

which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours July 13, 2007, through 2400 hours July 27, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

#### Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM

program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This

determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

**Authority:** 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: July 6, 2007.

**John Oliver,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 060314069-6069-01]

RIN 0648-XA84

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Nantucket Lightship 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 Nantucket Lightship Scallop Access Area (NLCA) will close to general category scallop vessels for the remainder of the 2007 scallop fishing year. This action is based on the determination that 394 general category scallop trips into the NLCA are projected to be taken as of 0001 hr local time, July 8, 2007. This action is being taken to prevent the allocation of general category trips in the NLCA from being exceeded during the 2007 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 is effective from 0001 hours, July 8, 2007, through February 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ryan Silva, Fishery Management Specialist, (978) 281-9326, 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 NLCA are specified at § 648.59(d)(5)(ii). These regulations authorize vessels issued a valid general category scallop permit to fish in the NLCA under specific conditions, including a cap of 394 trips that may be taken by general category vessels during the 2007 fishing year. The regulations at § 648.59(d)(5)(ii) require the NLCA 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 NLCA, and analysis of fishing effort, a projection concluded that, given current activity levels by general category scallop vessels in the area, the trip cap will be attained on July 7, 2007. Therefore, in accordance with § 648.59(d)(5)(ii), the NLCA is closed to all general category scallop vessels as of 0001 hr local time, July 8, 2007. No general category scallop vessel may declare or initiate a trip into this area. This closure is in effect for the remainder of the 2007 scallop fishing year. The NLCA is scheduled to re-open to scallop fishing, including trips for general category scallop vessels, on June 15, 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.

Due to the need to take immediate action to close the NLCA once the allowed number of trips have been taken, pursuant to 5 U.S.C. 553(b)(3) proposed rulemaking is waived because it would be impracticable and contrary to the public interest to allow a period for public comment. The NLCA opened for the 2007 fishing year at 0001 hours on June 15, 2007. Data indicating the general category scallop fleet has taken all of the NLCA trips have only recently become available. To allow general category scallop vessels to continue to take trips in the NLCA 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 NLCA. Excessive trips and harvest from the NLCA would result in excessive fishing effort in the NLCA, where effort controls are critical, thereby undermining conservation objectives of the FMP. Should excessive effort occur in the NLCA, future management measures would need to be more restrictive. 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: July 6, 2007.

**Alan D. Risenhoover,**

*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. 070213033-7033-01]

**RIN 0648-XB33**

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District 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 directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 Pacific ocean perch total allowable catch (TAC) in the Eastern Aleutian District of the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 6, 2007, through 2400 hrs, A.l.t., December 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 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 2007 Pacific ocean perch TAC in the Eastern Aleutian District of the BSAI is 4,598 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2007 Pacific ocean perch TAC in the Eastern Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,298 mt, and is setting aside the remaining 300 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 Eastern Aleutian District of the BSAI.

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