

action will most likely impact approximately 232 vessels that fish in the NFMA.

#### Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

All of the management measures contained in Framework 7 and implemented in this final rule either provide for increased fishing opportunities or increased efficiency and profitability. This action increases fishing opportunities by raising the overall annual DAS allocations for all limited access monkfish vessels from 31 DAS to 40 DAS, prior to adjusting the DAS allocation for the Monkfish RSA program. Although the DAS usage cap for the SFMA remains at 28 DAS, the NFMA DAS increase provides additional fishing opportunities for vessels that fish primarily in the NFMA, vessels that fish in both the NFMA and SFMA, and vessels that fish primarily in the SFMA that may also wish to pursue fishing opportunities in the NFMA. Previously, vessels that fished primarily in the SFMA who utilized the maximum 28 SFMA DAS would otherwise have 3 DAS remaining that could only be used in the NFMA. With this action, these vessels will now have 12 DAS available for use in the NFMA prior to adjusting the DAS allocation for the Monkfish RSA program, which may provide opportunities for these vessels to also participate in the NFMA fishery as well as the SFMA fishery.

In regards to increased efficiency and profitability, this action increases the NFMA ACT. Assuming that prices do not decrease due to higher landings, a higher ACT would result in higher monkfish revenues and thus additional benefits to vessels. However, this is only the case if the higher allocation is actually landed. To achieve the higher ACT, this action also raises the trip limits for permit Category B and D vessels from 470 lb (213 kg) to 600 lb (272 kg) tail weight. This increase allows Category B and D vessels fishing in the NFMA to land more monkfish than previously authorized, which could increase vessel efficiency and profitability, as well as reducing any regulatory discards.

#### Small Entity Compliance Guide

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. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the NMFS Northeast Regional Office, and the guide, *i.e.*, permit holder letter, will be sent to all holders of permits for the monkfish fishery. The guide and this final rule will be available upon request, and posted on the Northeast Regional Office's Web site at <http://www.nero.noaa.gov>.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 19, 2011.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.92, revise paragraph (b)(1)(i) to read as follows:

#### § 648.92 Effort-control program for monkfish limited access vessels.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *General provision.* Limited access monkfish permit holders shall be allocated 40 monkfish DAS each fishing year to be used in accordance with the restrictions of this paragraph (b), unless otherwise restricted by paragraph (b)(1)(ii) of this section or modified by § 648.96(b)(3), or unless the vessel is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(iv) of this section. The annual allocation of monkfish DAS shall be reduced by the amount calculated in paragraph (b)(1)(v) of this section for the research DAS set-aside. Limited access NE multispecies and limited access sea scallop permit holders who also possess a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized, except as provided in paragraph (b)(2) of this section, unless

otherwise specified under this subpart F.

\* \* \* \* \*

■ 3. In § 648.94, revise paragraph (b)(1)(ii) to read as follows:

#### § 648.94 Monkfish possession and landing restrictions.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) *Category B and D vessels.* Limited access monkfish Category B and D vessels that fish under a monkfish DAS exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish (gutted) per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

\* \* \* \* \*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA791

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Pot Gear 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 directed fishing for Pacific cod by pot catcher/processors in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2011 Pacific cod total allowable catch (TAC) specified for pot catcher/processors in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 23, 2011, through 1200 hrs, A.l.t., December 31, 2011.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the

BSAI exclusive economic zone 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 2011 Pacific cod TAC allocated as a directed fishing allowance to pot catcher/processors in the BSAI is 3,041 metric tons as established by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2011 Pacific cod TAC allocated as a directed fishing allowance to pot catcher/processors in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by pot catcher/processors in the BSAI.

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 Pacific cod by pot catcher/processors 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 of October 20, 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:** October 21, 2011.

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 101126522-0640-02]

**RIN 0648-XA790**

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Harvesting Pacific Cod for Processing by the Inshore Component in the Western 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 Pacific cod by vessels harvesting Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2011 Pacific total allowable catch (TAC) apportioned to vessels harvesting Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 26, 2011, through 2400 hrs, A.l.t., December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**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. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2011 Pacific cod TAC apportioned to vessels harvesting Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA is 20,507 metric tons (mt), as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2011 Pacific cod TAC apportioned to vessels harvesting Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 20,257 mt, and is setting aside the remaining 250 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 Pacific cod by vessels harvesting Pacific cod for processing by the inshore component in the Western 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 directed fishing closure of Pacific cod by vessels harvesting Pacific cod for processing by the inshore component in the Western 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 October 20, 2011.