

that the catch was less than anticipated pre-season and that provisions designed to slow the catch of Chinook could be modified, by increasing the landing and possession limits. As a result, on July 27, 2006, the states recommended, and the RA concurred, that effective Saturday, July 29, 2006, the landing and possession limit for Chinook would be increased to 60 fish per vessel per open period until the earlier of September 15 or the available quota for Chinook was taken. Subsequently, on August 11, 2006, the RA consulted with the above mentioned parties and determined that previous inseason actions and provisions could be modified further. As a result the states recommended and the RA concurred, that effective Saturday, August 19, 2006, in the area north of Cape Falcon, OR to the US Canada border the landing and possession limit for Chinook would be increased to 80 fish per vessel per open period for the remainder of the season, the number of fishing days per week would be increased to 4 days, Saturday through Tuesday, and the 6 inch (15.24 cm) plug gear restriction would be eliminated. These actions were necessary to conform to the 2006 management goals. The intended effect was to allow the fishery to operate within the seasons and quotas specified in the 2006 annual management measures. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i) gear modifications are authorized by regulation at 50 CFR 660.409(b)(1)(iv).

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the already described regulatory actions were given, prior to the date the action was effective, by telephone hotline number 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As

previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (71 FR 26254, May 4, 2006), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30-day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would limit fishers appropriately controlled access to available fish during the scheduled fishing season by unnecessarily restricting the fishery. These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: September 22, 2006

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. 060216044-6044-01; I.D. 092206E]

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; opening; request for comments.

SUMMARY: NMFS is opening directed fishing for species that comprise the shallow-water species fishery by vessels

using trawl gear in the Gulf of Alaska (GOA), effective 0700 hours, Alaska local time (A.l.t.), September 25, 2006. This adjustment is necessary to allow a 12-hour fishery for species that comprise the shallow-water species fishery by vessels using trawl gear in the GOA to resume, without exceeding the 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA.

DATES: Effective 0700 hours, A.l.t., September 25, 2006, through 1900 hours, A.l.t., September 25, 2006.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 10, 2006.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Walsh. Comments may be submitted by:

- Mail to: P.O. Box 21668, Juneau, AK 99802;

- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;

- FAX to 907-586-7557;

- E-mail to shallowtrawl3@noaa.gov and include in the subject line of the e-mail comment the document identifier: goaswx4srod [E-mail comments, with or without attachments, are limited to 5 megabytes]; or

- Webform at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions at that site for submitting comments.

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 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA is 900 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006). NMFS closed directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the GOA under § 679.21(d)(7)(i) on September 1, 2006 (71 FR 51784, August 31, 2006). The fishery was subsequently reopened and closed on September 6, 2006 (71 FR

53339, September 11, 2006) and September 20, 2006 (71 FR 55134, September 21, 2006).

As of September 22, NMFS has determined that 205 mt of halibut bycatch allowance for the fishery remains. Therefore, in accordance with § 679.25(a)(1)(i) and 679.25(a)(2)(i)(A), NMFS is adjusting the trawl shallow-water species fishery in the GOA by opening the fishery at 0700 hrs. A.l.t., September 25, 2006, and prohibiting directing fishing for shallow-water species by vessels using trawl gear in the GOA at 1900 hrs. A.l.t., September 25, 2006. This action has the effect of opening the fishery for 12 hours. 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 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 1900 hrs. A.l.t., September 25, 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 opening of the fishery, not allow the full utilization of the species and species groups that comprise the shallow-water species fishery, and therefore reduce the public's ability to use and enjoy the fishery resource. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 22, 2006.

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.

Without this inseason adjustment, NMFS could not allow the shallow-water species fishery by vessels using trawl gear in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 10, 2006.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: September 25, 2006.

Alan D. Risenhoover

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

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