

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 2003 TAC of sablefish for vessels using trawl gear in the Central Regulatory Area of the GOA was established as 1,288 metric tons (mt) by the final 2003 harvest specifications for groundfish in the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the allocation of the sablefish TAC assigned to trawl gear in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of sablefish by vessels using trawl gear in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

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 contrary to the public interest as it would delay the prohibition of retention, lead to exceeding the 2003 TAC of sablefish assigned to vessels using trawl gear in the Central Regulatory Area of the GOA, and therefore reduce the public's ability to use and enjoy the fishery resource.

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: July 23, 2003.

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. 030416087-3176-02; I.D. 032603C]

RIN 0648-AQ75

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment of Eligibility Criteria for the Bering Sea and Aleutian Islands Management Area Pacific Cod Hook-and-Line and Pot Gear Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to amend eligibility criteria for Pacific cod endorsements to groundfish licenses issued under the License Limitation Program (LLP). These endorsements are necessary to participate in the Bering Sea and Aleutian Islands Management Area (BSAI) Pacific cod hook-and-line or pot gear fisheries with vessels greater than or equal to 60 feet (18.3 m) length overall (LOA). This action is necessary to allow additional participation in the BSAI Pacific cod hook-and-line or pot gear fisheries, as intended by the North Pacific Fishery Management Council (Council). The intended effect of this action is to prevent unnecessary restriction on participation in the BSAI Pacific cod hook-and-line or pot gear fisheries and to conserve and manage the Pacific cod resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective on August 29, 2003.

ADDRESSES: Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall, telephone 907-586-7247. Copies of the Environmental Assessment (EA)/RIR/IRFA prepared for Amendment 67 and the 2002 Stock Assessment and Fishery Evaluation (SAFE) Report are available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT:

Melanie Brown, 907-586-7228, or email at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the BSAI under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Act. Regulations governing U.S. fisheries and implementing this FMP appear at 50 CFR parts 600 and 679.

Background

The background regarding this action is detailed in the preamble to the proposed rule published April 25, 2003 (68 FR 20360). Public comments on the proposed rule were invited through May 27, 2003. Background regarding the LLP may be found in the final rule implementing the LLP (63 FR 52642, October 1, 1998).

This action amends the regulatory language at § 679.4(k)(9)(iii)(F) to specify that a person who owns the qualifying harvest history of Pacific cod from a vessel, but who also owned a LLP-qualifying groundfish fishing history from a different vessel at the time the qualifying Pacific cod threshold harvests were made, is eligible for the Pacific cod endorsement on the person's LLP groundfish license. To prevent an increase in the number of LLP groundfish licenses, the regulations also are amended to restrict the LLP qualifying history and the Pacific cod qualifying history of any one vessel to no more than one LLP groundfish license endorsed for Pacific cod hook-and-line and/or pot gear fisheries. This amendment limits the number of vessels allowed to participate in the Pacific cod hook-and-line and/or pot gear fisheries, as intended by the Council in developing the LLP.

Comments

The only comment received on the proposed rule is summarized here.

Comment: The author of the comment supports the intent to allow additional participation in the BSAI Pacific cod hook-and-line and pot fisheries, but is concerned that part of the new regulatory amendment would be overly restrictive. The author states that the regulatory amendment would alter the effects of the existing exemptions for eligibility for a Pacific cod endorsement, including the hardship provisions. The language at § 679.4(k)(9)(iii)(F)(3) may be inconsistent with some circumstances of the hardship provision. The author stated that the hardship provisions allow Pacific cod harvested from a single vessel to be used to meet the