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The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Georgia, is amended by adding DTV channel 31 and removing DTV channel 51 at Augusta.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. E8-31003 Filed 12-30-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070817467-8554-02]

RIN 0648-XM40

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Limited Access General Category Scallop Fishery to Individual Fishing Quota Scallop Vessels

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the Limited Access General Category (LAGC) Scallop Fishery is closed to individual fishing quota (IFQ) scallop vessels as of 0001 hrs local time, December 31, 2008. This fishery will re-open on March 1, 2009. This action is based on the determination that the annual scallop total allowable catch (TAC) for LAGC IFQ scallop vessels (including vessels issued an IFQ letter of authorization (LOA) to fish under appeal), is projected to be landed. This action is being taken to prevent IFQ scallop vessels from exceeding the 2008 annual TAC, in accordance with the regulations implementing Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP), enacted by Framework 19 to the FMP, and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: The closure of the LAGC fishery to all IFQ scallop vessels is effective 0001 hrs local time, December 31, 2008, through February 28, 2009.

FOR FURTHER INFORMATION CONTACT: Cheryl McGarrity, Fishery Management Specialist, (978) 281-9174, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing fishing activity in the LAGC fishery authorize vessels issued a valid IFQ scallop permit to fish in the LAGC fishery under specific conditions, including a TAC (see 50 CFR 648.59, 648.60, and 648.53(a)(8)(iii)). The TACs were established by the final rule that implemented Framework 19 to the FMP (73 FR 30790 May 29, 2008) and included an annual TAC of 4,352,500 lb (1,974,261 kg) that may be landed by IFQ vessels during the 2008 fishing

year, approximately 178,000 lb (80,739 kg) of which was remaining for harvest at the beginning of the fourth quarter. The regulations at § 648.53(a)(8)(iii) require the LAGC fishery to be closed to IFQ vessels once the Northeast Regional Administrator has determined that the TAC is projected to be landed.

Based on dealer reporting and vessel pre-landing reports through Vessel Monitoring Systems (VMS), it is projected that, given current activity levels by IFQ scallop vessels in the area, 4,352,500 lb (1,974,261 kg) will have been landed by December 30, 2008. Therefore, in accordance with the regulations at § 648.53(a)(8)(iii), the LAGC scallop fishery is closed to all general IFQ vessels as of 0001 hr local time December 31, 2008. Accordingly, this closure is in effect for the remainder of the fourth quarter of the 2008 scallop fishing year. IFQ scallop vessels are not allowed to fish for, possess, or retain scallops, or declare, or initiate, a scallop trip following this closure for the remainder of the 2008 fourth quarter, ending on February 28, 2009. The LAGC scallop fishery is scheduled to re-open to IFQ scallop vessels on March 1, 2009.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

This action closes the LAGC scallop fishery to all IFQ scallop vessels until March 1, 2009. The regulations at § 648.53(a)(8)(iii) require such action to ensure that IFQ scallop vessels do not exceed the 2008 annual TAC. The LAGC scallop fishery opened for the fourth quarter of the 2008 fishing year at 0001 hours on December 1, 2008. Data indicating the IFQ scallop fleet has landed all of the 2008 fourth quarter TAC have only recently become available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. If implementation of this closure is delayed to solicit prior public comment, the quota for this quarter will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the thirty (30) day delayed effectiveness period for the reasons stated above.

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

Dated: December 23, 2008.

Alan D. Risenhoover,

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

[FR Doc. E8-31126 Filed 12-24-08; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 080226310-81584-02]

RIN 0648-AU20

Fisheries of the Exclusive Economic Zone Off Alaska; Revised Management Authority for Dark Rockfish in the Bering Sea and Aleutian Islands Management Area and the Gulf of Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule that implements Amendment 73 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 77 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (collectively, Amendments 73/77). Amendments 73/77 remove dark rockfish (*Sebastes ciliatus*) from both fishery management plans (FMPs). The State of Alaska (State) will assume management of dark rockfish catch by State-permitted vessels in the Bering Sea and Aleutian Islands Management Area and the Gulf of Alaska, in addition to its existing authority in State waters. This action is necessary to allow the State to implement more responsive, regionally based management of dark rockfish than is currently possible under the FMPs. This action will improve conservation and management of dark rockfish and promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable laws.

DATES: Effective January 30, 2009.

ADDRESSES: Copies of Amendments 73/77 and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action are available from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, or from the Alaska Region NMFS

Web site at <http://alaskafisheries.noaa.gov/regs/analyses/>.

FOR FURTHER INFORMATION CONTACT:

Thomas Pearson, 907-481-1780.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Area (BSAI) and the Gulf of Alaska (GOA) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Background

In April 2007, the Council recommended Amendment 73 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 77 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (Amendments 73/77). Amendments 73/77 would remove dark rockfish (*Sebastes ciliatus*) from the FMPs. Dark rockfish currently are managed as part of the "other rockfish" complex in the BSAI and as part of the pelagic shelf rockfish (PSR) complex in the GOA. The Council recommended removal of dark rockfish from the FMPs for the following reasons: (1) In 2004, dark rockfish was identified as a separate rockfish species, (2) data in the stock assessments for the PSR complex in the GOA and the "other rockfish" complex in the BSAI are predominantly from dusky rockfish, not dark rockfish, (3) dark rockfish are distributed in nearshore habitats that are not specifically assessed by the NMFS trawl surveys, (4) there is a possibility of overfishing dark rockfish in local areas given the relatively high total allowable catch (TAC) for the PSR and "other rockfish" complexes as a whole, and (5) the removal of dark rockfish from the FMPs will allow the State of Alaska (State) to assume management authority for dark rockfish catch by State-permitted vessels in Federal waters off Alaska, in addition to its existing authority in State waters and to implement more responsive, regionally based management of dark rockfish than is possible under the FMPs. The State of Alaska has expressed its intent to assume management of dark rockfish

after NMFS provides them with the authority to do so.

Detailed information on the management background and need for action is in the preamble to the proposed rule (73 FR 55010, September 24, 2008). A Notice of Availability (NOA) of the FMP amendments was published in the **Federal Register** on September 17, 2008 (73 FR 53816). Comments on both the proposed rule and NOA were invited through November 17, 2008. One comment was received and is described and responded to below. Amendments 73/77 to the FMPs were approved by the Secretary of Commerce on December 15, 2008.

Comments and Responses

NMFS received one comment. The comment did not indicate whether it was in response to the notice of availability for Amendments 73/77 or the proposed rule.

Comment 1: The commenter opposed turning over management of dark rockfish to the State of Alaska because of his or her general concerns about the State's management of all natural resources under its authority. The commenter also expressed general opposition to NMFS's management of fishery resources off Alaska.

Response: NMFS disagrees with the commenter that management of dark rockfish should not be turned over to the State. In addition to the reasons described above that the Council recommended removal of dark rockfish from the FMPs, the State also has demonstrated its ability to manage rockfish species previously removed from the FMPs for similar reasons. Black rockfish was removed from the FMPs and management was turned over to the State in 1998. Some of the management measures that the State has implemented for black rockfish in the GOA include development of a fishery management plan specifically addressing black rockfish and management measures designed to prevent localized depletion of black rockfish. These management measures include smaller area guideline harvest levels, lower total guideline harvest levels compared to what the total allowable catch would have been under the Federal FMPs, and lower maximum retainable amounts than would have been in effect under Federal regulations. The State also has undertaken research to assess the status of black rockfish stocks in the GOA that the Federal government likely would not have been able to do if it had retained management of black rockfish. NMFS and the Council expect the State to manage dark