080129098-8743-02]

RIN 0648-AW45

**Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations implementing Amendment 26 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). These regulations amend the Crab Rationalization Program. Amendment 26 amends the FMP to exempt permanently quota share issued to crew members, and the annual harvest privileges derived from that quota share, from requirements for delivery to specific processors, delivery within specific geographic regions, and participation in an arbitration system to resolve price disputes. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the FMP, and other applicable law.

**DATES:** Effective July 21, 2008.

**ADDRESSES:** Copies of Amendment 26, the Regulatory Impact Review (RIR)/ Final Regulatory Flexibility Analysis (FRFA) prepared for this action, and the 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 or from the Alaska Region website at <http://www.fakr.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Glenn Merrill, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The king and Tanner crab fisheries in the