

14069). On March 20, 2013, NMFS published a proposed rule for Amendment 9 and requested public comment (78 FR 17178). The proposed rule and Amendment 9 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

The management measures contained in Amendment 9 and this final rule do not require any changes to the current regulatory text within § 622.206(a), “South Atlantic shrimp cold weather closure.” This is because the current regulations refer to the FMP for the specific criteria and procedures required to implement a concurrent closure of the EEZ for penaeid shrimp. This final rule revises those criteria and procedures within the FMP; however, the regulatory text does not change.

Criteria Used to Trigger a State's Ability To Request a Concurrent Closure of the EEZ to Penaeid Shrimp Commercial Harvest

This final rule revises the criteria that a state must meet to request from NMFS a closure of commercial penaeid shrimp harvest in Federal waters following severe winter weather and a closure of state waters. Currently, a state must demonstrate at least an 80-percent reduction in the population of overwintering white shrimp in order to justify a closure. This rule requires that a state must demonstrate either at least an 80-percent reduction in the population of overwintering white shrimp, or that state water temperatures were 9 °C (48 °F) or less, for at least 7 consecutive days. These revised criteria provide increased flexibility for a state to protect the overwintering white shrimp in adjacent EEZ waters.

Process for a State To Request a Concurrent Closure of the EEZ To Penaeid Shrimp Commercial Harvest

This final rule revises the procedures for a state to request a closure of the penaeid shrimp commercial sector in the EEZ concurrent with a closure of its state waters. The revised procedures allow a state, after determining that the revised concurrent closure criteria have been met, to submit a letter directly to the NMFS Regional Administrator (RA) with the request and supporting data for a concurrent closure of penaeid shrimp harvest in the EEZ adjacent to the closed state waters. After a review of the request and supporting information, if the RA determines the recommended closure is in accordance with the

procedures and criteria specified in the FMP and the Magnuson-Stevens Act, NMFS would implement the closure through a notification in the **Federal Register**. These revised procedures reduce the administrative burden to the states and the Council through their more efficient process.

Additional Management Measure Contained in Amendment 9

Amendment 9 also revises the overfished and overfishing status determination criteria (biomass at the maximum sustainable yield (B_{MSY})) for the pink shrimp stock. The B_{MSY} proxy is revised based on more recent Southeast Area Monitoring and Assessment Program (SEAMAP) harvest data for pink shrimp. Specifically, Amendment 9 revises the B_{MSY} proxy for pink shrimp using the lowest catch per unit effort (CPUE) value from SEAMAP during the period 1990–2011 (0.089 individuals per hectare). The Council and NMFS determined that the pink shrimp stock size that produced the relatively low CPUE value of 0.089 individuals per hectare does not compromise the long-term capacity of the pink shrimp stock to achieve MSY, because the low stock size has historically produced a biomass the following year that is capable of achieving MSY, based on the best available science.

Comments and Responses

NMFS received two comment submissions on Amendment 9 and the proposed rule. One letter was from an individual that expressed support for Amendment 9 and the proposed rule and the other submission was from a Federal agency stating that they had no comments on Amendment 9 or the proposed rule. No other comments were received. NMFS agrees with the individual commenter that this amendment will help protect overwintering white shrimp.

Changes From the Proposed Rule

On April 17, 2013, NMFS published in the **Federal Register** an interim final rule to reorganize the regulations in 50 CFR part 622 for the Gulf of Mexico, South Atlantic, and the Caribbean (78 FR 22950). That interim final rule did not create any new rights or obligations; it reorganized the existing regulatory requirements in the Code of Federal Regulations into a new format. This final rule incorporates this new format but does not change the specific regulatory measures that were discussed in the proposed rule. As a result of this reorganization, the shrimp cold weather closure regulatory text previously

located at § 622.35(d) is now located at § 622.206(a).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary to more efficiently manage the penaeid shrimp resource, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866. No duplicative, overlapping, or conflicting Federal rules have been identified. This final rule would not establish any new reporting or record-keeping requirements.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: June 4, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, Performing the functions and duties of the 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. 121018563-3148-02]

RIN 0648-XC722

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish 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; modification of closure.

SUMMARY: NMFS is opening directed fishing for northern rockfish in the Bering Sea and Aleutian Islands

Management Area (BSAI). This action is necessary to fully use the 2013 total allowable catch (TAC) of northern rockfish in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 7, 2013, through 2400 hrs, A.l.t., December 31, 2013.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., June 24, 2013.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2012-0210, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/ #!docketDetail;D=NOAA-NMFS-2012-0210, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

- **Fax:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.

- **Hand delivery to the Federal Building:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change.

All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT:
Obren Davis, 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.

Pursuant to the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013), NMFS closed the directed fishery for northern rockfish under § 679.2(d)(1)(iii).

As of June 6, 2013, NMFS has determined that approximately 2,767 metric tons of northern rockfish remain unharvested in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the 2013 TAC of northern rockfish in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for northern rockfish in the BSAI. This will enhance the socioeconomic well-being of harvesters in this area. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of northern rockfish in the BSAI and, (2) the harvest capacity and stated intent on future harvesting

patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting 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) and § 679.25(c)(1)(ii) 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 opening of northern rockfish 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 June 6, 2013.

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 fishery for northern rockfish in the BSAI 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 June 24, 2013.

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.*

Dated: June 7, 2013.

James P. Burgess,

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

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