

This Final Rule is intended to enhance the flexibility of regulated entities concluding contractual relationships subject to the Shipping Act and the Commission's regulations. There are two types of regulated entities that this Final Rule may affect: vessel-operating common carriers (VOCCs) and non-vessel-operating common carriers (NVOCCs). The Commission currently has on file registrations (Form FMC-1) for 294 VOCCs. VOCCs are generally not small entities, as defined by North American Industry Classification System's size standards identified by Small Business Administration. 13 CFR 121.201. While some are large, multi-national corporations, most NVOCCs licensed by the Commission have fewer than 500 employees and are therefore small entities. There are currently 4,652 NVOCCs licensed by or registered with the Commission.

The Commission believes that there are approximately 46,962 effective service contracts on file with the Commission between May 1, 2011 through February 9, 2012. Of those, the Commission has identified 62 service contracts referencing indices, approximately 0.13% of the total, that would become subject to the Final Rule. Complying with the Final Rule with respect to 0.13% of the total service contracts would not appear to result in a "significant economic impact" on VOCCs. Specifically, only VOCCs whose service contracts refer to indices will be subject to the requirements of 46 CFR 530.8(c)(3) of the Final Rule, and based upon the number of contracts currently on file with the Commission, that number is very small.

Nor will this Final Rule have a "significant economic impact" on NVOCCs. The rule simply provides parties to service contracts and NSAs more freedom and flexibility in their commercial arrangements and will not adversely affect small NVOCCs. Unlike VOCC service contracts, there are no NSAs currently on file with the Commission that reference indices, and, therefore, no NSAs would be impacted by the Final Rule.

In view of the above, the Chairman of the Commission hereby certifies, pursuant to 46 U.S.C. 605(b) of the Regulatory Flexibility Act that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This rule is not a "major rule" under 5 U.S.C. 804(2).

As VOCC parties to service contracts and NVOCC parties to NSAs are already required to provide "associated records" to the Commission pursuant to the Commission's regulations at 46 CFR

530.15(c) and 531.12(b), this Final Rule does not impose any new recordkeeping or reporting requirements on VOCCs or NVOCCs that would be "collection of information" requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 46 CFR Parts 530 and 531

Freight, Maritime carriers, Reporting and recordkeeping requirements.

For the reasons stated in the supplementary information, the Federal Maritime Commission amends 46 CFR parts 530 and 531 as follows.

PART 530—SERVICE CONTRACTS

- 1. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40301-40306, 40501-40503, 41307.

- 2. Revise § 530.8(c) to read as follows:

§ 530.8 Service Contracts.

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(c) *Certainty of terms.* The terms described in paragraph (b) of this section may not:

(1) Be uncertain, vague or ambiguous; or

(2) Make reference to terms not explicitly contained in the service contract itself unless those terms are readily available to the parties and the Commission.

(3) Pursuant to § 530.15(c), the carrier party to the service contract must, upon written request by the Commission, provide the Commission with the associated records of the referenced terms. For the purpose of paragraph (c)(2) of this section, the referenced terms will be deemed readily available to the Commission if the carrier party to the service contract provides the Commission with the associated records of the terms within thirty (30) days of the Commission's written request.

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PART 531—NVOCC SERVICE ARRANGEMENTS

- 3. The authority citation for Part 531 continues to read as follows:

Authority: 46 U.S.C. 40103.

- 4. Revise § 531.6(c) to read as follows:

§ 531.6 NVOCC Service Arrangements.

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(c) *Certainty of terms.* The terms described in paragraph (b) of this section may not:

(1) Be uncertain, vague or ambiguous; or

(2) Make reference to terms not explicitly contained in the NSA itself unless those terms are readily available to the parties and the Commission. Reference may not be made to a tariff of a common carrier other than the NVOCC acting as carrier party to the NSA.

(3) Pursuant to § 531.12(b), the carrier party to the NSA must, upon written request by the Commission, provide the Commission with the associated records of the referenced terms. For the purpose of paragraph (c)(2) of this section, the referenced terms will be deemed readily available to the Commission if the carrier party to the NSA provides the Commission with the associated records of the terms within thirty (30) days of the Commission's written request.

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By the Commission.

Karen V. Gregory,
Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-2]

RIN 0648-XB062

Pacific Cod by Catcher Vessels Less Than 50 Feet (15.2 Meters) Length Overall Using Hook-and-Line Gear 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 cod by catcher vessels (CVs) less than 50 feet (15.2 meters (m)) in length overall (LOA) using hook-and-line gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2012 Pacific cod total allowable catch apportioned to CVs less than 50 feet (15.2 m) LOA using hook-and-line gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 4, 2012, through 1200 hrs, A.l.t., September 1, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 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. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2012 Pacific cod total allowable catch (TAC) apportioned to CVs less than 50 feet (15.2 m) LOA using hook-and-line gear in the Central Regulatory Area of the GOA is 3,938 metric tons (mt), as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011), revision to the final 2012 harvest specifications for Pacific cod (76 FR 81860, December 29, 2011), and inseason adjustment to the final 2012 harvest specifications for Pacific cod (77 FR 438, January 5, 2012).

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

of the 2012 Pacific cod TAC apportioned to CVs less than 50 feet (15.2 m) LOA using hook-and-line gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,903 mt, and is setting aside the remaining 35 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 CVs less than 50 feet (15.2 m) LOA using hook-and-line gear in the Central Regulatory Area of the GOA. 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 Acting 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 Pacific cod by CVs less than 50 feet (15.2 m) LOA using hook-and-line gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 1, 2012.

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 2, 2012.

Steven Thur,

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

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