

vehicle would otherwise be attributed under S14.6.3.1.

S14.7 *Vehicles manufactured on or after September 1, 2012. (Higher maximum speed (56km/h (35 mph)) belted test requirement using 5th percentile adult female dummies).* Each vehicle shall meet the requirements specified in S15.1(b) (in addition to the other requirements specified in this standard). However, vehicles that are manufactured in two or more stages or that are altered (within the meaning of 49 CFR 567.7) after having been previously certified in accordance with Part 567 of this chapter may comply with the requirements specified in S15.1(a) instead of S15.1(b), if they are manufactured before September 1, 2013.

\* \* \* \* \*

#### S15.1 *Belted Test.*

(a) Each vehicle that is certified as complying with S14.1 or S14.2 shall, at each front outboard designated seating position, meet the injury criteria specified in S15.3 when tested under S16.1(a)(1).

(b) Each vehicle that is certified as complying with S14.6 or S14.7 shall, at each front outboard designated seating position, meet the injury criteria specified in S15.3 when tested under S16.1(a)(2).

\* \* \* \* \*

#### S16.1 *General provisions.* \* \* \*

##### (a) *Belted test.*

(1) *Vehicles certified to S14.1 or S14.2.* Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with the procedures specified in S16.3 of this standard. Impact the vehicle traveling longitudinally forward at any speed, up to and including 48 km/h (30 mph), into a fixed rigid barrier that is perpendicular within a tolerance of  $\pm 5$  degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard.

(2) *Vehicles certified to S14.6 or S14.7.* Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with the procedures specified in S16.3 of this standard. Impact the vehicle traveling longitudinally forward at any speed, up to and including 56km/h (35 mph), into a fixed rigid barrier that is perpendicular within a tolerance of  $\pm 5$  degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard.

\* \* \* \* \*

## PART 585—PHASE-IN REPORTING REQUIREMENTS

■ 3. The authority citation for Part 585 of Title 49 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 4. Section 585.14 is amended by redesignating paragraph (c) as (d) and adding new paragraph (c) to read as follows:

#### § 585.14 Definitions.

\* \* \* \* \*

(c) *Phase three of the advanced air bag reporting requirements of Standard No. 208* refers to the requirements set forth in S14.6 and S14.7 of Federal Motor Vehicle Safety Standard No. 208, 49 CFR 571.208.

\* \* \* \* \*

■ 5. Section 585.15 is amended by adding new paragraph (b)(3) and revising paragraph (d) to read as follows:

#### § 585.15 Reporting requirements.

\* \* \* \* \*

(b) \* \* \*

(3) Within 60 days after the end of the production years ending August 31, 2010, August 31, 2011, and August 31, 2012, each manufacturer shall submit a report to the National Highway Traffic Safety Administration regarding its compliance with phase three of the advanced air bag requirements of Standard No. 208 for its vehicles produced in that production year. The report shall provide the information specified in paragraph (d) of this section and in § 585.2 of this part.

\* \* \* \* \*

(d) *Phase-in report content.*

(1) *Basis for phase-in production requirements.* For production years ending August 31, 2003, August 31, 2004, August 31, 2005, August 31, 2007, August 31, 2008, August 31, 2009, August 31, 2010, and August 31, 2011, each manufacturer shall provide the number of vehicles manufactured in the current production year, or, at the manufacturer's option, for the current production year and each of the prior two production years if the manufacturer has manufactured vehicles during both of the two production years prior to the year for which the report is being submitted.

(2) *Production of complying vehicles.* Each manufacturer shall report for the production year for which the report is filed the number of vehicles, by make and model year, that meet the applicable advanced air bag requirements of Standard No. 208, and

to which advanced air bag requirements the vehicles are certified. Provide this information separately for phase two and phase three of the advanced air bag reporting requirements.

■ 6. Section 585.16 is revised to read as follows:

#### § 585.16 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number of each vehicle for which information is reported under § 585.15(c)(1) until December 31, 2011. Each manufacturer shall maintain records of the Vehicle Identification Number of each vehicle for which information is reported under § 585.15(d)(2) until December 31, 2013.

Issued: August 23, 2006.

Nicole R. Nason,

Administrator.

[FR Doc. 06-7225 Filed 8-30-06; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 060621176-6219-02; I.D. 052306A]

RIN 0648-AU50

### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Great South Channel Scallop Dredge Exemption Area

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to modify the regulations implementing the Northeast (NE) Multispecies Fishery Management Plan (FMP) to allow vessels issued either a General Category Atlantic sea scallop permit or a limited access sea scallop permit, when not fishing under a scallop days-at-sea (DAS) limitation, to fish for scallops with small dredges (combined width not to exceed 10.5 ft (3.2 m)) within the Great South Channel Scallop Dredge Exemption Area. This final rule responds to a request from the fishing industry to add this area to the list of exempted fisheries. The intent of this action is to allow small scallop dredge vessels to harvest scallops in a manner that is consistent with the bycatch reduction objectives of the FMP.

**DATES:** Effective August 31, 2006.

**ADDRESSES:** Copies of supporting documents, including the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA) prepared for this action are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of the preamble of this final rule. Copies of the FRFA and the Small Entity Compliance Guide are available from the Regional Administrator, and are also available via the internet at <http://www.nero.nmfs.gov>.

**FOR FURTHER INFORMATION CONTACT:** Tobey H. Curtis, Fishery Management Specialist, 978-281-9273, fax 978-281-9135.

**SUPPLEMENTARY INFORMATION:**

**Background**

Current regulations (implemented under Framework Adjustment 9 and expanded under Amendment 7 to the FMP) contain a multispecies fishing mortality and bycatch reduction measure that is applied to the Gulf of Maine (GOM), Georges Bank (GB), and Southern New England (SNE) Exemption Areas. A vessel may not fish in these areas unless it is fishing under a NE multispecies or a scallop days-at-sea (DAS) allocation, is fishing with exempted gear, is fishing under the Small Vessel Handgear (A or B) or Party/Charter permit restrictions, or is fishing in an exempted fishery. The procedure for adding, modifying, or deleting fisheries from the list of exempted fisheries is found in 50 CFR 648.80. A fishery may be exempted by the Regional Administrator (RA), after consultation with the New England Fishery Management Council (Council), if the RA determines, based on available data or information, that the bycatch of regulated species of groundfish is, or can be reduced to, less than 5 percent by weight of the total catch, and that such exemption will not jeopardize the fishing mortality objectives of the FMP.

On October 25, 2005, a request was submitted on behalf of the General Category scallop fleet to establish an additional exempted scallop dredge fishery in the GOM/GB Exemption Area in the vicinity of traditional scalloping grounds within the area known as the Great South Channel, off Cape Cod, MA. Neither the GOM Scallop Dredge Exemption Area, established in Framework 21 to the FMP (February 1997), nor the SNE Scallop Dredge

Exemption Area, established in Amendment 13 to the FMP (April 2004), include this area within their exemption programs.

Bycatch analyses conducted by NMFS for all observed scallop trips (both General Category and limited access scallop vessels) demonstrate that the exempted fishery described below meets the requirements of the regulations in a discrete area of the Great South Channel, in a portion of the initially requested area. On July 6, 2006, a proposed rule was published in the **Federal Register** (71 FR 38352) soliciting public comment. The proposed rule and EA discuss these analyses in greater detail. This final rule addresses the public comments that were received during the comment period, which ended on July 21, 2006. Based on some of the received comments, NMFS is slightly modifying the final rule with regard to the boundaries of the exemption area described in the proposed rule. This final rule exempts a slightly larger area around the Great South Channel, which includes an area of bottom identified as important to the General Category scallop fleet, and from which observer data were available that indicated low bycatch rates. This additional area was included in another alternative as reflected in the Comments section.

**Approved Management Measures**

*Great South Channel Scallop Dredge Exemption Area*

Based on the analysis of available data, the bycatch of regulated species by scallop dredge vessels is less than 5 percent, by weight, of the total catch in the Great South Channel. Therefore, the RA has determined that an exempted scallop dredge fishery in a specifically defined portion of the Great South Channel meets the exemption requirements specified in § 648.80(a)(8). At this time, there are not sufficient data to determine if a scallop dredge fishery in any other area would also meet the exemption requirements.

Therefore, this final rule implements an exempted fishery for vessels fishing with General Category scallop permits, or limited access scallop permits not fishing under a DAS allocation, to use small dredges with a combined width not greater than 10.5 ft (3.2 m) in portions of the Great South Channel (see area definition below). This area will be referred to as the Great South Channel Scallop Dredge Exemption Area (GSC Area). Portions of the GSC Area will be seasonally closed to protect SNE, GB, and Cape Cod (CC)/GOM yellowtail flounder during their peak spawning

periods. Peak spawning periods are defined in the EA prepared for Framework Adjustment 40-B to the FMP. The portion of the GSC Area that lies within statistical areas 525 and 526 (SNE and GB yellowtail flounder stock areas) will be closed from April 1 through June 30. The portion of the GSC that lies within statistical area 521 (CC/GOM yellowtail flounder stock area) will be closed from June 1 through June 30.

Vessels fishing in this exemption that wish to land more than 40 lb (18.1 kg) of shucked (5 bu (1.76 hL) unshucked) scallops are required to have a Category 1B General Category scallop permit, an operational Vessel Monitoring System (VMS), and are allowed to land a maximum of 400 lb (181.4 kg) of shucked (50 bu (17.62 hL) unshucked) scallops per trip. Vessels with a limited access scallop permit may also participate in the exemption when not fishing under a scallop DAS, and are restricted to the Category 1B General Category scallop permit regulations. These vessels are not allowed to fish for, possess on board, or land any fish species other than scallops. Other than the seasonal closures between April and June, these regulations are consistent with those of the existing scallop dredge exemption areas defined at § 648.80(a)(11) and (b)(11). Regulations governing the scallop fishery can be found at § 648 subpart D.

**Comments and Responses**

NMFS received 25 comment letters on the proposed rule; 18 letters were from General Category scallop vessel owner/operators, three were from industry representatives, one was from an individual, one was from a state-level fisheries management agency, one was from the Council, and one was from an environmental advocacy group. Although comments were received on the economic effects of the rule more generally, no public comments were received specifically on the economic analyses summarized in the IRFA. These comment letters could generally be divided into several main groups of similar comments, which are summarized below:

*Comment 1:* Most letters from General Category scallop vessel owner/operators indicated strong support for the GSC Area as proposed. Their personal observations agree with the low observed groundfish bycatch rates described in the proposed rule. Many described the economic hardships that they have endured since learning the Great South Channel was prohibited for General Category scallop vessels, and

requested that the area be opened as soon as possible.

*Response:* The proposed rule and EA for this action identified that, based on the best available data, this exemption meets the bycatch requirements of the regulations (i.e., regulated multispecies bycatch is less than 5 percent of the total catch). The IRFA also described how the No Action alternative would have negative impacts on small entities in the affected communities. The RA has therefore approved the exemption and is implementing the GSC Area through this final rule.

*Comment 2:* Four letters primarily support the establishment of the GSC Area, but requested that the boundaries be expanded to include one or two areas the commenters stated are important scallop fishing areas that were not included in the proposed rule. They stated that the spatial distribution of observed scallop dredge tows would support this expansion. The commenters indicated that the change in boundaries of the GSC Area should only be considered if it would not delay the implementation of the exemption; again citing economic hardship and a need to open the GSC Area as soon as possible.

*Response:* NMFS reviewed the relevant data and found that an expansion of the GSC Area to include an area north of the northwest corner of Closed Area I was justified because of its relatively small size, and the fact that available data in this general area indicated low bycatch rates. This adjustment from the boundaries defined in the proposed rule are addressed in this final rule. This adjustment incorporates part of a larger potential exemption area which was analyzed as an alternative in the EA for this action. A more complete discussion of the justification and impacts of this modification are described in the EA, and were determined to not have any further significant impacts than previously identified in the draft EA.

*Comment 3:* Many of the General Category scallop owner/operators argued that the GSC Area should be open solely because the limited access scallop fleet is already permitted to fish in the Great South Channel, and it is inequitable to prohibit General Category scallop vessels, which arguably have fewer impacts on habitat and fishery resources.

*Response:* Because of the poor condition of many groundfish stocks, the NE multispecies regulations prohibit all vessels from fishing in the GOM, GB, and SNE Exemption Areas, unless the vessel is fishing under a groundfish or scallop DAS, is fishing with exempted

gear, is fishing under the Small Vessel Handgear (A or B) or Party/Charter permit restrictions, or is fishing in an exempted fishery. An exempted fishery is a fishery where the bycatch of groundfish has been determined to be less than 5-percent of the total catch in that fishery. Under existing regulations, the General Category scallop fishery has only demonstrated that it would meet these bycatch requirements in the GOM and SNE Scallop Dredge Exemption Areas, and has therefore been limited to those specific areas. This final rule finds that this exempted fishery status now also applies to the Great South Channel. Additionally, although General Category effort expansion has not yet been specifically analyzed in the Atlantic Sea Scallop (Scallop) FMP, this action is not expected to result in increased effort in this fishery, but rather a redistribution of existing effort. The Council is also currently considering measures for General Category scallop vessels that would address issues with capacity, effort, and mortality in the long-term.

*Comment 4:* The Council commented that it previously voted to support this exemption proposal if the RA found that the exemption would meet the bycatch and fishing mortality objectives of the regulations. The Council supports the establishment of the GSC Area as described in the proposed rule.

*Response:* The regulations require that the RA consult with the Council before approving new exempted fisheries. The RA has found that the proposed exemption meets the requirements of the regulations, and the Council concurs with this determination.

*Comment 5:* Two letters did not support the proposed rule to create the GSC Area. One letter did not provide any specific reasons for its arguments against the exemption. The other letter described its concerns in detail, citing the potentially negative impacts on habitat and bycatch species that the commenter believed could result from the increased dredge effort in the Great South Channel. This letter also proposed that NMFS should implement an annual bycatch quota in the GSC Area, similar to those utilized in the Scallop Access Area Program.

*Response:* NMFS addressed the impacts that the proposed action would have on habitat and non-target species in the EA. It was acknowledged that this area provides important habitat for managed species of groundfish and that the proposed action will adversely impact EFH for those species. However, given the substantial amount of bottom trawling and dredging that already takes place in the area and the fact that the environment is naturally so dynamic,

NMFS concluded that any additional adverse impacts that result from this action would be no more than minimal. Therefore, no management measures to mitigate for the adverse effects of this action are required (see 50 CFR 600.815(a)(2)(ii)). The EA does not include any quantitative data that would indicate more exactly how much additional bottom contact would result from this action, but rather notes that there is not enough information available to make such a prediction. However, NMFS believes that the amount of bottom disturbance caused by the existing fishing activity and the natural disturbance caused by bottom currents and storms far exceeds the additional disturbance that would result from this action. Additionally, impacts will be minimized to the extent practicable by limiting the size of the dredge gear to 10.5 ft (3.2 m), and with comparatively low daily trips limits, which would result in less bottom contact.

As pointed out by the commenter, several closed area alternatives were analyzed in Amendment 10 to the Scallop FMP that partially overlap with the proposed GSC Area. However, including the results of these analyses in the EA would not change the conclusions reached in the document. The commenter also suggested that this action could have a detrimental effect on the Habitat Area of Particular Concern (HAPC) designation process that is currently underway in New England. NMFS does not agree. This process is still in the very early stages. No management decisions that would affect fishing will be made until new HAPC areas are established. Until such time, fishing can continue in any potential HAPC. Allowing General Category scallop vessels into the GSC Area will not complicate the HAPC designation process or any subsequent decisions that would affect fishing in the area.

As discussed above, based on the best available data, the bycatch of regulated multispecies in this exempted fishery is expected to be within the allowable limits defined in the regulations, and a seasonal closure to protect spawning yellowtail flounder will be implemented. Furthermore, the opening of the GSC Area is expected to redistribute the effort of the General Category scallop fishery, to some degree, from other areas where bycatch rates tend to be higher. With regard to annual bycatch quotas, such a measure is not warranted or practicable in an exempted fishery with very low bycatch rates. The observed bycatch rates in the adjacent Nantucket Lightship Scallop Access

Area, similar to those calculated for the GSC Area, average less than 1 percent. Bycatch quotas could also pose negative social and economic effects by promoting rapid harvest rates to maximize landings before the quota is reached, as has been observed in the Scallop Access Area Program. A steady, long-term harvest rate would be more beneficial to the fishery as a whole, provided the bycatch rates remain low. Moreover, it would be impracticable to monitor on a real time basis, the very low bycatch levels in this fishery. The regulations allow for the periodic review and modification of exempted fisheries if it is determined that bycatch rates have risen above the acceptable thresholds.

#### Changes From the Proposed Rule

In § 648.80, paragraph (a)(18)(i) is revised to include new coordinates for the boundary of the GSC Area.

In § 648.80, paragraph (a)(18)(ii)(D) is revised to include new coordinates for the boundary of the GSC CC/GOM Yellowtail Flounder Peak Spawning Closure.

#### Classification

NMFS has determined that this final rule is consistent with the FMP and determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Because § 648.80(a)(18) of this rule eliminates a prohibition on General Category scallop vessels fishing in the Great South Channel, thereby relieving a restriction, it is not subject to the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1). The NE multispecies regulations at § 648.80(a)(2)(viii) prohibit all vessels from fishing in the GOM/GB Exemption Area, unless the vessel is fishing under a groundfish or scallop DAS, is fishing with exempted gear, is fishing under the Small Vessel Handgear (A or B) or Party/Charter permit restrictions, or is fishing in an exempted fishery. Under existing regulations, the General Category scallop fishery has only demonstrated that it would meet these bycatch requirements in the GOM and SNE Scallop Dredge Exemption Areas, and has therefore been limited to those specific areas. This final rule finds that this exempted fishery status now also applies to the Great South Channel, thereby relieving the restrictions on General Category scallop vessels in this area.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act, has prepared a FRFA in support of this action. The FRFA describes the economic impact that this final rule will have on small entities. The FRFA incorporates the economic impacts and analysis summarized in the IRFA for the proposed rule to implement the GSC Area (71 FR 38352), and the corresponding economic analyses prepared for this action in the EA and the RIR. The contents of these documents are not repeated in detail here. Copies of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**). A description of the reasons for this action, the objectives of the action, and the legal basis for this final rule are found in the preamble to the proposed and final rules.

There are no Federal rules that duplicate, overlap, or conflict with this final rule. This action will create a new scallop dredge exemption area for General Category scallop vessels in the GOM/GB Exemption Area. This action was compared to three different alternatives for the boundaries of the exemption area. Alternatives to the proposed exemption area included exempting all of statistical areas 521 and 526, exempting the entirety of the GOM/GB Exemption Area, and a No Action alternative, which would continue to prohibit General Category scallop dredge vessels from fishing outside of the existing scallop dredge exemption areas.

#### *Description and Estimate of the Number of Small Entities to Which This Rule Would Apply*

The Small Business Administration (SBA) defines a small commercial fishing entity as a firm with gross receipts not exceeding \$4 million. As of March 2006, a total of 2,814 vessels had been issued open access General Category scallop permits in the NE region. Approximately 30 percent of these were issued a Category 1B permit, which allows up to 400 lb (181.4 kg) of scallop meats per trip, and are considered to be vessels that primarily rely on scallops for the bulk of their revenues. Any of these permitted vessels would be allowed to participate in this exemption program, but the area proposed to be exempt has traditionally been mostly fished by vessels from Massachusetts and Maine. Average 2005 scallop revenues for General Category scallop vessels was \$87,369 per vessel, though there was great variation from vessel to vessel, ranging from less than \$7,000 to over \$160,000 per vessel. The majority of these vessels also receive additional revenues from landings of a

variety of other species. Each vessel in this analysis is treated as a single entity for purposes of size determination and impact assessment. All commercial fishing entities would fall under the SBA size standard for small commercial fishing entities. Therefore, there is no differential impact between large and small entities. A more complete description of the General Category fishery can be found in Framework Adjustment 18 to the Scallop FMP, available from the Council ([www.nefmc.org](http://www.nefmc.org)).

#### *Economic Impacts of This Action*

The economic impacts of the action are expected to be positive. This action will open a valuable scallop fishing ground to the General Category scallop fleet, and allow the fleet to utilize these resources in a manner consistent with the bycatch and mortality objectives of the FMP. The demand for scallops has increased significantly in recent years, and revenues for General Category vessels are also expected to increase if the exemption area is approved. There is evidence that some General Category vessels have been fishing in this area for years, despite the fact that it is outside of the existing Scallop Dredge Exemption Areas. Their profits from scallop fishing have declined since access to this area was prohibited and enforced. The ports in Cape Cod and southern Massachusetts will be the most impacted, due to their proximity to the proposed exemption area.

#### *Economic Impacts of Other Non-Selected Alternatives*

Three alternatives other than the preferred alternative were considered. The alternative that proposed to exempt the entirety of statistical areas 521 and 526 throughout the year to General Category scallop vessels, and the alternative that proposed to exempt the much larger area of the GOM/GB Exemption Area year-round would also have positive impacts; possibly slightly more positive than the preferred alternative due to the larger exempted area and the lack of a closure period. These alternatives were rejected, however, due primarily to the lack of observer data needed to estimate the bycatch rates of regulated multispecies throughout these areas. The No Action alternative was the only alternative that could pose negative economic impacts by continuing to prohibit General Category scallop vessels from fishing in the Great South Channel.

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of

1996 states that, for each rule for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule. As part of this rulemaking process, a small entity compliance guide was prepared. The guide will be sent to all holders of permits issued for the Atlantic sea scallop fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from the Regional Administrator (see ADDRESSES).

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 25, 2006.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

**PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, paragraph (a)(43) is revised to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(43) Violate any of the provisions of § 648.80, including paragraphs (a)(5), the small-mesh northern shrimp fishery exemption area; (a)(6), the Cultivator Shoal whiting fishery exemption area; (a)(9), Small-mesh Area 1/Small-mesh Area 2; (a)(10), the Nantucket Shoals dogfish fishery exemption area; (a)(11), the GOM Scallop Dredge Exemption Area; (a)(12), the Nantucket Shoals mussel and sea urchin dredge exemption area; (a)(13), the GOM/GB monkfish gillnet exemption area; (a)(14), the GOM/GB dogfish gillnet exemption area; (a)(15), the Raised Footrope Trawl Exempted Whiting Fishery; (a)(18), the Great South Channel Scallop Dredge Exemption Area; (b)(3), exemptions (small mesh); (b)(5), the SNE monkfish and skate trawl exemption area; (b)(6), the SNE monkfish and skate gillnet exemption area; (b)(8), the SNE mussel and sea urchin dredge exemption area; (b)(9), the SNE little tunny gillnet exemption area; and (b)(11), the SNE Scallop Dredge Exemption Area. Each

violation of any provision in § 648.80 constitutes a separate violation.

\* \* \* \* \*

■ 3. In § 648.80, paragraphs (a)(3)(viii) and (a)(7)(ii) are revised, and paragraph (a)(18) is added to read as follows:

**§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.**

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(viii) *Other restrictions and exemptions.*

Vessels are prohibited from fishing in the GOM/GB Exemption Area as defined in paragraph (a)(17) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (a)(5) through (7), (a)(9) through (16), (a)(18), (d), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing under the Small Vessel or Handgear A exemptions specified in § 648.82(u)(5) and (6), respectively; or if fishing under a scallop DAS in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit, or if fishing as a charter/party or private recreational vessel in compliance with the regulations specified in § 648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

\* \* \* \* \*

(7) \* \* \*

(ii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may transit through the Scallop Dredge Fishery Exemption Areas defined in paragraphs (a)(11) and (18) of this section with nets on board with a mesh size smaller than the minimum size specified, provided that the nets are stowed in accordance with one of the methods specified in § 648.23(b), and provided the vessel has no fish on board.

\* \* \* \* \*

(18) *Great South Channel Scallop Dredge Exemption Area.* Vessels issued a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels issued a General Category scallop permit, may fish in the Great South Channel Scallop Dredge Exemption Area as defined under paragraph (a)(18)(i) of this section, when not under a NE multispecies or scallop DAS, provided the vessel complies with the

requirements specified in paragraph (a)(18)(ii) of this section.

(i) *Area Definition.* The Great South Channel Scallop Dredge Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

**GREAT SOUTH CHANNEL SCALLOP DREDGE EXEMPTION AREA**

Point	N. lat.	W. long.
GSC 1 .....	42°06 [min]	69°40 [min]
GSC 2 .....	41°30 [min]	69°10 [min]
GSC 3 .....	41°30 [min]	69°23 [min]
GSC 4 .....	40°50 [min]	68°49.2 [min]
GSC 5 .....	40°50 [min]	69°29.46 [min]
GSC 6 .....	41°10 [min]	69°50 [min]
GSC 7 .....	41°10 [min]	70°00 [min]
GSC 8 .....	41°35 [min]	70°00 [min]
GSC 9 .....	41°35 [min]	69°40 [min]

(ii) Requirements. (A) A vessel fishing in the Great South Channel Scallop Dredge Exemption Area specified in this paragraph (a)(18) may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops.

(B) The combined dredge width in use by, or in possession on board, vessels fishing in the Great South Channel Scallop Dredge Exemption Area may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(C) GSC SNE/GB Yellowtail Flounder Peak Spawning Closure. No vessel that qualifies under this exemption, as defined in this paragraph (a)(18), may fish for or possess Atlantic sea scallops in the part of the Great South Channel Scallop Dredge Exemption Area that lies within the SNE and GB yellowtail flounder stock areas (statistical areas 525 and 526) between April 1 and June 30, as defined by the straight lines connecting the following points in the order stated below.

**GSC SNE/GB YELLOWTAIL FLOUNDER SPAWNING CLOSURE**

Point	N. lat.	W. long.
YTA 1 .....	41°20 [min]	70°00 [min]
YTA 2 .....	41°20 [min]	69°50 [min]
YTA 3 .....	41°10 [min]	69°50 [min]
YTA 4 .....	41°10 [min]	69°30 [min]
YTA 5 .....	41°00 [min]	69°30 [min]
YTA 6 .....	41°00 [min]	68°57.58 [min]
YTA 7 .....	40°50 [min]	68°49.20 [min]
YTA 8 .....	40°50 [min]	69°29.46 [min]
YTA 9 .....	41°10 [min]	69°50 [min]
YTA 10 .....	41°10 [min]	70°00 [min]
YTA 11 ...	(1)	70°00 [min]

(1) Intersection of south-facing coastline of Nantucket, MA, and 70°00 [min] W. Long.

(D) GSC CC/GOM Yellowtail Flounder Peak Spawning Closure. No vessel that

qualifies under this exemption, as defined in this paragraph (a)(18), may fish for or possess Atlantic sea scallops in the part of the Great South Channel Scallop Dredge Exemption Area that lies within the CC/GOM yellowtail flounder stock area (statistical area 521) between June 1 and June 30 of each year, as defined by the straight lines connecting the following points in the order stated below.

**GSC CC/GOM YELLOWTAIL FLOUNDER SPAWNING CLOSURE**

Point	N. lat.	W. long.
YTB 1 .....	41°33.05 [min]	70°00 [min]
YTB 2 .....	41°20 [min]	70°00 [min]
YTB 3 .....	41°20 [min]	69°50 [min]
YTB 4 .....	41°10 [min]	69°50 [min]
YTB 5 .....	41°10 [min]	69°30 [min]
YTB 6 .....	41°00 [min]	69°30 [min]
YTB 7 .....	41°00 [min]	68°57.58 [min]
YTB 8 .....	41°30 [min]	69°23 [min]
YTB 9 .....	41°30 [min]	69°10 [min]
YTB 10 .....	42°06 [min]	69°40 [min]
YTB 11 .....	41°35 [min]	69°40 [min]
YTB 12 .....	41°35 [min]	70°00 [min]

\* \* \* \* \*

■ 5. § 648.81, paragraph (g)(2)(iii) is revised to read as follows:

**§ 648.81 NE multispecies closed areas and measures to protect EFH.**

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(iii) That are fishing with or using scallop dredge gear when fishing under a scallop DAS, and provided that the vessel complies with the NE multispecies possession restrictions for scallop vessels specified at § 648.80(h); or when lawfully fishing in the Scallop Dredge Fishery Exemption Areas, as described in paragraphs (a)(11) and (18) of this section.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 060216044-6044-01; I.D. 082506D]

**Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason adjustment; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), effective 2400 hrs, Alaska local time, September 1, 2006. This adjustment is necessary to allow a 12-hour fishery for species that comprise the shallow-water species fishery without exceeding the fourth seasonal apportionment of the 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2006, through 2400 hrs, A.l.t., September 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 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 fourth seasonal apportionment of the 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA is 150 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006), for the period 1200 hrs, A.l.t., September 1, 2006, through 1200 hrs, A.l.t., October 1, 2006.

Regulations at § 679.23(b) specify that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. Current information shows the expected trawl Pacific halibut bycatch rates observed in groundfish fisheries during the fourth season in the GOA to be 300 mt per day. The Administrator, Alaska Region, NMFS, has determined that the 2006 Pacific halibut bycatch allowance specified for the trawl fisheries could be exceeded if a 24-hour fishery were allowed to occur. NMFS intends that the halibut bycatch allowance not be exceeded and, therefore, will not allow a 24-hour directed fishery. NMFS, in accordance with §§ 679.25(a)(1)(i) and 679.25(a)(2)(i)(A), is adjusting the trawl shallow-water species fishery in the

GOA by prohibiting the fishery at 2400 hrs, A.l.t., September 1, 2006, at which time directed fishing for shallow-water species by vessels using trawl gear in the GOA will be prohibited. This action has the effect of opening the fishery for 12 hours.

NMFS is taking this action to allow a controlled fishery to occur, thereby preventing the overharvest of the Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery designated in accordance with the 2006 and 2007 harvest specifications for groundfish in the GOA (71 FR 10870, March 3, 2006) and § 679.21(d). In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 2400 hrs, A.l.t., September 1, 2006, after a 12 hour opening is the least restrictive management adjustment to allow the fishing industry opportunity to harvest species that comprise the shallow-water species fishery without exceeding the fourth seasonal apportionment of the 2006 Pacific halibut bycatch allowance for the shallow-water species fishery in the GOA. Pursuant to § 679.25(b)(5), NMFS has considered data regarding inseason prohibited species bycatch rates observed in groundfish fisheries in the GOA in making this adjustment.

The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates and "other species."

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 inseason adjustment closing of the shallow-water species fishery by vessels using trawl gear in 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 25, 2006.

The AA also finds good cause to waive the 30-day delay in the effective