

commercial quota of 585,000 lb (265,352 kg) for Gulf group king mackerel for vessels using run-around gillnets in the Florida west coast subzone was reached on January 19, 1999. Accordingly, the commercial fishery for king mackerel for such vessels in the Florida west coast subzone is closed effective 12:00 noon, local time, January 20, 1999, through June 30, 1999, the end of the fishing year.

The Florida west coast subzone extends from 87°31'06" W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1999; and (2) 25°48' N. lat. (due west of the Monroe/Collier County, FL, boundary) from April 1, 1999, through October 31, 1999.

Classification

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

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

Dated: January 20, 1999.

Gary C. Matlock,

*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. 981016260-9018-02; I.D. 090998B]

RIN 0648-AL20

Fisheries of the Exclusive Economic Zone Off Alaska; Vessel Moratorium Program

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 59 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (BSAI), Amendment 57 to the FMP for Groundfish of the Gulf of Alaska, and Amendment 9 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands submitted by the North Pacific Fishery Management Council (Council). These amendments extend the Vessel Moratorium Program (VMP) authorized

under the subject FMPs from January 1, 1999, through December 31, 1999. This action is necessary to prevent a 1-year hiatus between the original expiration of the VMP on December 31, 1998, and the start of fishing under the License Limitation Program (LLP) on January 1, 2000. This action is intended to implement approved amendments to, and further the objectives of, the subject FMPs.

DATES: Effective January 19, 1999.

ADDRESSES: Copies of the Regulatory Impact Review for this action can be obtained from the Sustainable Fisheries Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802. Comments on the collection of information burden estimate or any other aspects of the data collection of this action can be sent to the preceding address and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC. 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the BSAI in the exclusive economic zone pursuant to the FMPs for groundfish in the respective management areas. The State of Alaska manages the commercial king crab and Tanner crab fisheries in the Bering Sea and Aleutian Islands with Federal oversight, pursuant to the FMP for those fisheries. The Council prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations at 50 CFR part 600 also apply.

NMFS implemented the VMP through regulations effective January 1, 1996, to impose a temporary moratorium on the entry of new vessels into the commercial groundfish fisheries in the Exclusive Economic Zone of the GOA and the BSAI and the commercial king crab and Tanner crab fisheries in the BSAI (60 FR 40763, August 10, 1995). The purpose of the VMP originally was, and still is, to curtail increases in fishing capacity and provide industry stability while additional measures, such as the LLP, were developed and implemented.

NMFS approved the LLP on September 12, 1997. However, fishing under the LLP will not begin until January 1, 2000. The extension of the VMP through December 31, 1999, under

this final rule will eliminate the 1-year hiatus between fishing under the LLP and the expiration of the VMP on December 31, 1998.

NMFS published a Notice of Availability (NOA) for Amendments 59, 57, and 9 in the **Federal Register** on September 18, 1998 (63 FR 49892). The comment period for the NOA ended on November 17, 1998. FMP amendments were required for this extension because the FMPs specified an expiration date of December 31, 1998, for the VMP. NMFS published the proposed rule to implement Amendments 59, 57, and 9 in the **Federal Register** on November 13, 1998 (63 FR 63442). NMFS received no comments on the proposed rule; however, NMFS received one comment from the U.S. Coast Guard during the comment period for the NOA. The U.S. Coast Guard indicated that all its enforcement and safety concerns were addressed by the amendments.

NMFS approved the FMP amendments on December 16, 1998. The amendments include a provision to eliminate the potential for latent capacity entering the affected fisheries through a restriction on the submission of new moratorium permit applications during the extension. Under the original VMP, an applicant could apply for a new moratorium permit at any time during the VMP. To date, approximately 1,900 moratorium permits, out of a potential of approximately 3,350 permits, have been issued. If the VMP were extended without a restriction on applications, up to 1,450 more moratorium permits could be applied for and issued. Therefore, this action extending the VMP through December 31, 1999, provides that no person may apply for a new moratorium permit after the original VMP expiration date of December 31, 1998, unless the application is based on a moratorium qualification that was used as a basis for obtaining a moratorium permit issued on or before that date.

Accordingly, NMFS will deny an application for a moratorium permit received after December 31, 1998, unless the moratorium qualification on which the application is based has been used as a basis for the issuance of a moratorium permit.

To reduce the administrative costs of extending the VMP, this action will extend existing moratorium permits through December 31, 1999, rather than authorizing the reissuance of new permits with the new expiration date. The only new moratorium permits that will be issued are those based on moratorium qualification transfers. These new permits will also expire on December 31, 1999.

Changes From the Proposed Rule to the Final Rule

The final rule includes changes from the proposed rule that NMFS does not consider substantial. These changes concern the expiration date of the purpose and scope of the VMP and its definitions. An expiration date of December 31, 1998, originally was established for these items and inadvertently was left unchanged in the proposed rule. The purpose and scope and definitions are an integral part of the VMP. Therefore, in the final rule, NMFS corrected the expiration date of the purpose and scope and the following definitions to December 31, 1999: Catcher/processor, catcher vessel, directed fishing, maximum LOA, moratorium crab species, moratorium groundfish species, moratorium qualification, moratorium species, original qualifying LOA, original qualifying vessel, person, qualifying period, and reconstruction.

Classification

The Administrator, Alaska Region, NMFS, determined that FMP Amendments 59, 57, and 9 are necessary for the conservation and management of the commercial groundfish fishery off Alaska and the commercial king and Tanner crab fisheries in the BSAI in and off Alaska and that these FMP amendments are consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of E.O. 12866.

At the proposed rule stage, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

OMB approved a collection-of-information requirement for this rule subject to the Paperwork Reduction Act (PRA) under control number 0648-0282. Public reporting burden for applications for moratorium permits, or to transfer a moratorium permit, are estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data

collection, including suggestions for the burden, to NMFS and to OMB (see ADDRESSES).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

The Assistant Administrator for Fisheries, NOAA, finds there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness because (1) this rule does not establish any new requirements with which affected parties must come into compliance, (2) delay in effectiveness would frustrate the Council's intent to eliminate a hiatus in the VMP, and (3) delay in effectiveness may cause confusion to the affected industry concerning VMP requirements.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: January 15, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.1, revise the heading of paragraph (c) to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(c) *Moratorium on entry (applicable through December 31, 1999).* * * *

(1) * * *

§ 679.2 [Amended]

3. In § 679.2, remove the date "December 31, 1998" and add in its place the date "December 31, 1999" in the following definitions:

Catcher/processor, paragraph (2)
Catcher vessel, paragraph (2)

Directed fishing, paragraph (2)
Maximum LOA (MLOA), paragraph (1)

Moratorium crab species
Moratorium groundfish species
Moratorium qualification
Moratorium species, paragraph (2)
Original qualifying LOA
Original qualifying vessel
Person, paragraph (3)
Qualifying period
Reconstruction

4. In § 679.4, the heading of paragraph (c), paragraphs (c)(1)(ii), (c)(1)(iii)(E), (c)(6), and (c)(7) are revised to read as follows:

§ 679.4 Permits.

* * * * *

(c) *Moratorium permits (applicable through December 31, 1999)*

(1) * * *

(ii) *Duration.* Notwithstanding the expiration date printed on the permit, a moratorium permit is valid through December 31, 1999, unless otherwise specified.

(iii) * * *

(E) The permit's term indicates an expiration of December 31, 1998, or December 31, 1999.

* * * * *

(6) *Application for permit—(i) General.* A moratorium permit will be issued to the owner of a vessel of the United States if he/she submits to the Regional Administrator a complete application that is subsequently accepted and approved and if the vessel's LOA does not exceed the maximum LOA as specified in § 679.2.

(ii) *Contents of application.* A complete application for a moratorium permit must include the following information for each vessel:

(A) Name of the vessel, state registration number of the vessel, and the USCG documentation number of the vessel, if any;

(B) Name(s), business address(es), and telephone and fax numbers of the owner of the vessel;

(C) Name of the managing company;

(D) Valid documentation of the vessel's moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel from January 1, 1988, through February 9, 1992;

(E) Reliable documentation of the vessel's original qualifying LOA, if requested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, fishing permit records, or other reliable and probative documents that clearly identify the vessel and its LOA and that are dated before June 24, 1992;

(F) Specifications of the fishing gear(s) used from January 1, 1988, through February 9, 1992, and, if necessary, the fishing gear(s) used from February 10, 1992, through December 11, 1994;

(G) Specification of the vessel as either a catcher vessel or a catcher/processor vessel;

(H) If applicable, transfer authorization if a permit request is based on the transfer of moratorium qualification pursuant to paragraph (c)(9) of this section; and

(I) Signature of the person who is the owner of the vessel or the person who is responsible for representing the vessel owner.

(iii) An application for a moratorium permit received after December 31, 1998, will be denied unless it is based on a moratorium qualification for which a moratorium permit was issued on or before December 31, 1998.

(7) *Moratorium qualification*—(i) *Qualification by landings.* A vessel has moratorium qualification if:

(A) The vessel is an original qualifying vessel based on a legal landing of moratorium species between January 1, 1988, and February 9, 1992;

(B) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(C) The vessel's moratorium qualification has not been transferred; and

(D) A moratorium permit for the vessel's moratorium qualification has been issued based on an application submitted on or before December 31, 1998.

(ii) *Qualification by transfer.* A vessel has moratorium qualification if:

(A) The vessel receives a valid moratorium qualification by a transfer approved by the Regional Administrator under paragraph (c)(9) of this section;

(B) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(C) The moratorium qualification received by transfer has not been subsequently transferred; and

(D) A moratorium permit for the vessel's moratorium qualification has been issued based on an application submitted on or before December 31, 1998.

(iii) *Expiration of moratorium qualification.* A vessel's moratorium qualification will expire on December 31, 1998, unless a moratorium permit has been applied for on or before December 31, 1998, and subsequently issued based on that moratorium qualification.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981021263-9019-02; I.D. 090898D]

RIN: 0648-AK12

Fisheries of the Exclusive Economic Zone Off Alaska; Inshore-Offshore Allocations of Pollock and Pacific Cod Total Allowable Catch; Inshore-Offshore Allocation of 1999 Interim Groundfish Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 51 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 51 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). This action is necessary to implement the approved portions of Amendments 51/51. The rules re-establish the catcher vessel operational area (CVOA) in the Bering Sea and the allocations of total allowable catches (TACs) of pollock and Pacific cod in the GOA between inshore and offshore components of the fisheries through 2001. Accordingly, the 1999 interim groundfish specifications are revised to reflect these allocations. This action is intended to promote the goals and objectives of the FMPs.

DATES: Effective January 20, 1999.

ADDRESSES: Copies of the Environmental Assessment, Regulatory Impact Review and Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action are available from the Alaska Region, NMFS, P.O. Box 21688, Juneau, AK 99802, Attn: Lori J. Gravel, or by calling the Alaska Region, NMFS, at 907-586-7228.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries off Alaska under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Federal regulations appearing at 50 CFR parts 600 and 679, respectively contain general regulations governing U.S. fisheries and implement the FMPs.

Background

The TACs for pollock in the BSAI and for pollock and Pacific cod in the GOA have been allocated between inshore and offshore components of the groundfish fisheries since 1992. The Council repeatedly has recommended inshore-offshore allocations of limited duration to allow for periodic review of the performance of these management measures relative to the fishery conservation and management problems they are designed to resolve. The original inshore-offshore allocations were effective from 1992 through 1995. Amendments 38 and 40 to the BSAI and GOA FMPs, respectively, reestablished inshore-offshore allocations that expired at the end of 1998.

At its meeting in June 1998, the Council took final action to adopt Amendments 51/51 to the FMPs. By proposing these FMP amendments, the Council intended to change the inshore-offshore allocations in the BSAI but to continue the existing allocations in the GOA. Some other changes in the inshore-offshore regime also were proposed as part of these amendments. The Council transmitted Amendments 51/51 to NMFS on September 4, 1998, and NMFS published a notice of availability (NOA) of the amendments and supporting analyses on September 16, 1998 (63 FR 49540). The public comment period on the NOA ended on November 16, 1998. NMFS published proposed implementing rules for Amendments 51/51 on October 29, 1998, (63 FR 57996). The comment period on the proposed rules ended on December 14, 1998. Additional background information appears in the NOA and proposed rule notices.

On October 21, 1998, the President signed the American Fisheries Act (AFA) into law (Pub. L. 105-277). The AFA, among other things, allocated the BSAI pollock TACs differently than the Council had recommended. The Council held a special meeting November 10-13, 1998, in part to discuss the effects of AFA on its inshore-offshore proposal and other management programs. In light of the AFA, the Council recommended specific changes to its Amendment 51/51 proposal. Under the Magnuson-Stevens Act (section 304), NMFS has authority only to approve, disapprove, or partially approve an FMP or amendment; NMFS cannot change a proposed FMP or FMP amendment once it has been submitted for review, even if requested to do so by the Council that submitted it. NMFS must base a decision to approve, disapprove, or partially approve an FMP or FMP amendment on inconsistencies between