

exclusive economic zone (EEZ) are managed by NMFS under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act and is implemented by regulations at 50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Background and Need for Action

The boundary between GOA statistical and reporting areas 620 and 630 near Kodiak Island, Alaska, is 154°W. longitude from the south side of the Alaska Peninsula, southward to the limits of the EEZ off Alaska. On Kodiak Island, this line of longitude bisects Alitak/Deadman's/Portage Bay complex, a large, deep bay on the south end of the island. Frequently, substantial pollock fishing takes place in this bay.

This division of the bay into two separate reporting areas is impractical for quota management and enforcement purposes. When either of the two areas is open to pollock fishing, and the other area is closed, vessels will fish in the bay on the "open" side of the line. The area of the Alitak/Deadman's/Portage Bay complex of Kodiak Island would be much more efficiently enforced if the bay were either all open or all closed.

In addition, because the mouth of the bay is totally contained in area 620, the waters within the bay logically should be included in area 620.

This action revises the description of statistical and reporting areas 620 and 630 in Figure 3b by including all waters of the Alitak/Deadman's/Portage Bay complex of Kodiak Island within area 620 and excluding all such waters from area 630.

Classification

At this time, NMFS has not determined whether the amendment that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This proposed rule does not duplicate, overlap, or conflict with other Federal regulations.

NMFS prepared an IRFA that describes the impact this action may have on small entities. The need, justification, and economic impacts for

the actions in this proposed rule, as well as impacts of the alternatives considered, were analyzed in the RIR/IRFA prepared for this action (see **ADDRESSES**). A summary appears below.

The RIR/IRFA evaluates a regulatory amendment to consolidate all waters in the Alitak/Deadman's/Portage Bay complex on southwestern Kodiak Island within Federal groundfish statistical and reporting area 620.

The current division of the bay complex between areas 620 and 630 means that different parts of the bay open and close on different schedules. Openings and closures in the lower part of the bay complex are driven by Area 620 openings and closures, while openings and closures in the upper part, including Deadman's and Portage Bays, are driven by openings and closures in Area 630. The part of the bay in Area 620 has tended to be open more days per year in recent years.

Deadman's Bay has deep water that is suitable for pollock mid-water trawling. The waters are relatively protected, and suitable for small vessels. The deep water in Area 620 is relatively constricted and dotted with pinnacles, making these waters less suitable for pollock fishing. This action would place the pollock grounds in Deadman's Bay under the Area 620 openings and closing schedule, and should give fishermen more days of access to them in a typical year.

A Regulatory Impact Review was prepared to address the requirements of E.O. 12866 which requires an evaluation of the costs and benefits, and of the significance, of regulatory actions.

The proposed regulatory amendment will reduce fishing costs. Fishermen will have increased opportunities to fish in Deadman's Bay in most years. The increase in the number of fishing days available in Deadman's Bay will not be offset by reductions in fishing days anywhere else. Additional fishing days will increase the choices available to fishermen. This should not increase their costs, since they would not take advantage of the new opportunities if it did so. They will take advantage of the opportunities if these decrease their costs.

The amendment will have minor benefits for fisheries management. All of this area is currently surveyed as part of Area 620. Thus, it will be biologically appropriate to add Deadman's and Portage Bays to Area 620. Moreover, this action will simplify the boundary between Areas 620 and 630 and make enforcement somewhat easier.

Since there are positive benefits, and no identifiable costs, this regulatory amendment is expected to have positive

net benefits. This action is not expected to be significant under the criteria specified in E.O. 12866.

An IRFA was prepared to address the requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Fairness Act of 1996 (50 CFR 603). The RFA requires an evaluation of the impact of certain Federal actions on small businesses, government jurisdictions, and non-profit organizations.

The directly regulated entities in this action are groundfish catcher vessels targeting pollock with pelagic trawls in Alitak and Deadman's Bays. The number of vessels active in this fishery over the period from 1999 through 2002 ranged between 0 in 2000, and 30 in 1999. All of these are believed to have been small entities under the Small Business Administration (SBA) criteria NMFS uses to make these determinations for regulatory flexibility analyses. Average GOA trawl catcher vessel groundfish revenues were about \$350,000 in 2001. Average ex-vessel revenues from targeted pollock trawling activity in the Alitak/Deadman's/Portage Bay complex were about \$15,000 in 1998, about \$18,000 in 1999, nothing in 2000, and about \$15,000 in 2001.

The analysis did not reveal any adverse economic impacts on the directly regulated small pelagic trawling operations. This analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

This analysis did not identify any alternatives to the preferred action that accomplished the objectives of the Magnuson-Stevens Act and that were better for small entities. Two alternatives were identified: (1) the status quo and (2) the reassignment of waters in the upper bay complex from Area 630 to Area 620. The status quo alternative did not make any changes that would increase the flexibility or reduce the fishing costs of the small fishing operations active in the area, while alternative 2, by increasing fishing time in Deadman's Bay in most years, did so. The status quo alternative neither meets the objectives of the proposed action nor increases the fishing opportunities available to fishermen. Alternative 2, the preferred alternative, does both.

This action does not impose new reporting, recordkeeping or other compliance requirements on regulated small entities.

This action does not have any adverse impacts on regulated small entities.