

early warning of projected closures, thus allowing the affected vessels to better plan for fishing operations. Better planning would avoid unnecessary trip preparation and allow the opportunity to change gear for fishing in alternative longline fisheries, such as the Hawaii-based deep-set (tuna) longline fishery. Alternative 1 (no action) would prevent direct economic losses to affected vessels. However, this alternative would not provide adequate protection to sea turtles. Alternatives 3 (shifting the shallow-set fishing season) and 4 (limited time/area closures) could partially mitigate the economic impacts to small entities associated with the proposed alternative by lengthening the fishing season, which would distribute landings to avoid flooding the market and allowing for price stability. The small entities also would be better able to plan their fishing operations, especially if they participate in another fishery when not targeting swordfish, and mitigate adverse economic impacts, such as unreasonably low prices, which can arise from the market becoming flooded as the fishery is closed and all vessels return to port. Because the high turtle interaction rates experienced in the 2006 fishing year may have been an anomaly, and in future years the fishery may not reach either turtle interaction limit, the time/area closures as proposed in Alternative 4, and the shifting of the shallow-set fishing season as proposed in Alternative 3 are not preferred at this time. Also, to design and implement such measures as identified in Alternative 4, additional information is needed about sea turtle migration and foraging behavior, and the nature of interactions between fishing gear and sea turtles.

There are no recordkeeping or reporting requirements associated with this final rule.

#### Small Business 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." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guide (the guide) was prepared. The guide will be sent to all holders of permits for the Hawaii-based longline fishery. Copies of the small

business compliance guide are available from the William L. Robinson (see **ADDRESSES**) and are also available at the NMFS PIRO web site <http://www.fpir.noaa.gov>.

#### List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaii, Hawaiian natives, Northern Mariana Islands, Pacific Remote Island Areas, Reporting and recordkeeping requirements.

Dated: February 20, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 665 is amended as follows:

#### PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for part 665 continues to read as follows:

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

■ 2. In § 665.22, revise paragraphs (ss) and (tt) to read as follows:

##### § 665.22 Prohibitions.

\* \* \* \* \*

(ss) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit after the shallow-set component of the longline fishery has been closed pursuant to § 665.33(b), in violation of § 665.33(i).

(tt) Fail to immediately retrieve longline fishing gear upon receipt of actual notice that the shallow-set component of the longline fishery has been closed pursuant to § 665.33(b), in violation of § 665.33(i).

\* \* \* \* \*

■ 3. In § 665.33, remove paragraphs (b)(2)(iii) and (iv), and revise paragraphs (b)(2)(i) and (ii) to read as follows:

##### § 665.33 Western Pacific longline fishing restrictions.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) As soon as practicable, the Regional Administrator will file for publication at the Office of the Federal Register a notification of the sea turtle interaction limit having been reached. The notification will include an advisement that the shallow-set component of the longline fishery shall be closed, and that shallow-set longline fishing north of the Equator by vessels registered for use under Hawaii longline limited access permits will be

prohibited beginning at a specified date, until the end of the calendar year in which the sea turtle interaction limit was reached. Coincidental with the filing of the notification, the Regional Administrator will also provide actual notice that the shallow-set component of the longline fishery shall be closed, and that shallow-set longline fishing north of the Equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning at a specified date, to all holders of Hawaii longline limited access permits via telephone, satellite telephone, radio, electronic mail, facsimile transmission, or post.

(ii) Beginning on the fishery closure date indicated by the Regional Administrator in the notification provided to vessel operators and permit holders and published in the **Federal Register** under paragraph (b)(3)(i) of this section, until the end of the calendar year in which the sea turtle interaction limit was reached, the Hawaii-based shallow-set component of the longline fishery shall be closed.

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 060216045-6045-01; I.D. 022007D]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 ft (18.3 m) LOA and Longer 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 vessels 60 ft (18.3 meters (m)) length overall (LOA) and longer 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 apportionment of the 2007 Pacific cod total allowable catch (TAC) allocated to catcher vessels using hook-and-line gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 21, 2007, through 2400 hrs, A.l.t., June 10, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Hogan, 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 2007 Pacific cod TAC allocated to catcher vessels using hook-and-line gear in the BSAI is 121 metric tons (mt) as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006) and subsequent adjustment (71 FR 13777, March 17, 2007).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that the A season apportionment of the 2007

Pacific cod directed fishing allowance allocated to catcher vessels using hook-and-line gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 m) LOA and longer 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 catcher vessels 60 ft (18.3 m) LOA and longer 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 20, 2007.

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: February 21, 2007.

**James P. Burgess,**

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

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