

any new or revised rules or regulations that affect small businesses, it is not necessary to write a Final Regulatory Flexibility Analysis for it.

C. Congressional Review Act

35. The Commission will not send a copy of this Second Report and Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the Second Report and Order adopts no rules of any kind.

D. Additional Information

36. For additional information on this proceeding, please contact John W. Berresford, (202) 418-1886, or Holly Saurer, (202) 418-7283, both of the Policy Division, Media Bureau.

IV. Ordering Clauses

37. Accordingly, *it is ordered* that, pursuant to the authority contained in Sections 1, 2 (a), 4(i) 157 nt., 201(b), 303(r), 307-10, 335(a), 601(4, 6), and 628(b, c) of the Communications Act of 1934, as amended; 47 U.S.C. 151, 152(a), 154(i), 157 nt., 201(b), 303(r), 307-10, 335(a), 521(4, 6), and 548(b, c), this Second Report and Order *is adopted*.

38. *It is further ordered* that, pursuant to the authority contained in Section 10 of the Communications Act of 1934, as amended, 47 U.S.C. 160, the Petition for Clarification, or, in the Alternative, Reconsideration filed by Shenandoah Telecommunications Company concerning 47 CFR 76.2000 *is denied without prejudice* to its submission of a petition for forbearance pursuant to 47 U.S.C. 160.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 080521698-9067-02]

RIN 0648-XU84

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Removal of Gear Restriction for the U.S./Canada Management Area

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

ACTION: Temporary rule; removal of gear restrictions.

SUMMARY: This action removes temporary gear restrictions in both the Eastern and Western U.S./Canada Areas for limited access Northeast (NE) multispecies vessels fishing on a NE multispecies Category A day-at-sea (DAS) for the remainder of the 2009 fishing year (FY) (i.e., through April 30, 2010). This action is authorized by the regulations implementing Amendment 13 to the NE Multispecies Fishery Management Plan (FMP) to optimize the harvest of transboundary stocks of Georges Bank (GB) yellowtail flounder, haddock, and cod under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Removal of the temporary gear restriction in the Western U.S./Canada Area is effective March 11, 2010, through April 30, 2010.

Removal of the temporary gear restriction in the Eastern U.S./Canada Area is effective April 13, 2010, through April 30, 2010.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, (978) 281-6341, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing fishing activity in the U.S./Canada Management Area are found at § 648.85. These regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the Eastern U.S./Canada Area under specific conditions. The Eastern U.S./Canada Area GB cod TAC for FY 2009 was specified at 527 mt, and the TAC for the entire U.S./Canada Management Area for GB yellowtail flounder was specified at 1,617 mt, by the 2009 interim final rule (72 FR 25709). The regulations at § 648.85(a)(3)(iv) authorize the Administrator, Northeast Region, NMFS (Regional Administrator) to modify gear requirements, modify or close access to the area, modify trip limits, or modify the total number of trips into the U.S./Canada Management Area, to prevent over-harvesting or to facilitate achieving the U.S./Canada Management Area TACs.

Pursuant to § 648.85(a)(3)(iv)(E), once the available TAC for GB yellowtail flounder is projected to be caught, the Regional Administrator is required to close the Eastern U.S./Canada Area to all NE multispecies DAS vessels and prohibit retention of yellowtail flounder in the Western U.S./Canada Area for the remainder of the fishing year.

Based upon Vessel Monitoring System (VMS) reports and other available information, the catch of GB yellowtail flounder was at 81 percent of the FY

2009 TAC as of March 5, 2010, and was projected to not be fully harvested by April 30, 2010, potentially resulting in the under-harvest of the available TAC for GB yellowtail flounder during FY 2009. Based on this information, the Regional Administrator is removing the current temporary prohibition on the use of trawl gear, other than the haddock separator trawl and the Ruhle trawl, as specified at § 648.85(a)(3)(ix) and § 648.85 (b)(10)(iv)(J)(3), respectively, by any limited access NE multispecies vessel fishing in the Western U.S./Canada Area south of 41° 40' N. lat. Therefore, effective March 11, 2010, through April 30, 2010, unless modified by a subsequent action, a NE multispecies vessel fishing under a Category A DAS may fish with any legal trawl gear throughout the Western U.S./Canada Area.

In addition, as of March 5, 2010, the catch of Eastern GB cod was 72 percent of the FY 2009 TAC and was projected to not be fully harvested by April 30, 2010. Projected catch rates indicate that lifting the current prohibition on the use of flounder trawl gear in the Eastern U.S./Canada Area on April 13, 2010, will allow vessels to harvest the Eastern GB cod TAC without exceeding it. Based on this information, the Regional Administrator is removing the temporary prohibition on the use of flounder trawl gear in the Eastern U.S./Canada Area effective April 13, 2010. Therefore, effective April 13, 2010, through April 30, 2010, unless modified by a subsequent action, a NE multispecies vessel fishing with trawl gear under a Category A DAS in the Eastern U.S./Canada Area may fish with any one of the gears specified for this area at § 648.85(a)(3)(ix), i.e., a flounder trawl, haddock separator trawl, or a Ruhle trawl.

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because notice, comment, and a delayed effectiveness would be impracticable and contrary to the public interest. The regulations under § 648.85(a)(3)(iv) grant the Regional Administrator the authority to modify gear requirements to prevent over-harvesting or under-harvesting the TAC allocation. Because of the time necessary to provide for prior notice and opportunity for public comment, NMFS would be prevented from taking immediate action to remove

gear restrictions in the U.S./Canada Management Area. Such a delay would allow the current slow catch rates of GB yellowtail flounder and Eastern GB cod to continue and could result in under-harvest of the GB yellowtail flounder and Eastern GB cod TACs. Thus, delayed implementation could undermine the conservation objectives of the FMP and the Magnuson-Stevens Act. Under-harvesting of the GB yellowtail TAC would result in increased negative economic impacts to the industry and social impacts beyond those analyzed for Amendment 13 as the full potential revenue from the fishery would not be realized.

The rate of harvest of the Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder TACs in the U.S./Canada Management Area are updated weekly on the internet at <http://www.nero.noaa.gov>. Accordingly, the public is able to obtain information that would provide at least some advanced notice of a potential action to provide additional opportunities to the NE multispecies industry to fully harvest the TAC for any species during FY 2009. Further, the Regional Administrator's authority to modify gear requirements in the U.S./Canada Management Area to help ensure that the shared U.S./Canada stocks of fish are harvested, but not exceeded, was considered and open to public comment during the development of Amendment 13 and Framework Adjustment 42. Therefore, any negative effect the waiving of public comment and delayed effectiveness may have on the public is mitigated by these factors.

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

Dated: March 11, 2010.

Emily H. Menashes,

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

[FR Doc. 2010-5720 Filed 3-11-10; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XV21

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl 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 vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2010 Pacific cod allowable catch (TAC) specified for catcher vessels using trawl gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 12, 2010, though 1200 hrs, A.l.t., April 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone 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 2010 Pacific cod TAC allocated to catcher vessels using trawl gear in the BSAI is 24,647 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009) and inseason adjustment (74 FR 68717, December 29, 2009).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the A

season allowance of the 2010 Pacific cod TAC allocated to catcher vessels using trawl gear in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 24,497 mt, and is setting aside the remaining 150 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl 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 catcher vessels using trawl 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 March 10, 2010.

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: March 10, 2010.

Emily H. Menashes,

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

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