

which is between 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) and 25°48' N. lat. (a line directly west from the Collier/Monroe County, FL, boundary), i.e., the area off Collier County (50 CFR 622.42(c)(1)(i)(A)(3)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 520,312 lb (236,010 kg) for Gulf group king mackerel for vessels using run-around gillnet gear in the southern Florida west coast subzone was reached on January 29, 2009. Accordingly, the commercial fishery for king mackerel for such vessels in the southern Florida west coast subzone is closed at 6 a.m., local time, January 30, 2009, through 6 a.m., January 19, 2010, the beginning of the next fishing season, i.e., the day after the 2010 Martin Luther King Jr. Federal holiday.

#### Classification

This action responds to the best available information recently obtained from the fisheries. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure.

NMFS also finds good cause that the implementation of this action cannot be delayed for 30 days. There is a need to implement this measure in a timely fashion to prevent a quota overrun of the commercial run-around gillnet fishery for king mackerel in the southern Florida west coast subzone, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be contrary to the Magnuson-Stevens Act and the FMP. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: January 27, 2009.

**Emily H. Menashes,**

*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. 071106673-8011-02]

RIN 0648-XM83

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Participating in the Amendment 80 Limited Access Fishery in 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 closing directed fishing for Pacific cod by vessels participating in the Amendment 80 limited access fishery in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2009 halibut bycatch allowance specified for the trawl Pacific cod fishery category by vessels participating in the Amendment 80 limited access fishery in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 20, 2009, through 2400 hrs, A.l.t., December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI 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 2009 halibut bycatch allowance specified for the trawl Pacific cod fishery category by vessels participating in the Amendment 80 limited access fishery for the Pacific cod fishery category in the BSAI is 1 metric ton as established by the 2008 and 2009 final harvest specifications for groundfish in

the BSAI (73 FR 10160, February 26, 2008) and as posted as the 2009 Allocations at <http://alaskafisheries.noaa.gov/sustainablefisheries/amds/80/2009allocationtables.pdf>.

In accordance with § 679.21(e)(3)(vi)(B) and § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the 2009 halibut bycatch allowance specified for the trawl Pacific cod fishery category by vessels participating in the Amendment 80 limited access fishery in the BSAI will be caught. Consequently, NMFS is closing directed fishing for Pacific cod by vessels participating in the Amendment 80 limited access fishery 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 directed fishing for Pacific cod by vessels participating in the Amendment 80 limited access fishery 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 January 8, 2009.

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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: January 16, 2009.

**Emily H. Menashes,**

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