

Dated: December 11, 2009.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### **Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraph (c)(303)(i)(C)(4) to read as follows:

#### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(303) \* \* \*  
(i) \* \* \*  
(C) \* \* \*

(4) Rule 3170, “Federally Mandated Ozone Nonattainment Fee,” adopted on May 16, 2002.

\* \* \* \* \*

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

**[Docket No.0910091344–9056–02]**

**RIN 0648–XT71**

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Chiniak Gully Research Area for Vessels Using Trawl Gear**

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

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule.

**SUMMARY:** NMFS is rescinding the trawl closure in the Chiniak Gully Research Area. This action is necessary to allow vessels using trawl gear to participate in directed fishing for groundfish in the Chiniak Gully Research Area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 1, 2010, through 1200 hrs, A.l.t., September 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the Gulf of Alaska (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 Chiniak Gully Research Area is closed to vessels using trawl gear from August 1 to a date no later than September 20 under regulations at § 679.22(b)(6)(ii)(A). This closure is in support of a research project to evaluate the effects of commercial fishing on pollock distribution and abundance, as part of a comprehensive investigation of Stellar sea lion and commercial fishery interactions.

The regulations at § 679.22(b)(6)(ii)(B) provide that the Regional Administrator, Alaska Region, NMFS, (Regional Administrator) shall rescind the trawl closure if relevant research activities will not be conducted. The Regional Administrator has determined that research activities will not be conducted

in 2010 in the Chiniak Gully Research Area. Therefore, the Regional Administrator is rescinding the trawl closure of the Chiniak Gully Research Area. All other closures remain in full force and effect.

#### **Classification**

Pursuant to 5 U.S.C. 553 (b)(B), the Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary. Notice and comment is unnecessary because the rescission of the trawl closure is non-discretionary; pursuant to § 679.22(b)(6)(ii)(B), the Regional Administrator has no choice but to rescind the trawl closure once it is determined that research activities will not be conducted in the area.

Pursuant to 5 U.S.C. 553(d)(1), this rule is not subject to the 30-day delay in effective date requirement of 5 U.S.C. 553(d) since the rule relieves a restriction.

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

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

Dated: January 7, 2010.

**Emily H. Menashes,**

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

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