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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 161020985-7181-02]**

**RIN 0648-XF731**

**Fisheries of the Exclusive Economic Zone Off Alaska; Sculpins 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 retention of sculpins in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2017 sculpins initial total allowable catch (ITAC) in the BSAI has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 6, 2017, through 2400 hrs, A.l.t., December 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI 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 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 2017 sculpins ITAC in the BSAI is 3,825 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 sculpins ITAC in the BSAI has been reached. Therefore, NMFS is requiring that sculpins caught in the BSAI be treated as prohibited species in accordance with § 679.21(b).

### **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 prohibiting retention of sculpins in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as September 28, 2017.

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

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

Dated: October 6, 2017.

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Emily H. Menashes,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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