

DoDI 2310.01E, The Department of Defense Detainee Program, dated September 5, 2006. Paragraph 2.2 of the directive notes "This Directive applies during all armed conflicts, however such conflicts are characterized, and in all other military operations." In addition, paragraph E.2.1. of DoDI 2310.01E notes that the definition of "detainee" includes "unlawful enemy combatants." Accordingly, DoD has determined that clarification is not necessary, and no change has been made to the DFARS definition in response to this comment.

Comment: One respondent recommended clarifying the definition of "interrogation of detainees" in 237.173-2 by adding the same qualifier, i.e., "this includes, but is not limited to," as is found in the definition of "detainee." The respondent stated that a difference between the two definitions could lead to confusion over whether this includes any other sort of non-"systematic," "formal," or "official" process of "questioning," or questioning not done "for the purpose of obtaining reliable information to satisfy foreign intelligence collection requirements" (see 237.173-2).

Response: The definition of "interrogation of detainees" was derived from the definition for "intelligence interrogations" in DoDD 3115.09, DoD Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning. This directive consolidates existing DoD policies, including the requirement for humane treatment during all intelligence interrogations, and speaks of interrogations exclusively in terms of the purpose of "obtaining reliable information to satisfy foreign intelligence collection requirements." Accordingly, any questioning done for a purpose other than "obtaining reliable information to satisfy foreign intelligence collection requirements" is outside the scope of allowable activities under DoD policy. Accordingly, no change has been made to the DFARS definition in response to this comment.

D. Prohibition on Specific Type of Torture

Comment: One respondent proposed that water torture be banned. The respondent also proposed to make the Federal Government responsible when violations of human rights occur and recommended banning all torture and procedures that allow torture to occur.

Response: As noted previously, DoDD 3115.09 consolidates existing DoD policies, including the requirement for humane treatment during all intelligence interrogations for the purpose of gaining intelligence from

captured or detained personnel. It is DoD policy that no person in the custody or physical control of DoD or detained in a DoD facility shall be subject to cruel, inhumane, or degrading treatment or punishment as defined in Title XIV of Public Law 109-163, also known as "The Detainee Treatment Act of 2005." Accordingly, no change has been made to the DFARS in response to this comment.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this rule. DoD prepared a final regulatory flexibility analysis (FRFA) that is summarized as follows:

The objective of this rule is to implement section 1038 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). This statute provides that no enemy prisoner of war, civilian internee, retained personnel, other detainee, or any other individual who is in the custody or under the effective control of DoD, or otherwise under detention in a DoD facility in connection with hostilities, may be interrogated by contractor personnel. It also allows the Secretary of Defense to waive the prohibition for a limited period of time, with limited redelegation authority, if determined necessary to the national security interests of the United States.

In Fiscal Year 2009, the latest year for which complete information is available, DoD awarded contracts for intelligence-related requirements to only 255 unique Data Universal Numbering System (DUNS) numbers. Of this total, there were 143 unique DUNS numbers for small business concerns.

This rule only prescribes policies that prohibit interrogation of detainees by contractor personnel. DoD anticipates

that there will be no additional costs imposed on small businesses.

There is no reporting or recordkeeping requirement established by this rule. This rule does not duplicate, overlap, or conflict with any other Federal rules.

Interested parties may obtain a copy of the FRFA from the point of contact named herein. A copy of the FRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 237 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 237 and 252, which was published at 75 FR 67632 on November 3, 2010, is adopted as a final rule without change.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-02]

RIN 0648-XA594

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish for Catcher/Processors Participating in the Rockfish Limited Access Fishery in the Central Regulatory Area of 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 northern rockfish by catcher/processors participating in the rockfish limited access fishery in the Central Regulatory Area of the Gulf of Alaska

(GOA). This action is necessary to prevent exceeding the 2011 total allowable catch (TAC) of northern rockfish allocated to catcher/processors participating in the rockfish limited access fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 20, 2011, through 2400 hrs, A.l.t., December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

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 2011 TAC of northern rockfish allocated to catcher/processors participating in the rockfish limited access fishery in the Central GOA is 150 metric tons (mt) as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011), and as posted as the 2011 Rockfish Program Allocations at [http://](http://alaskafisheries.noaa.gov/sustainablefisheries/goarat/default.htm)

alaskafisheries.noaa.gov/sustainablefisheries/goarat/default.htm.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2011 TAC of northern rockfish allocated to catcher/processors participating in the rockfish limited access fishery in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 125 mt, and is setting aside the remaining 25 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish by catcher/processors participating in the rockfish limited access fishery in the Central Regulatory Area of the GOA.

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 northern rockfish for catcher/processors participating in the rockfish limited access fishery in the Central Regulatory Area of 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 July 18, 2011.

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 is exempt from review under Executive Order 12866.

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

Dated: July 20, 2011.

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