

permitted vessels within the entire U.S./Canada Management Area, and closure of the Eastern U.S./Canada Area to limited access NE multispecies DAS vessels, for the remainder of the 2007 fishing year was announced to the public when the 1,500-lb (680-kg) trip limit was implemented on January 10, 2008. The public is able to obtain information on the rate of harvest of the GB yellowtail flounder TAC via the Northeast Regional Office website (<http://www.nero.noaa.gov>), which provides at least some advanced notice of a potential action to prevent the TAC for GB yellowtail flounder from being exceeded during the 2007 fishing year. Further, the Regional Administrator's authority to prohibit the harvest, possession, and landing of GB yellowtail flounder by all federally permitted vessels within the entire U.S./Canada Management Area, and close the Eastern U.S./Canada Area to limited access NE multispecies DAS vessels for the remainder of the 2007 fishing year, to ensure the shared U.S./Canada stocks of fish are not exceeded was considered and open to public comment during the development of Amendment 13 and Framework 42 to the FMP. Therefore, any negative effect the waiving of public comment and delayed effectiveness may have on the public is mitigated by these factors.

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

Dated: January 23, 2008.

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 660

[Docket No. 070703215-7530-02]

RIN 0648-AU08

Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Vessel Monitoring System; Open Access Fishery; Correction

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

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule that was published in the **Federal Register** on December 7, 2007, and which becomes effective February 4,

2008. The final rule requires all vessels fishing pursuant to the harvest guidelines, quotas, and other management measures governing the open access groundfish fishery, and all non-groundfish trawl vessels to provide declaration reports and to activate and use a vessel monitoring system (VMS) transceiver unit while fishing off the coasts of Washington, Oregon and California. This action corrects an incorrect cross reference in the final rule which allows vessels that leave the open access fishery to obtain an exemption from the VMS reporting requirements.

DATES: Effective February 27, 2008.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206-526-6110.

SUPPLEMENTARY INFORMATION: This final rule is accessible via the Internet at the Office of the **Federal Register's** Website at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the Pacific Fishery Management Council's (Council's) website at <http://www.pcouncil.org/>.

A final rule to expand the Pacific Coast groundfish fishery vessel monitoring system (VMS) program to include the open access and non-groundfish trawl fisheries was published in the **Federal Register** on December 7, 2007 (72 FR 69162). The final rule contained an error that needs to be corrected. The final rule, which becomes effective on February 4, 2008, requires all vessels fishing pursuant to the harvest guidelines, quotas, and other management measures governing the open access groundfish fishery and all non-groundfish trawl vessels to provide declaration reports and to activate and use a VMS transceiver while fishing in the exclusive economic zone (EEZ) off the coasts of Washington, Oregon and California.

In the drafting of the rule language an incorrect cross reference at § 660.312 (d)(4)(iv) to § 660.312 (b)(2) results in a substantive change in the regulatory requirements. The inclusion of the incorrect cross reference would allow vessels using non-groundfish trawl gear to request and receive an exemption to the VMS program hourly reporting requirements if they do not retain groundfish from the EEZ. This exemption is inconsistent with the structure and purpose of the VMS program. The VMS program requires vessels using non-groundfish trawl gear to have and use VMS if they fish in the EEZ whether or not groundfish are retained. The VMS program is intended to provide for monitoring of compliance with essential fish habitat conservation (EFH) areas where the use of bottom

trawl gear is prohibited regardless of whether groundfish are retained in order to protect the bottom habitat. The attached correction is needed so the regulatory language implements the action recommended by the Council and analyzed in the environmental assessment.

Classification

The Assistant Administrator (AA) for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity for comment would be impracticable and contrary to the public interest. NMFS had mis-published this exemption allowance in its final rule (72 FR 69162, December 7, 2008). If this correction were not made promptly, some non-groundfish trawl vessels may operate in the EEZ without VMS and NMFS would be unable to monitor fishing relative to Essential Fish Habitat (EFH) conservation areas where trawling is prohibited in order to protect groundfish habitat. Because a notice and comment rulemaking may take several months to implement it would likely not be effective until after the start of the pink shrimp trawl fishery, a major non-groundfish trawl fishery. In addition, several smaller non-groundfish trawl fisheries may also be currently operating. If purchase of a VMS unit is delayed, reimbursement funds for the purchase of a VMS unit may be unavailable. If reimbursement funds are not available, individual vessel owners would incur the cost of purchasing VMS units. Therefore, it is impracticable and contrary to the public interest to provide prior notice and an opportunity for public comment on this correction.

Dated: January 23, 2008.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 660 is corrected by making the following correcting amendments:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.312, paragraph (d)(4)(iv) is revised to read as follows:

§ 660.312 Vessel Monitoring System (VMS) requirements.

* * * * *

(d) * * *

(4) * * *

(iv) Long-term departure exemption.

A vessel participating in the open access fishery that is required to have VMS under § 660.312 (b)(3) may be exempted from VMS provisions after the end of the fishing year in which it participated in the open access fishery, providing the vessel submits a completed exemption report signed by the vessel owner that includes a statement signed by the vessel owner indicating that the vessel will not be used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ during the new fishing year.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 070213032-7032-01]

RIN 0648-XF23

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Amendment 80 Vessels Subject to Sideboard Limits in 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 species that comprise the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the 2008 Pacific halibut prohibited species catch (PSC) limit specified for the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 23, 2008, through 1200 hrs, A.l.t., April 1, 2008.

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 first seasonal apportionment of the 2008 Pacific halibut PSC limit specified for the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA is 10 metric tons as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007) and revision (72 FR 71802, December 19, 2007), for the period 1200 hrs, A.l.t., January 20, 2008, through 1200 hrs, A.l.t., April 1, 2008.

In accordance with § 679.20(d)(1)(vi)(C)(2), the Administrator, Alaska Region, NMFS, has determined that the first seasonal apportionment of the 2008 Pacific halibut PSC limit specified for the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA. 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 closure of the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits 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 January 18, 2008.

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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: January 22, 2008.

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. 070213033-7033-01]

RIN 0648-XF25

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels in the Amendment 80 Limited Access Fishery 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 directed fishing for Pacific cod for vessels participating in the Amendment 80 limited access fishery in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2008 Pacific cod allowable catch (TAC) specified for vessels participating in the Amendment 80 limited access fishery in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 23, 2008, through 1200 hrs, A.l.t., April 1, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone 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