

limited to whether the temporary moratorium applies to the provider or supplier appealing the denial. The agency's basis for imposing a temporary moratorium is not subject to review. Our regulations do not limit the right to seek judicial review of a final agency decision that the temporary moratorium applies to a particular provider or supplier. In the preamble to the February 2, 2011 (76 FR 5918) final rule with comment period establishing this regulation, we explained that "a provider or supplier may administratively appeal an adverse determination based on the imposition of a temporary moratorium up to and including the Department Appeal Board (DAB) level of review." We are clarifying that providers and suppliers that have received unfavorable decisions in accordance with the limited scope of review described in § 498.5(l)(4) may seek judicial review of those decisions after they exhaust their administrative appeals. However, we reiterate that section 1866(j)(7)(B) of the Act precludes judicial review of the agency's basis for imposing a temporary moratorium.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VI. Regulatory Impact Statement

CMS has examined the impact of this document as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 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). A regulatory impact analysis

(RIA) must be prepared for major regulatory actions with economically significant effects (\$100 million or more in any 1 year). This document will prevent the enrollment of new home health providers and Part B non-emergency ground ambulance suppliers in Medicare, Medicaid, and CHIP in certain states. Though savings may accrue by denying enrollments, the monetary amount cannot be quantified. Since the imposition of the initial moratoria on July 31, 2013, more than 1184 HHAs and 23 ambulance companies in all geographic areas affected by the moratoria had their applications denied. We have found the number of applications that are denied after 60 days declines dramatically, as most providers and suppliers will not submit applications during the moratoria period. Therefore, this document does not reach the economic threshold, and thus is not considered a major action.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than \$7.5 million to \$38.5 million in any one year. Individuals and states are not included in the definition of a small entity. CMS is not preparing an analysis for the RFA because it has determined, and the Secretary certifies, that this document will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if an action may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, CMS defines a small rural hospital as a hospital that is located outside of a metropolitan statistical area (MSA) for Medicare payment purposes and has fewer than 100 beds. CMS is not preparing an analysis for section 1102(b) of the Act because it has determined, and the Secretary certifies, that this document will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any regulatory action whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated

annually for inflation. In 2017, that threshold is approximately \$148 million. This document will have no consequential effect on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed regulatory action (and subsequent final action) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. Because this document does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this document was reviewed by the Office of Management and Budget.

Dated: July 14, 2017.

Seema Verma

Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF579

Fisheries of the Exclusive Economic Zone Off Alaska; Alaska Plaice 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 Alaska plaice in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2017 Alaska plaice total allowable catch (TAC) specified for the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 26, 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 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 2017 Alaska plaice TAC specified for the BSAI is 11,050 metric tons 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)(1)(i), the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that the 2017 Alaska plaice TAC in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 10,050 mt, and is setting aside the remaining 1,000 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 Alaska plaice 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 directed fishery closure of Alaska plaice 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 July 24, 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 is exempt from review under Executive Order 12866.

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

Dated: July 25, 2017.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 2017–15930 Filed 7–25–17; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF580

Fisheries of the Exclusive Economic Zone Off Alaska; “Other Flatfish” 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 “other flatfish” in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2017 “other flatfish” total allowable catch (TAC) specified for the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 26, 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 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 2017 “other flatfish” TAC specified for the BSAI is 2,125 metric tons 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)(1)(i), the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that the 2017 “other flatfish” TAC in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,000 mt, and is setting aside the remaining 125 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 “other flatfish” 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 directed fishery closure of “other flatfish” 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 July 24, 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 is exempt from review under Executive Order 12866.

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

Dated: July 25, 2017.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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