

B. The NTSB Will Not Seek an Adjustment Below the Otherwise Required Catch-Up Adjustment Amount

The Inflation Adjustment Act permits the NTSB to adjust the maximum civil penalty amount by less than the required amount if OMB concurs and the NTSB determines that the required adjustment will have a negative economic impact, or the social costs will outweigh the benefits. 28 U.S.C. 2461 note, sec. 4(c). The NTSB is not seeking an adjustment below the otherwise required amount. The required catch-up adjustment amount is sufficient to deter violations of the NTSB's statutes and regulations, and the NTSB does not perceive that a negative economic impact or social cost will result from the catch-up adjustment.

III. The Annual Adjustment

The maximum civil penalty amount established by the catch-up adjustment, \$1,591, must be adjusted annually for inflation by January 15th of each year, beginning in 2017. 28 U.S.C. 2461 note, sec. 4(b); OMB annual guidance, *supra*, at 1. The OMB annual guidance states that the CPI-U multiplier representing the increase from the October 2015 CPI-U to the October 2016 CPI-U is 1.01636. OMB annual guidance, *supra*, at 1. Multiplying \$1,591 times 1.01636 equals \$1617.02876. Rounding to the nearest dollar equals \$1,617.

The new maximum penalty amount applies only to civil penalties assessed after the effective date of this Interim Final Rule. The NTSB will next adjust this amount for inflation by January 15, 2018.

IV. Regulatory Analysis

The Inflation Adjustment Act requires the NTSB to complete its catch-up adjustment in an Interim Final Rule. 28 U.S.C. 2461 note, sec. 4(b)(1)(A). Similarly, the Act provides that annual adjustments shall be completed "notwithstanding [5 U.S.C. 553]". 28 U.S.C. 2461 note, sec. 4(b)(2).

This rule does not require an assessment of its potential costs and benefits under section 6(a)(3) of E.O. 12866, *Regulatory Planning and Review*, 58 FR 51735 (Sept. 30, 1993), because it is not a "significant regulatory action" under section 3(f) of that Order. Thus, the Office of Management and Budget has not reviewed this rule under E.O. 12866. Likewise, this rule does not require an analysis under the Unfunded Mandates Reform Act, 2 U.S.C. 1501-71, or the National Environmental Policy Act, 42 U.S.C. 4321-47.

The NTSB does not anticipate this rule will have a substantial, direct effect

on state or local governments or will preempt state law; as such, this rule does not have implications for federalism under E.O. 13132, *Federalism*, 64 FR 43255 (Aug. 4, 1999).

This rule also complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, *Civil Justice Reform*, 61 FR 4729 (Feb. 5, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

NTSB has evaluated this rule under: E.O. 12630, *Governmental Actions and Interference With Constitutionally Protected Property Rights*, 53 FR 8859 (Mar. 15, 1988); E.O. 13045, *Protection of Children From Environmental Health Risks and Safety Risks*, 62 FR 19885 (Apr. 21, 1997); E.O. 13175, *Consultation and Coordination With Indian Tribal Governments*, 65 FR 67249 (Nov. 6, 2000); E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*, 66 FR 28355 (May 18, 2001); and the National Technology Transfer and Advancement Act, Public Law 104-113, 110 Stat. 775, Mar. 7, 1996. The NTSB has concluded that this Interim Final Rule neither violates, nor requires further consideration under those Orders and statutes.

The NTSB invites comments relating to any of the foregoing determinations and notes the most helpful comments reference a specific portion of this Interim Final Rule, explain the reason for any recommended change, and include supporting data.

List of Subjects in 49 CFR Part 831

Aircraft accidents, Aircraft incidents, Aviation safety, Hazardous materials transportation, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

Accordingly, for the reasons stated in the Preamble, the NTSB amends 49 CFR part 831 as follows:

PART 831—INVESTIGATION PROCEDURES

- 1. The authority citation for part 831 is revised to read as follows:

Authority: 49 U.S.C. 1113(f).

Section 831.15 also issued under Pub. L. 101-410, 104 Stat. 890, amended by Pub. L. 114-74, sec. 701, 129 Stat. 584 (28 U.S.C. 2461 note).

- 2. Add § 831.15 to read as follows:

§ 831.15 Civil penalties.

The NTSB is required by the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 104 Stat. 890, as amended by the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 584 (codified at 28 U.S.C. 2461 note) to adjust the maximum amount of each civil monetary penalty within its jurisdiction by the rate of inflation. Accordingly, for violations of 49 U.S.C. 1132, 1134(b), 1134(f)(1), or 1136(g), the NTSB may assess a civil penalty pursuant to 49 U.S.C. 1155(a) no greater than \$1,617 against any person, except a member of the armed forces of the United States or an employee of the Department of Defense subject to the Uniform Code of Military Justice, when the member or employee is performing official duties.

Robert L. Sumwalt III,
Chairman.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985-7181-02]

RIN 0648-XF731

Fisheries of the Exclusive Economic Zone Off Alaska; Sculpins in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of sculpins in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2017 sculpins initial total allowable catch (ITAC) in the BSAI has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 6, 2017, through 2400 hrs, A.l.t., December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 sculpins ITAC in the BSAI is 3,825 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 sculpins ITAC in the BSAI has been reached. Therefore, NMFS is requiring that sculpins caught in the BSAI be treated as prohibited species in accordance with § 679.21(b).

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 prohibiting retention of sculpins in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as September 28, 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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: October 6, 2017.

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 679

[Docket No. 161020985-7181-02]

RIN 0648-XF736

Fisheries of the Exclusive Economic Zone Off Alaska; Other Rockfish in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of “other rockfish” in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2017 “other rockfish” total allowable catch (TAC) in the Aleutian Islands subarea of the BSAI has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 6, 2017, through 2400 hrs, A.l.t., December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI is 550 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826; February 27, 2017).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI has been reached. Therefore, NMFS is requiring that “other rockfish” caught in the Aleutian Islands subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b) and be discarded at sea with a minimum of injury. “Other

rockfish” includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and rougheye rockfish.

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 prohibiting retention of “other rockfish” in the Aleutian Islands subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as September 28, 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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: October 6, 2017.

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 679

[Docket No. 160920866-7167-02]

RIN 0648-XF725

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.