

**PART 222—[AMENDED]**

- 1. The authority citation for part 222 continues to read as follows:

**Authority:** 28 U.S.C. 2461, note; 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 49 CFR 1.49.

- 2. Appendix D to Part 222 is amended by revising paragraphs (b) through (e) in the section titled “RISK INDEX” to read as follows:

**Appendix D to Part 222—Determining Risk Levels**

\* \* \* \* \*

**Risk Index**

\* \* \* \* \*

(b) The average number of fatalities observed in fatal collisions and the average number of injuries in collisions involving injuries are calculated by FRA as described in paragraphs (c) through (e).

(c) FRA will match the highway-rail incident files for the past five years against a data file containing the list of grade crossings where the train horn was not routinely sounded over that five-year period to identify two types of collisions involving trains and motor vehicles: (1) Those that occurred at crossings where the train horn was not routinely sounded during the period, and (2) those that occurred at crossings equipped with automatic gates where the train horn was routinely sounded. Certain records will be excluded, including records pertaining to incidents where the driver was not in the motor vehicle or where the motor vehicle struck the train beyond the fourth locomotive or rail car that entered the crossing. FRA believes that sounding the train horn would not be very effective at preventing such incidents.<sup>1</sup>

(d) Collisions in the group containing the gated crossings nationwide where horns were routinely sounded will then be identified as fatal, injury only or no casualty. Collisions will be identified as fatal if one or more deaths occurred, regardless of whether injuries were also sustained. Collisions will be identified as injury only when injuries, but no fatalities, resulted.

(e) The collisions (incidents) will be summarized by year for the five-year period preceding the year in which the risk index is being updated. The fatality rate for each year will be calculated by dividing the number of fatalities by the number of fatal incidents. The injury rate will be calculated by dividing the number of injuries in injury only incidents by the number of injury only incidents. FRA will publish updated fatality and injury rates on an annual basis in the **Federal Register**.

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- 3. Appendix D to Part 222 is amended by revising the section titled,

“Nationwide Significant Risk Threshold” to read as follows:

**Appendix D to Part 222—Determining Risk Levels**

\* \* \* \* \*

**Nationwide Significant Risk Threshold**

The Nationwide Significant Risk Threshold is simply an average of the risk indexes for all of the gated public crossings nationwide where train horns are routinely sounded. This value will be recalculated annually and published in a notice in the **Federal Register**. For the most recent value of the Nationwide Significant Risk Threshold, please visit FRA’s public Web site at <http://www.fra.dot.gov>.

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- 4. Appendix D to Part 222 is amended by revising the section titled, “Crossing Corridor Risk Index” to read as follows:

**Appendix D to Part 222—Determining Risk Levels**

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**Crossing Corridor Risk Index**

The Crossing Corridor Risk Index is the average of the risk indexes of all the public crossings in a defined rail corridor.

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Issued in Washington, DC on August 2, 2007.

**Clifford C. Eby,**

*Federal Railroad Deputy Administrator.*

[FR Doc. 07–3871 Filed 8–8–07; 8:45 am]

**BILLING CODE 4910–06–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 390**

**Regulatory Guidance for Recording of Commercial Motor Vehicle Accidents Involving Fires; Correction**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Regulatory Guidance; correction.

**SUMMARY:** The FMCSA published in the **Federal Register** on July 24, 2007, a document announcing regulatory guidance concerning its definition of “accident.” This notice corrects that document by providing the correct telephone number for the agency contact.

**DATES:** The regulatory guidance was effective on July 24, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, (202) 366–4325, Federal

Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

**SUPPLEMENTARY INFORMATION:** The FMCSA published on July 24, 2007 (72 FR 40250), a document announcing regulatory guidance concerning its definition of “accident.” In that document, FMCSA provided an incorrect telephone number for the agency contact person under the heading **FOR FURTHER INFORMATION CONTACT**. The correct telephone number should read (202) 366–4325.

Issued on: August 3, 2007.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E7–15599 Filed 8–8–07; 8:45 am]

**BILLING CODE 4910–EX–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 070213033–7033–01]

**RIN 0648–XB89**

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor 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 processor vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of Pacific cod specified for trawl catcher processors in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 6, 2007, through 1200 hrs, A.l.t., December 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 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

<sup>1</sup> The data used to make these exclusions is contained in blocks 18—Position of Car Unit in Train; 19—Circumstance; Rail Equipment Struck/Struck by Highway User; 28—Number of Locomotive Units; and 29—Number of Cars on the current FRA Form 6180–57 Highway-Rail Grade Crossing Accident/Incident Report.

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 2007 TAC of Pacific cod specified for catcher processor vessels using trawl gear in the BSAI is 37,110 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007). See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(B).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2007 Pacific cod TAC specified for catcher processor vessels using trawl gear in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 32,310 mt, and is setting aside the remaining 4,800 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 processor 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 processor 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 August 3, 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:** August 6, 2007.

**Emily Menashes,**

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

[FR Doc. 07-3889 Filed 8-6-07; 12:59 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

**[Docket No. 070213033-7033-01]**

**RIN 0648-XB88**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and "Other Flatfish" by Vessels Using Trawl Gear in 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 closing directed fishing for rock sole, flathead sole, and "other flatfish" by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the third seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and "other flatfish" fishery category in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 6, 2007, through 1200 hrs, A.l.t., December 31, 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 third seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and "other flatfish" fishery category in the BSAI is 167 metric tons as established by the 2007 and 2008 final harvest specifications for

groundfish in the BSAI (72 FR 9451, March 2, 2007).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the third seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and "other flatfish" fishery category in the BSAI has been reached. Consequently, NMFS is closing directed fishing for rock sole, flathead sole, and "other flatfish" by vessels using trawl gear in the BSAI.

"Other flatfish" includes Alaska plaice, as well as all other flatfish species except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, flathead sole, and arrowtooth flounder.

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 directed fishing for rock sole, flathead sole, and "other flatfish" by 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 August 3, 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 § 679.21 and is exempt from review under Executive Order 12866.

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

**Dated:** August 6, 2007.

**Emily Menashes,**

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

[FR Doc. 07-3894 Filed 8-8-07; 2:03 pm]

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