season begins north of 42° N. lat. on June 15. A trip limit of 10,000 lb (4,536 kg) of whiting is in effect year-round (unless landings of whiting are prohibited) for vessels that fish in the Eureka area shoreward of the 100-fm (183-m) contour at any time during a fishing trip. This smaller limit is intended to minimize incidental catch of Chinook salmon, which are more likely to be caught shallower than 100 fm (183 m) in the Eureka area.

NMFS Action

This action announces achievement of the shore-based sector allocation specified at 50 CFR 660.323(a) for the fishery south of 42° N. lat. The best available information on May 23, 2006, indicated that the shore-based fishery allocation for the area south of 42° N. lat would be reached by 1800 l.t. May 25, 2006.

For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(b)(4), NMFS herein announces: Effective 1800 hours l.t. May 25, 2006 until 0001 l.t., June 15, 2006, the primary whiting season south of 42° N. lat is suspended. No more than 20,000-lb (9,072 kg) of whiting may be taken and retained, possessed or landed by a catcher vessel participating in the shore-based sector of the whiting fishery. If a vessel fishes shoreward of the 100 fm (183 m) contour in the Eureka area (43° – 40°30′ N. lat.) at any time during a fishing trip, the 10,000–lb (4,536 kg) trip limit applies.

Classification

This action is authorized by the regulations implementing the groundfish FMP. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Administrator (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries (AA), NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on this action pursuant to 5 U.S.C. 553 (3)(b)(B), because providing prior notice and opportunity would be impracticable. It would be impracticable because if this restriction were delayed in order to provide notice and comment, it would allow the allocation for the shore-based fishery south of 42° N. lat. to be exceeded. Similarly, the AA finds good cause to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3), as such a delay would cause the fishery south of 42° N. lat. to exceed its allocation. Allowing the early season fishery to continue would result in a disproportionate shift in effort, which could result in greater impacts on Endangered Species Act listed Chinook salmon and overfished groundfish species that had been considered when the 2006 Pacific Coast groundfish harvest specifications were established. This action is taken under the authority of 50 CFR 660.323(b)(4), and is exempt from review under Executive Order 12866.

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

Dated: May 24, 2006.

James P. Burgess,

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

[FR Doc. 06–4987 Filed 5–25–06; 3:28 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060307059–6135–02; I.D. 030106B]

RIN 0648–AU15

Fisheries of the Exclusive Economic Zone Off Alaska; Seasonal Closure of Chiniak Gully in the Gulf of Alaska to Trawl Fishing

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to close the Chiniak Gully Research Area on the east side of Kodiak Island in the Gulf of Alaska (GOA) to all commercial trawl fishing and testing of trawl gear from August 1 to a date no later than September 20 from 2006 through 2010. NMFS plans to conduct controlled experiments on the effects of commercial fishing on pollock distribution and abundance, as part of a comprehensive investigation of Steller sea lion (SSL) and commercial fishery interactions. This action supports the proposed experimental design by prohibiting commercial trawl fishing in the control site of Chiniak Gully. The proposed research could improve information on pollock movements and on the potential impacts of commercial pollock harvests on prey availability to SSLs. This action is intended to improve information used to evaluate fishery management actions to protect SSLs and their designated critical habitat.

DATES: Effective July 3, 2006 through December 31, 2010.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) prepared for this action are available from: NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Records Officer; NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907–586–7228 or *becky.carls@noaa.gov*.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone of the GOA are managed by NMFS under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under 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 FMP appear at 50 CFR parts 600 and 679.

Background and Need for Action

The background and need for this action were described in the preamble to the proposed rule published in the **Federal Register** on March 27, 2006 (71 FR 15152). In summary, NMFS plans to conduct a controlled experiment to improve the information available to evaluate management actions to protect SSLs and their designated critical habitat. The action closes the control site of Chiniak Gully to commercial trawling, including the testing of trawl gear, between August 1 and a date no later than September 20 from 2006 through 2010. To minimize impacts on the fishing industry, the area will be opened to trawl fishing when the Administrator, Alaska Region, NMFS, determines that the experiment will not be conducted that year or that the experiment has been concluded prior to September 20. The experiment is likely to be conducted only in three of the years from 2006 through 2010.

Regulatory Amendments

In § 679.22, paragraph (b)(6) is revised to describe the area of the closure, identify the vessels subject to the closure, identify the prohibited activities, and specify the dates of the closure. The procedure for rescinding the closure when the relevant research activities have been completed for a particular year or will not be conducted that year also is included in

§ 679.22(b)(6). A map showing the Chiniak Gully Research Area in relation to the Kodiak Trawl Gear Test Area is added as Figure 22 to part 679.

Response to Comments

The proposed rule for this action was published in the **Federal Register** on March 27, 2006 (71 FR 15152). NMFS received no public comments on the proposed rule.

Changes From the Proposed Rule

No changes are made in this final rule from the proposed rule.

Classification

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

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by any public comment on the IRFA with NMFS responses to those comments, and a summary of the analyses completed to support the action. The need for and objectives of this action are contained at the beginning of the preamble and in the **SUMMARY** section of the preamble. The legal basis for this action is also contained in the preamble. No public comments were received in response to the IRFA or the economic effects of the rule. A summary of the FRFA follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The regulated entities are the commercial fishing entities that operate vessels with the capability or potential capability to trawl that may participate in the GOA trawl groundfish fisheries. Any of these vessels may trawl for groundfish in the Chiniak Gully area. In a more precise sense, however, the regulated entities to which this rule will apply are the fishing entities that are likely to fish in Chiniak Gully in the absence of the action. This group may be approximated by the number of vessels that reported fishing in this area during August and September in recent years.

In 2005, 93 vessels trawled for groundfish in the GOA. Of these, 77 were catcher vessels, and 16 were catcher/processors. All of the catcher vessels are estimated to be small entities, as defined by the Small Business Administration (total annual gross receipts under $4.0 million), while three of the catcher/processors are assumed to be small entities. Fewer vessels reported fishing within Chiniak Gully than in the entire GOA. From 1999 through 2005, 49 unique vessels fished at least once in at least one of the three Alaska Department of Fish and Game groundfish/shellfish statistical areas (stat areas) that include the Chiniak Gully Research Area, during August 1 through September 20. In 2005, 16 vessels fished in at least one of the three stat areas during this time period. The count of 49 vessels may serve as an alternative estimate of the number of small entities that may be directly regulated by this action. For purposes of this analysis, these vessels are referred to as ''participating vessels.''

This action is expected to have a small adverse impact on the cash flow or profitability of these 49 trawl vessels. From 1999 through 2005, during the closure period of August 1 through September 20, average revenues from fishing in the three stat areas that include Chiniak Gully were about 2.7 percent of the average annual fishing revenues of about $14.8 million for these 49 vessels. The percentage of revenues from the Chiniak Gully area overstates the impact of the action because fishing operations in Chiniak Gully have the ability to fish in other areas around Kodiak Island during this period. Also, because the three stat areas encompass an area larger than the Chiniak Gully closure area, basing the impact on revenues from the three stat areas overestimates the potential loss of revenue caused by the closure. Opening the experimental area after research is concluded for a year would further reduce the potential loss.

Anecdotal information from industry representatives suggests that fishermen displaced from the Chiniak Gully area would likely fish in other areas and be able to make up significant portions of any lost revenues. Although displacement to other areas would involve increased operating costs, particularly for fuel, costs of the action to fishermen would still remain below 2.7 percent of gross revenues. Fishermen displaced from the Chiniak Gully area may move to other fishing areas and potentially create crowding externalities in those areas. However, because the Chiniak Gully fishery is a modest part of the overall regional trawl fisheries (accounting for an average of 15.8 percent of gross GOA revenues in August and September from 1999 to 2005), the impact caused by displacement is not expected to be large. Moreover, data from previous years when Chiniak Gully was closed for similar experiments suggest that some effort will continue in areas near the closure.

This regulation does not impose new recordkeeping or reporting requirements on the directly regulated small entities.

This action, Alternative 2, contains a provision to minimize the impact on small entities that is consistent with the stated objectives. Two fishing industry groups representing about 80 percent of the small entity vessels that trawled for groundfish in Chiniak Gully during the August 1 through September 20 closure period were consulted. These representatives indicated that impacts on small entities would be minimized by including a provision to relieve the trawl restrictions when the experiment is concluded for a particular year, rather than continuing the closure automatically until September 20 (Bonney, Burch, Muir, pers. Comm. December 2005; Bonney, pers. comm., December 21, 2005).

Alternative 2 was selected because it best accomplishes the objective to facilitate further research into the effects of commercial trawl fishing on pollock distribution and abundance. NMFS in undertaking this research as part of its stewardship responsibilities toward the western distinct population segment of SSLs, listed as endangered under the Endangered Species Act. The information gathered by the research may be used to determine whether there is a link between fishing activity and the ability of SSLs to capture their prey, and the nature of that link.

That information, in turn, may make it possible to design more effective measures for protecting SSLs. Better knowledge about the impact of fishing on pollock concentrations may make it possible to design SSL protection measures that are less costly, restrictive, or operationally burdensome for the fishing industry. Consequently, NOAA Fisheries' ability to implement effective and efficient measures to protect SSLs may be improved. This may allow NOAA Fisheries to provide better protection to SSLs, and may help NOAA Fisheries provide SSL protection at less cost to society.

Alternative 1, no regulatory change, would have no direct impact on small entities. However, it would make it impossible for NMFS to conduct a controlled experiment off Kodiak Island. Therefore, NMFS would be prevented from obtaining information that may be used to further evaluate management actions to protect SSLs and their habitat. Because of this, Alternative 1 would not meet the objectives of this action and was rejected.

An alternative that would exempt small entities from the designated time/area closure also was considered by NMFS, but was rejected. The entities fishing in this area during August and September are all small. Exempting small entities from the closure would

result in trawl fishing in the control area of Chiniak Gully. For the experiment to yield usable results, there should be no trawl fishing activity in Chiniak Gully to enable comparison with the nearby Barnabus Gully, where trawl fishing will occur. A small entity exemption would undermine the intent of the action to have a controlled experiment to assess the effects of trawl fishing on the availability of prey for SSLs. It would, thus, not meet the objectives of this action.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules 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 or group of rules. NMFS will post a small entity compliance guide on the Internet at *http://www.fakr.noaa.gov/index/frules/frules.asp?Yr=2006*. The guide and this final rule will be available upon request (see **ADDRESSES**).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 25, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

■ 2. In § 679.22, revise paragraph (b)(6) to read as follows:

§ 679.22 Closures.

* * * * *

(b) * * *

(6) *Chiniak Gully Research Area* (applicable through December 31, 2010).

(i) *Description of Chiniak Gully Research Area.* The Chiniak Gully Research Area, as shown in Figure 22 to this part, is defined as the waters bounded by straight lines connecting the coordinates in the order listed:

57°48.60 N lat., 152°22.20 W long.;

57°48.60 N lat., 151°51.00 W long.;

57°13.20 N lat., 150°38.40 W long.;

56°58.80 N lat., 151°16.20 W long.;

57°37.20 N lat., 152°09.60 W long.; and hence counterclockwise along the shoreline of Kodiak Island to 57°48.60 N lat., 152°22.20 W long.

(ii) *Closure.* (A) No vessel named on a Federal fisheries permit issued pursuant to § 679.4(b) shall deploy trawl gear for purposes of either fishing, or of testing gear under § 679.24(d)(2), within the Chiniak Gully Research Area at any time from August 1 through September 20.

(B) If the Regional Administrator makes a determination that the relevant research activities have been completed for a particular year or will not be conducted that year, the Regional Administrator shall publish notification in the **Federal Register** rescinding the Chiniak Gully Research Area trawl closure, described in paragraph (b)(6)(i) of this section, for that year.

* * * * *

■ 3. In part 679, add Figure 22 to Part 679—Chiniak Gully Research Area (applicable through December 31, 2010) to read as follows:

BILLING CODE 3510–22–S

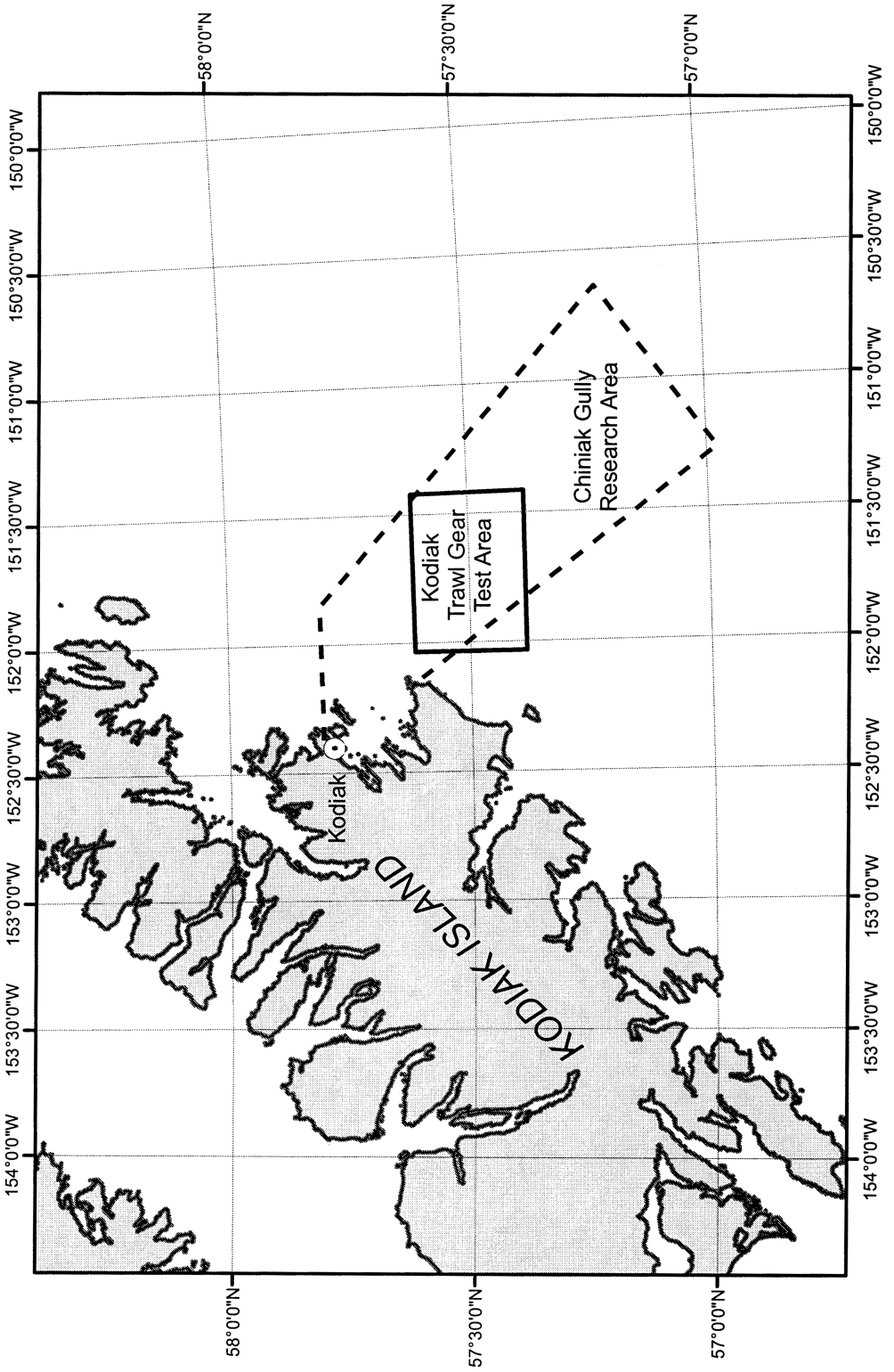

Figure 22 to Part 679 -- Chiniak Gully Research Area (applicable through December 31, 2010)

[FR Doc. 06–5024 Filed 5–31–06; 8:45 am]
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