

and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$109 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This final rule is not a Federal mandate; instead, it provides an incentive for automobile manufacturers. Further, the rule is not estimated to result in expenditures by State, local or tribal governments, or by the private sector, of more than \$109 million annually.

I. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 538

Energy conservation, Gasoline, Imports, Motor vehicles.

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 538 as follows:

PART 538—MANUFACTURING INCENTIVES FOR ALTERNATIVE FUELED VEHICLES

■ 1. The authority citation for part 538 of title 49 continues to read as follows:

Authority: 49 U.S.C. 32901, 32905, and 32906; delegation of authority at 49 CFR 1.50.

■ 2. Revise § 538.1 to read as follows:

§ 538.1 Scope.

This part establishes minimum driving range criteria to aid in identifying passenger automobiles that are dual-fueled automobiles. It also

establishes gallon equivalent measurements for gaseous fuels other than natural gas. This part also extends the dual-fuel incentive program.

■ 3. Revise § 538.2 to read as follows:

§ 538.2 Purpose.

The purpose of this part is to specify one of the criteria in 49 U.S.C. chapter 329 “Automobile Fuel Economy” for identifying dual-fueled passenger automobiles that are manufactured in model years 1993 through 2004. The fuel economy of a qualifying vehicle is calculated in a special manner so as to encourage its production as a way of facilitating a manufacturer’s compliance with the Corporate Average Fuel Economy Standards set forth in part 531 of this chapter. The purpose is also to establish gallon equivalent measurements for gaseous fuels other than natural gas. This part also specifies the model years after 2004 in which the fuel economy of dual-fueled automobiles may be calculated under the special incentive provisions found in 49 U.S.C. 32905(b) and (d).

■ 4. Add § 538.9 to read as follows:

§ 538.9 Dual fuel vehicle incentive.

The application of 49 U.S.C. 32905(b) and (d) to qualifying dual fuel vehicles is extended to the 2005, 2006, 2007, and 2008 model years.

Issued on: February 13, 2004.

Jeffrey W. Runge,

Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031126295–3295–01; I.D. 021204B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 Meters) Length Overall and 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: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 meters) length overall (LOA) and longer using pot gear in the

Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2004 interim total allowable catch (TAC) of Pacific cod allocated to these vessels using pot gear in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 15, 2004, until superseded by the notice of Final 2004 Harvest Specifications of Groundfish for the BSAI, which will be published in the **Federal Register**.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands 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 2004 interim TAC of Pacific cod allocated to catcher vessels 60 feet (18.3 meters) LOA and longer using pot gear in the BSAI was established as a directed fishing allowance of 8,051 metric tons by the interim 2004 harvest specifications for groundfish in the BSAI (68 FR 68265, December 8, 2003). See §§ 679.20(c)(2)(ii)(A), 679.20(c)(5), and 679.20(a)(7)(i)(A) and (C).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2004 interim TAC of Pacific cod allocated as a directed fishing allowance to catcher vessels 60 feet (18.3 meters) LOA and longer using pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 meters) LOA and longer using pot gear in the BSAI. Vessels less than 60 feet (18.3 meters) LOA using pot gear in the BSAI may continue to participate in the directed fishery for Pacific cod under a separate Pacific cod allocation to catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear.

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 the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure of the fishery under the interim 2004 TAC of Pacific cod specified for catcher vessels 60 feet (18.3 meters) LOA and longer using pot gear in the BSAI.

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: February 12, 2004.

Bruce C. Morehead,

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. 031126297-3297-01; I.D. 021204A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment opening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 12 hours effective 1200 hrs, Alaska local time (A.l.t.), February 15, 2004, until 2400 hrs, A.l.t., February 15, 2004. This adjustment is necessary to allow the fishing industry opportunity to harvest the 2004 interim total allowable catch (TAC) of pollock specified for Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, A.l.t., February 15, 2004, until 2400 hrs, A.l.t., February 15, 2004. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 1, 2004.

ADDRESSES: Comments on this inseason adjustment may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall. Comments also may be sent via facsimile (fax) to 907-586-7557 or e-mail. The mailbox address for providing e-mail comments is *AKR.eComments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: "Pollock Re-opening in Statistical Area 630, ID 021204A." Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK 99801.

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.

NMFS issued an inseason adjustment opening directed fishing for pollock in Statistical Area 630 of the GOA for 12 hours effective 1200 hrs, A.l.t., February 4, 2004, until 2400 hrs, A.l.t., February 4, 2004, in accordance with §§ 679.25(a)(1)(I) and 679.25(a)(2)(i)(A)(C), (69 FR 5934, February 9, 2004).

As of February 11, 2004, 2,015 metric tons (mt) of pollock remain in the 2004 interim TAC of the pollock specified for Statistical Area 630 of the GOA. Regulations at § 679.23(b) specify that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. Current information shows the catching capacity of vessels catching pollock for processing by the inshore component in Statistical Area 630 of the GOA is about 4,000 mt per day. The Administrator, Alaska Region, NMFS, has determined that the 2004 interim TAC of pollock could be exceeded if a 24-hour fishery were allowed to occur. NMFS intends that the seasonal allowance not be exceeded and, therefore, will not allow a 24-hour directed fishery. NMFS, in accordance with §§ 679.25(a)(1)(i) and 679.25(a)(2)(i)(A)(C), is adjusting directed fishery for pollock in Statistical Area 630 of the GOA by opening the fishery at 1200 hrs, A.l.t., February 15,

2004, and closing the fishery at 2400 hrs, A.l.t., February 15, 2004, at which time directed fishing for pollock will be prohibited. This action has the effect of opening the fishery for 12 hours.

NMFS is taking this action to allow a controlled fishery to occur, thereby preventing the overharvest of the 2004 interim TAC of pollock designated in accordance with the interim 2004 harvest specifications for groundfish in the GOA (68 FR 67964, December 5, 2004) and § 679.20(a)(5)(iii). In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 2400 hrs, A.l.t., February 15, 2004, after a 12 hour opening is the least restrictive management adjustment to achieve the 2004 interim TAC of pollock in Statistical Area 630 of the GOA. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

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 impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would prevent the full utilization of the 2004 interim TAC of pollock in Statistical Area 630 of the GOA.

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.

Without this inseason adjustment, NMFS could not allow the 2004 interim TAC of pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 1, 2004.

This action is required by §§ 679.20 and 679.25 and is exempt from review under Executive Order 12866.

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