

■ 4. Under subpart E, add a new § 665.72 to read as follows:

**§ 665.72 Closed seasons.**

(a) All fishing for, or possession of, any Hawaii Prohibited Bottomfish Management Unit Species, as specified in § 665.71, is prohibited in the Main Hawaiian Islands Management Subarea during May 15, 2007, through September 30, 2007, inclusive. All such species possessed in the Main Hawaiian Islands Management Subarea are presumed to have been taken and retained from that subarea, unless otherwise demonstrated by the person in possession of those species.

(b) Hawaii Prohibited Bottomfish Management Unit Species, as specified in § 665.71, may not be sold or offered for sale during May 15, 2007, through September 30, 2007, inclusive, except as otherwise authorized by law.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 070213033-7033-01]

RIN 0648-XA23

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Trawl 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 catcher processor vessels using trawl gear in the Bering Sea and Aleutian Islands

management area (BSAI). This action is necessary to prevent exceeding the 2007 second seasonal allowance of the Pacific cod total allowable catch (TAC) specified for catcher processor vessels using trawl gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), May 10, 2007, through 1200 hrs, A.l.t., June 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 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 2007 second seasonal allowance of the Pacific cod TAC specified for catcher processor vessels using trawl gear in the BSAI is 11,133 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007), for the period 1200 hrs, A.l.t., April 1, 2007, through 1200 hrs, A.l.t., June 10, 2007. See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(B).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 second seasonal allowance of the Pacific cod TAC specified for catcher processor vessels using trawl gear in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,933 mt, and is setting aside the remaining 2,200 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 catcher processor vessels using trawl gear 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 catcher processor vessels using trawl gear 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 May 8, 2007.

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: May 9, 2007.

**James P. Burgess**

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

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