

taxpayer to the entity receiving the benefit of a particular Board action.¹

As stated in the NPRM, we believe three sound public policy considerations call for the Board to set relatively low fees for filing a complaint. Under the ICC Termination Act of 1995,² Congress eliminated authority previously held by the Interstate Commerce Commission to initiate investigations of alleged illegal or unreasonable rates or practices. As a result, the filing of a complaint by shippers or other entities is often the Board's only mechanism for investigating and addressing potential rate violations or other unlawful practices.

Second, it is possible that the relatively high fees for filing formal complaints under item 56(iv)—currently \$20,600—may be having a chilling effect on shippers and other entities seeking to bring a complaint to the Board. For example, over the past 10 years, our Rail Consumer and Public Assistance unit has assessed hundreds of informal complaints related to service and demurrage, and although many have been successfully resolved, several that were unresolved did not become the subjects of formal complaints. While we presume that some of these cases were not brought before the Board for reasons unrelated to fees, the proposed fee amendment would minimize any chilling effect of high fees, and encourage outside parties to bring allegations of regulatory violations before the Board for adjudication.

Finally, the proposed amendment should result in better management of the Board's docket and use of Board resources. Maintaining comparatively low filing fees for petitions for declaratory orders, coupled with the high fee for complaints (other than rate or competitive access complaints) under fee item 56(iv), appears to have led parties to seek broad declarations by the Board rather than asking the Board to resolve individual complaints. In some cases, an individual complaint may have been preferable, and the Board's fee structure should not be the deciding factor in a party's decision of what type of case to bring.

Comments in support of the proposed rules were filed individually by the U.S. Department of Agriculture, National Grain and Feed Association, the Fertilizer Institute, the National Industrial Transportation League, Consumers United For Rail Equity

(CURE), and jointly by Western Coal Traffic League, American Public Power Association, and National Rural Electric Cooperative Association (collectively, Coal Shippers). CURE and Coal Shippers³ also filed replies in support of other parties' initial comments. No comments opposing any aspect of the proposed rules were filed. For the reasons set forth in this decision and in the NPRM, we will adopt the proposal in its entirety.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information.

Decided: July 1, 2011.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Jeffrey Herzig,
Clearance Clerk.

Code of Federal Regulations

For reasons set forth in the preamble, the Surface Transportation Board amends title 49, chapter X, part 1002, of the Code of Federal Regulations as follows:

PART 1002—FEES

- 1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a). Section 1002.1(g)(11) also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

- 2. Revise § 1002.2, paragraph (f)(56)(iv) to read as follows:

§ 1002.2 Filing fees.

* * * * *	
(f) * * *	
Type of proceeding	Fee
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PART V: FORMAL PROCEEDINGS	
* * * * *	*
(56) * * *	
(iv) All other formal complaints (except competitive access complaints)	\$350
* * * * *	*

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³ On reply, Coal Shippers included Edison Electric Institute.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-02]

RIN 0648-XA546

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Entry Level Rockfish Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS deems it appropriate to not open directed fishing for northern rockfish and pelagic shelf rockfish (PSR) for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2011 allocation of northern rockfish and PSR to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2011, through 1200 hrs, A.l.t., September 1, 2011.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 2011 allocations of northern rockfish and PSR for vessels participating in the entry level trawl fishery in the Central Regulatory Area of the GOA are 0 metric tons as established by the final 2011 and 2012 harvest specifications for groundfish in the GOA (76 FR 11111, March 1, 2011).

Consequently, in accordance with § 679.83(a)(3), the Administrator, Alaska Region, NMFS, deems it appropriate for conservation and management purposes to not open directed fishing for northern rockfish and PSR for trawl catcher

¹ The fees established by the Board for specific services offset the Board's appropriated funding, and do not directly add to it.

² Public Law 104-88, 109 Stat. 803 (1995).

vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA, because there is no available allocation for directed fishing.

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. Notice and comment is unnecessary because there is no available fish for an allocation and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

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 § 679.83 and is exempt from review under Executive Order 12866.

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

Dated: July 1, 2011.

James P. Burgess,

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

[FR Doc. 2011-17047 Filed 7-1-11; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-02]

RIN 0648-XA536

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Catcher Vessels in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the

deep-water species fishery for catcher vessels subject to sideboard limits established under the Central Gulf of Alaska (GOA) Rockfish Program in the GOA. This action is necessary because the 2011 Pacific halibut prohibited species catch (PSC) sideboard limit specified for the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2011, through 1200 hrs, A.l.t., July 31, 2011.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 2011 Pacific halibut PSC sideboard limit specified for the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is 22 metric tons, for the period 1200 hrs, A.l.t., July 1, 2011, through 1200 hrs, A.l.t., July 31, 2011, as established by § 679.82(d)(8)(i) and the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011).

In accordance with § 679.82(d)(9)(i)(B), the Administrator, Alaska Region, NMFS, has determined that the 2011 Pacific halibut PSC sideboard limit specified for the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries. Consequently, in accordance with § 679.82(d)(9)(ii)(B), NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA. The species and species groups that comprise the deep-water species fishery for the sideboard limit include deep-water flatfish, rex 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. Notice and comment is unnecessary because there is insufficient halibut PSC sideboard limit to support a directed fishery and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

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 § 679.82 and is exempt from review under Executive Order 12866.

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

Dated: June 30, 2011.

Margo Schulze-Haugen,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-02]

RIN 0648-XA543

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Catcher Vessels Participating in the Rockfish Entry Level Trawl Fishery in the Central Regulatory Area of the Gulf of Alaska

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 ocean perch by trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary