

The projections conducted for witch flounder, GOM cod, and white hake indicate 177 percent, 196 percent, and 205 percent of their respective sub-ACLs will be caught by the end of the fishing year without action being taken to slow catch rates. Based upon the regulations that prescribe the accounting methodology, the defined differential DAS areas, and the recent location of catch, a differential DAS counting factor of 2.0 applies to all Category A DAS used by common pool vessels within the Inshore and Offshore GOM Differential DAS Areas and the Inshore and Offshore GB Differential DAS Areas. This 2:1 DAS counting ratio is calculated to be sufficient to ensure that sub-ACLs for white hake and GOM cod will not be exceeded. Because vessels are currently charged a full 24 hr for any day that is less than 24 hr, time fished will be first rounded up to account for a 24 hr day, to ensure the differential rate is effective in reducing effort sufficiently. For example, if a vessel fished for 13 hr in the GOM, the vessel would be charged 48 hr (i.e., 13 hr is rounded up to 24 hr, and multiplied by 2.0). If a vessel fished for 25 hr in the GOM, the vessel would be charged 96 hr (i.e., 25 hr is rounded up to 48 hr, and multiplied by 2.0). This differential DAS counting will be applied when fishing in the Inshore and Offshore GOM Differential DAS Areas and the Inshore and Offshore GM Differential Areas, based upon the first VMS position into the area, and the first VMS position outside of the area. For trips that fish both inside and outside of the areas covered by the differential DAS rate (i.e., within one of the differential DAS areas covered by the increased rate as described above, and also in the Southern New England (SNE) Differential DAS Area), the time spent fishing outside the differential areas will be counted as real time fished (time will not be rounded up to 24 hr nor will differential DAS accrue). For example, a vessel that fished for 20 hr in the GOM and 5 hr in SNE would be charged 53 hr (i.e., 20 hr (GOM) rounded up to 24 hr X 2.0 = 48; plus 5 hr (SNE) = 53 hr).

This action also allows for an exemption to the 2.0 differential DAS rate for vessels that merely transit the differential DAS areas. Thus, vessels may transit the GOM and GB Differential DAS Areas without being charged the 2.0 differential DAS rate, provided their gear is properly stowed according to the regulations at § 648.23(b). For example, if a vessel transits through the Inshore GB Differential DAS Area without fishing, and only fishes in the Offshore GB

Differential DAS Area, the differential rate of 2:1 will only apply to time spent in the Offshore GB Differential DAS Area. Transiting time to and from Offshore GB Differential DAS Area would only be charged 1:1, provided all gear is stowed properly. However, should the vessel decide to fish in the Inshore GB Differential DAS Area, all time spent in the area would then be charged the 2:1 rate. This transiting provision avoids unnecessary restrictions on vessels that cannot reach fishing grounds to fish for stocks not affected by this action. Vessels must still declare all broad stocks areas (BSA) it intends to fish in prior to leaving port.

#### Classification

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

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because notice, comment, and a delayed effectiveness would be impracticable and contrary to the public interest. The regulations at §§ 648.82(o) and 648.86(o) grant the Regional Administrator the authority to implement adjustments to NE multispecies differential DAS counting and modifications to trip limits respectively, to prevent over-harvesting or under-harvesting the common pool sub-ACLs. This action will implement a more restrictive DAS counting rate in the GOM and GB in order to ensure that the common pool sub-ACLs for GOM cod and white hake are not overharvested, and the biological and economic objectives of the FMP are met. Differential DAS, as well as a zero possession limit for witch flounder, help to prevent the sub-ACL for this stock from being further exceeded.

It is important to take this action immediately because, based on current data and projections, continuation of the status quo will result in exceeding at least some of the common pool sub-ACLs prior to the end of the fishing year. Attainment of any of the common pool sub-ACLs in FY 2010 would trigger accountability measures for the common pool in FY 2011. These future restrictions could result in the loss of yield of other valuable species caught by vessels in the common pool.

The updated catch information that is the basis for this action only recently became available. The time necessary to provide for prior notice and comment, and delayed effectiveness for this action, would prevent NMFS from implementing necessary restrictions in a timely manner. A resulting delay in the

curtailment of catch rate of these stocks could result in less revenue for the fishing industry and be counter to the objective of achieving optimum yield.

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

Dated: August 30, 2010.

**Carrie Selberg,**

*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 679

[Docket No. 0910131362-0087-02]

RIN 0648-XY70

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Vessels Participating in the Rockfish Entry Level Fishery 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 directed fishing for Pacific ocean perch for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 total allowable catch (TAC) of Pacific ocean perch allocated to vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2010, through 2400 hrs, A.l.t., December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907-586-7269.

**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 2010 TAC of Pacific ocean perch allocated to vessels participating in the entry level rockfish fishery in the

Central Regulatory Area of the GOA is 512 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish in the GOA (75 FR 11749, March 12, 2010). Section 679.83(a)(2) allows trawl or longline gear vessels participating in the entry level rockfish fishery to harvest any unused Pacific ocean perch after 1200 hrs, A.l.t., September 1, 2010.

As of September 1, 2010, 94 mt remains in the combined entry level longline and entry level trawl allocations of Pacific ocean perch. In accordance with § 679.83(a)(3), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the remaining 2010 TAC of Pacific ocean perch allocated to vessels participating in the entry level longline rockfish and entry level trawl fisheries in the Central Regulatory Area of the GOA is insufficient to support directed fishing. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch for longline and trawl vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) and § 679.81(h)(5) 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 for vessels participating in the rockfish entry level fishery in the Central 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 August 27, 2010.

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 30, 2010.

**Carrie Selberg,**

*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 679

[Docket No. 0910131362-0087-02]

RIN 0648-XY71

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish for Vessels Participating in the Rockfish Entry Level Fishery 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 directed fishing for pelagic shelf rockfish for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 total allowable catch (TAC) of pelagic shelf rockfish allocated to vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2010, through 2400 hrs, A.l.t., December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907-586-7269.

**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 TAC of 2010 pelagic shelf rockfish allocated to vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA is 157 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish in the GOA (75 FR 11749, March 12, 2010).

Section 679.83(a)(2) allows trawl or longline gear vessels participating in the entry level rockfish fishery to harvest any unused pelagic shelf rockfish after 1200 hrs, A.l.t., September 1, 2010.

As of September 1, 2010, 157 mt remains in the combined entry level longline and entry level trawl allocations of pelagic shelf rockfish. In accordance with § 679.83(a)(3), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the remaining 2010 TAC of pelagic shelf rockfish allocated to vessels participating in the entry level longline rockfish and entry level trawl fisheries in the Central Regulatory Area of the GOA is insufficient to support directed fishing. Consequently, NMFS is prohibiting directed fishing for pelagic shelf rockfish for longline and trawl and vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) and § 679.81(h)(5) 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 pelagic shelf rockfish for vessels participating in the rockfish entry level fishery in the Central 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 August 27, 2010.

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.*