

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 29, 2003.

V. Effective Date

Because the regulated community does not need 6 months to come into compliance with this rule, EPA finds, pursuant to RCRA section 3010(b)(1), that this rule can be made effective in less than six months.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 279

Conditionally exempt small quantity generator (CESQG), Environmental protection, Hazardous waste, Polychlorinated biphenyls (PCBs), Solid

waste, Recycling, Response to releases, Used oil, Used oil specification.

Dated: July 23, 2003.

Marianne L. Horinko,
Acting Administrator.

■ For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

§ 261.5 [Amended]

■ 2. Section 261.5(j) is amended by removing both phrases, "if it is destined to be burned for energy recovery."

PART 279—STANDARDS FOR THE MANAGEMENT OF USED OIL

■ 1. The authority citation for part 279 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and Sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

■ 2. Section 279.10 is amended by revising paragraph (i) to read as follows:

§ 279.10 Applicability.

* * * * *

(i) *Used oil containing PCBs.* Used oil containing PCBs (as defined at 40 CFR 761.3) at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under 40 CFR Part 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements found at 40 CFR Part 761, including § 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under 40 CFR Part 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or Part 761 of this chapter.

■ 3. Section 279.74 is amended by revising paragraph (b) to read as follows:

§ 279.74 Tracking.

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(b) *On-specification used oil delivery.* A generator, transporter, processor/refiner, or burner who first claims that used oil that is to be burned for energy

recovery meets the fuel specifications under § 279.11 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:

(1) The name and address of the facility receiving the shipment;

(2) The quantity of used oil fuel delivered;

(3) The date of shipment or delivery; and

(4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under § 279.72(a).

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[FR Doc. 03-19275 Filed 7-29-03; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021122286-3036-02; I.D. 072303B]

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish by Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of sablefish by vessels using trawl gear in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of the sablefish 2003 total allowable catch (TAC) assigned to trawl gear in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 26, 2003, until 2400 hrs, A.l.t., December 31, 2003.

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 the Groundfish Fishery 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 2003 TAC of sablefish for vessels using trawl gear in the Central Regulatory Area of the GOA was established as 1,288 metric tons (mt) by the final 2003 harvest specifications for groundfish in the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the allocation of the sablefish TAC assigned to trawl gear in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of sablefish by vessels using trawl gear in the Central Regulatory Area of the GOA 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 contrary to the public interest. This requirement is contrary to the public interest as it would delay the prohibition of retention, lead to exceeding the 2003 TAC of sablefish assigned to vessels using trawl gear in the Central Regulatory Area of the GOA, and therefore reduce the public's ability to use and enjoy the fishery resource.

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 23, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 03-19360 Filed 7-25-03; 2:05 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030416087-3176-02; I.D. 032603C]

RIN 0648-AQ75

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment of Eligibility Criteria for the Bering Sea and Aleutian Islands Management Area Pacific Cod Hook-and-Line and Pot Gear Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to amend eligibility criteria for Pacific cod endorsements to groundfish licenses issued under the License Limitation Program (LLP). These endorsements are necessary to participate in the Bering Sea and Aleutian Islands Management Area (BSAI) Pacific cod hook-and-line or pot gear fisheries with vessels greater than or equal to 60 feet (18.3 m) length overall (LOA). This action is necessary to allow additional participation in the BSAI Pacific cod hook-and-line or pot gear fisheries, as intended by the North Pacific Fishery Management Council (Council). The intended effect of this action is to prevent unnecessary restriction on participation in the BSAI Pacific cod hook-and-line or pot gear fisheries and to conserve and manage the Pacific cod resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective on August 29, 2003.

ADDRESSES: Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall, telephone 907-586-7247. Copies of the Environmental Assessment (EA)/RIR/IRFA prepared for Amendment 67 and the 2002 Stock Assessment and Fishery Evaluation (SAFE) Report are available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT:

Melanie Brown, 907-586-7228, or email at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the BSAI under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Act. Regulations governing U.S. fisheries and implementing this FMP appear at 50 CFR parts 600 and 679.

Background

The background regarding this action is detailed in the preamble to the proposed rule published April 25, 2003 (68 FR 20360). Public comments on the proposed rule were invited through May 27, 2003. Background regarding the LLP may be found in the final rule implementing the LLP (63 FR 52642, October 1, 1998).

This action amends the regulatory language at § 679.4(k)(9)(iii)(F) to specify that a person who owns the qualifying harvest history of Pacific cod from a vessel, but who also owned a LLP-qualifying groundfish fishing history from a different vessel at the time the qualifying Pacific cod threshold harvests were made, is eligible for the Pacific cod endorsement on the person's LLP groundfish license. To prevent an increase in the number of LLP groundfish licenses, the regulations also are amended to restrict the LLP qualifying history and the Pacific cod qualifying history of any one vessel to no more than one LLP groundfish license endorsed for Pacific cod hook-and-line and/or pot gear fisheries. This amendment limits the number of vessels allowed to participate in the Pacific cod hook-and-line and/or pot gear fisheries, as intended by the Council in developing the LLP.

Comments

The only comment received on the proposed rule is summarized here.

Comment: The author of the comment supports the intent to allow additional participation in the BSAI Pacific cod hook-and-line and pot fisheries, but is concerned that part of the new regulatory amendment would be overly restrictive. The author states that the regulatory amendment would alter the effects of the existing exemptions for eligibility for a Pacific cod endorsement, including the hardship provisions. The language at § 679.4(k)(9)(iii)(F)(3) may be inconsistent with some circumstances of the hardship provision. The author stated that the hardship provisions allow Pacific cod harvested from a single vessel to be used to meet the