

553. In addition, in accordance with the Congressional Review provisions in SBEWFA, at 5 U.S.C. 801(a)(4), a final rule cannot "take effect" until the rule is submitted to Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on March 12, 2009.

According to the procedures established by the Administrative Committee of the **Federal Register** under the **Federal Register** Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on August 21, 2008, the effective date of the rule. However, because of the issues with the APA and the Congressional Review provisions, this rule could not become operative until March 13, 2009.

Accordingly, MARAD acknowledges that the rule was not operative and enforceable until March 13, 2009. MARAD further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between publication of the rule and March 13, 2009.

Dated: March 9, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.
[FR Doc. E9-5787 Filed 3-17-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 390

[Docket No. MARAD 2008 0075]

RIN 2133-AB71

Capital Construction Fund

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule; clarification.

SUMMARY: On September 30, 2008, the Maritime Administration published the final rule in this docket to implement provisions of the Energy Independence and Security Act of 2007 and amend the definition of a "qualified vessel" under the Capital Construction Fund. The final rule was published with an effective date of the date of publication. Prior to publication, we inadvertently failed to submit the rule to Congress and the General Accounting Office (GAO), as required by the Congressional Review provisions in the Small Business Regulatory Enforcement Fairness Act

(SBREFA). Therefore, the rule was not applicable on the date of publication.

DATES: The applicability date for the final rule published at 73 FR 56738 (September 30, 2008) was March 13, 2009.

FOR FURTHER INFORMATION CONTACT:

Murray Bloom, Chief, Division of Maritime Programs, Maritime Administration at 202-366-5320, via e-mail at *Murray.Bloom@dot.gov*, or by writing to Murray Bloom, Office of the Chief Counsel, Maritime Administration, MAR-222, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

For complete background and regulatory analysis, see the original document published September 30, 2008 (73 FR 56741). This final rule indicated that it would be effective upon publication. Pursuant to Section 553 of the Administrative Procedure Act (APA), codified at 5 U.S.C. 553, with certain exceptions, substantive rules cannot take effect less than 30 days after publication, unless the agency finds good cause for doing so and provides a written explanation of any good cause found when the rule is published. The Maritime Administration (MARAD) provided no justification for the immediate effective date in the published rule document and, in fact, MARAD did not intend to avail itself of the good cause exception of 5 U.S.C. 553. In addition, in accordance with the Congressional Review provisions in SBREFA at 5 U.S.C. 801(a)(4), a final rule cannot "take effect" until the rule is submitted to Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on March 12, 2009.

According to the procedures established by the Administrative Committee of the Federal Register under the Federal Register Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on September 30, 2008, the effective date of the rule. However, because of the issues with the APA and the Congressional Review provisions, this rule could not become operative or enforceable until March 13, 2009.

Accordingly, MARAD acknowledges that the rule was not operative and enforceable until March 13, 2009. MARAD further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between

publication of the rule and March 13, 2009.

By Order of the Maritime Administrator.

Dated: March 9, 2009.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9-5792 Filed 3-17-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XN75

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft (18.3 m) Length Overall Using Hook-and-Line or Pot 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 less than 60 ft (< 18.3 m) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2009 Pacific cod total allowable catch (TAC) allocated to catcher vessels < 60 ft LOA using hook-and-line or pot gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 16, 2009, through 2400 hrs, A.l.t., December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 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 2009 Pacific cod TAC allocated to catcher vessels < 60 ft LOA using hook-and-line or pot gear in the BSAI is 3,033 metric tons as established by the 2009 and 2010 final harvest specification for