

(5) The design, manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses subject item (3) above and preempts State, local, or Indian tribe requirements not meeting the "substantively the same" standard. Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that, if PHMSA issues a regulation concerning any of the covered subjects, PHMSA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of this final rule and not later than two years after the date of issuance. This final rule does not change the effective date of Federal preemption of the March 25, 2003, final rule, which was October 1, 2003.

#### D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply.

#### E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities. An agency must conduct a regulatory flexibility analysis unless it determines and certifies that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule applies to businesses, some of whom are small entities, that transport hazardous materials by air. This final rule provides an extension of the compliance date for notification and record retention requirements for air carriers. The compliance date extension assures that air carriers have sufficient time to reprogram their systems to meet the new requirements, test the reprogrammed system, develop training materials and train their employees. Therefore, I certify this rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

#### F. Paperwork Reduction Act

This final rule does not impose new information collection requirements. We currently have an approved information collection under OMB No. 2137-0034, "Hazardous Materials Shipping Papers & Emergency Response Information." The March 25, 2003, final rule resulted in an increase in the annual paperwork burden and costs. These revisions regarding the maintenance of copies of notification of pilot-in-command were submitted under the NPRM to OMB for review and approval.

PHMSA estimated that the new total information collection and recordkeeping burden for OMB No. 2137-034 would be as follows: "Hazardous Materials Shipping Papers & Emergency Response Information" OMB No. 2137-0034.

*Total Annual Number of Respondents:* 250,000.

*Total Annual Responses:* 260,000,000.

*Total Annual Burden Hours:* 6,523,611.

*Total Annual Burden Cost:* \$6,925,000.

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. OMB approved the revised information collection requirement on February 27, 2003.

#### G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### H. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$120.7 million or more, in the aggregate, to any of the following: State, local or tribal governments, or to the private sector.

#### I. Environmental Assessment

This final rule will improve emergency response to hazardous materials incidents involving aircraft by ensuring information on the hazardous materials involved in an emergency is readily available. Improving emergency response to aircraft incidents will reduce environmental damage associated with such incidents. There are no significant environmental impacts associated with this final rule.

#### J. Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or you may visit <http://dms.dot.gov>.

#### List of Subjects in 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

■ Accordingly, the interim final rule amending 49 CFR part 171 which was published at 69 FR 53352 on September 1, 2004, is adopted as a final rule without change.

Issued in Washington, DC, on February 3, 2005, under the authority delegated in 49 CFR part 1.

**Elaine E. Joost,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

Docket No. 041202338-4338-01; I.D. 021805A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher/processor vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2005 Pacific cod interim total allowable catch (TAC) of Pacific cod specified for catcher/processor vessels using hook-and-line gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 22, 2005, until superseded by the notice of 2005 and 2006 final harvest specifications of groundfish for the BSAI, which will be published in the **Federal Register**.

**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 2005 Pacific cod interim TAC specified for catcher/processor vessels using hook-and-line gear in the BSAI is established as a directed fishing allowance of 44,695 metric tons by the 2005 interim harvest specifications for groundfish in the BSAI (69 FR 76870, December 23, 2004). See § 679.20(c)(2)(ii)(A), § 679.20(c)(5), and § 679.20(a)(7)(i)(A) and (C)(1)(i).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2005 Pacific cod interim TAC allocated to catcher/processor vessels using hook-and-line gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher/processor vessels using hook-and-line 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 the fisheries under the 2005 Pacific cod interim TAC specified for catcher/processor vessels using hook-and-line gear in the BSAI.

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: February 18, 2005.

**Alan D. Risenhoover,**

*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. 041126333-5040-02; I.D. 112204C]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2005 and 2006 Harvest Specifications for Groundfish

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

**ACTION:** Final 2005 and 2006 harvest specifications for groundfish and associated management measures; closures.

**SUMMARY:** NMFS announces final 2005 and 2006 harvest specifications, reserves and apportionments thereof, Pacific halibut prohibited species catch (PSC) limits, and associated management measures for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits and associated management measures for groundfish during the 2005 and 2006 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the GOA in

accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** The final 2005 and 2006 harvest specifications and associated management measures are effective at 1200 hrs, Alaska local time (A.l.t.), February 24, 2005, through 2400 hrs, A.l.t., December 31, 2006.

**ADDRESSES:** Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall or from the Alaska Region Web site at <http://www.fakr.noaa.gov>. Copies of the final 2004 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the GOA, dated November 2004, are available from the North Pacific Fishery Management Council (Council), West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809) or from its Web site at <http://www.fakr.noaa.gov/npfmc>.

**FOR FURTHER INFORMATION CONTACT:** Tom Pearson, Sustainable Fisheries Division, Alaska Region, 907-481-1780, or e-mail at [tom.pearson@noaa.gov](mailto:tom.pearson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

Amendments 48/48 to the FMP and to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) were approved by NMFS on October 12, 2004. The final rule implementing Amendments 48/48 was published November 8, 2004 (69 FR 64683). Amendments 48/48 revise the administrative process used to establish annual specifications for the groundfish fisheries of the GOA and the BSAI. The goals of Amendments 48/48 in revising the specifications process are to: (1) Manage fisheries based on the best scientific information available, (2) provide for adequate prior public review and comment on Council recommendations, (3) provide for additional opportunity for Secretarial review, (4) minimize unnecessary public confusion and disruption to fisheries, and (5) promote administrative efficiency.