

analyses completed to support the action. The analysis follows:

NMFS prepared this FRFA for the 2008–09 MHI bottomfish TAC pursuant to section 604 of the Regulatory Flexibility Act. This FRFA incorporates the IRFA, which appeared in its entirety in the Classification section of the proposed rule (73 FR 75057; December 10, 2008) and is not repeated in its entirety here.

The need for, and objectives of, the action are provided in the preambles to the proposed and final specifications. This action does not duplicate, overlap, or conflict with any other Federal rules. There are no reporting, recordkeeping, or other compliance requirements in the final specification. This action is taken under authority of the Magnuson-Stevens Act and implementing regulations at 50 CFR § 665.72. No comments were received on the IRFA.

The Small Business Administration defines a commercial fishing business as a small entity if annual gross receipts are less than \$4.0 million. All bottomfish vessels impacted by this specification are considered to be small entities under this definition. There are approximately 380 vessels engaged in the commercial harvest of MHI bottomfish. The majority of the 380 vessels comprising the affected universe are under 30 ft (9.1 m) in length overall. There are no disproportionate economic impacts from this specification based on home port, gear type, or relative vessel size.

Minimizing Economic Impacts on Small Entities

This rule would not have an adverse economic impact to small entities because the 2008–09 TAC of 241,000 lb (109,316 kg), if taken, would produce \$3,266 in average per-vessel revenue, as compared to \$2,412 in average per-vessel revenue realized for the 2007–08 fishery.

NMFS considered two alternative TACs that were larger than the one specified, including 249,000 lb (112,944 kg) yielding a potential \$3,375 in average per-vessel revenue, and 271,000 lb (122,923 kg) yielding a potential \$3,673 in average per-vessel revenue. Although both of these alternatives could generate larger average revenues than the selected alternative, their specification could also result in localized depletion of MHI bottomfish, which is inconsistent with National Standard 1 of the Magnuson-Stevens Act.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” As part of this rulemaking process, a small entity compliance guide was prepared. Copies of the small entity compliance guide are available from the Regional Administrator (see ADDRESSES) and are also available at www.fpir.noaa.gov/SFD/SFD_regs_2.html.

This action is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

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

Dated: February 9, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, 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–XN23

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processors Using Hook-and-Line 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 processors using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2009 Pacific cod total allowable catch (TAC) allocated to catcher processors using hook-and-line gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 6, 2009, through 1200 hrs, A.l.t., June 10, 2009.

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 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 A season allowance of the 2009 Pacific cod TAC allocated to catcher processors using hook-and-line gear in the BSAI is 37,660 metric tons (mt) as established by the 2008 and 2009 final harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008). See § 679.20(a)(7)(ii)(A)(4), § 679.20(a)(7)(iv)(A)(2), § 679.20(c)(3)(iii), and § 679.20(c)(5).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that the A season allowance of the 2009 Pacific cod directed fishing allowance allocated to catcher processors using hook-and-line gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher processors using hook-and-line 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 to catcher processors using hook-and-line 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 February 4, 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 section 679.20 and is exempt from review under Executive Order 12866.

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

Dated: February 9, 2009.

Emily H. Menashes,

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

[FR Doc. E9–3013 Filed 2–9–09; 4:15 pm]

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