

the exemption. If the notice granting an exemption does not limit exemptive relief to specific parties, all parties to the exemption transaction may rely on the exemption.

(d) For transactions that are continuing in nature, an exemption ceases to be effective if, during the continuation of the transaction, there are material changes to the original facts and representations underlying such exemption or if one or more of the exemption's conditions cease to be met.

(e) The determination as to whether, under the totality of the facts and circumstances, a particular statement contained in (or omitted from) an exemption application constitutes a material fact or representation is made by the Department.

**§ 2570.50 Revocation or modification of exemptions.**

(a) If, after an exemption takes effect, changes in circumstances, including changes in law or policy, occur which call into question the continuing validity of the Department's original findings concerning the exemption, the Department may take steps to revoke or modify the exemption.

(b) Before revoking or modifying an exemption, the Department will publish a notice of its proposed action in the **Federal Register** and provide interested persons with an opportunity to comment on the proposed revocation or modification. Prior to the publication of such notice, the applicant will be notified of the Department's proposed action and the reasons therefore. Subsequent to the publication of the notice, the applicant will have the opportunity to comment on the proposed revocation or modification.

(c) Ordinarily the revocation or modification of an exemption will have prospective effect only.

**§ 2570.51 Public inspection and copies.**

(a) The administrative record of each exemption will be open to public inspection and copying at the EBSA Public Disclosure Room, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

(b) Upon request, the staff of the Public Disclosure Room will furnish photocopies of an administrative record, or any specified portion of that record, for a specified charge per page.

**§ 2570.52 Effective date.**

This subpart B is effective with respect to all exemptions filed with or initiated by the Department under section 408(a) of ERISA, section 4975(c)(2) of the Code, and/or 5 U.S.C. 8477(c)(3) at any time on or after

December 27, 2011. Applications for exemptions under section 408(a) of ERISA, section 4975(c)(2) of the Code, and/or 5 U.S.C. 8477(c)(3) filed on or after September 10, 1990, but before December 27, 2011 are governed by part 2570 of chapter XXV of title 29 of the Code of Federal Regulations (title 29 CFR part 2570 as revised July 1, 1991).

\* \* \* \* \*

Signed at Washington, DC, this 18th day of October, 2011.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 0907301205-0289-02]

**RIN 0648- XA764**

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Harvested for Management Area 1A**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the directed herring fishery in management area 1A, because 95 percent of the catch limit for that area has been caught. Effective 0001 hr, October 27, 2011, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring (herring) in or from Management Area 1A (Area 1A) per calendar day until January 1, 2012, when the 2012 allocation for Area 1A becomes available.

**DATES:** Effective 0001 hr local time, October 27, 2011, through December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Lindsey Feldman, Fishery Management Specialist, (978) 675-2179.

**SUPPLEMENTARY INFORMATION:** Regulations governing the herring fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch, annual catch limit (ACL), optimum yield, domestic harvest and processing, U.S.

at-sea processing, border transfer, and sub-ACLs for each management area. The 2011 Domestic Annual Harvest is 91,200 metric tons (mt); the 2011 sub-ACL allocated to Area 1A is 26,546 mt, and 0 mt of the sub-ACL is set aside for research (75 FR 48874, August 12, 2010).

Section § 648.201 requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the herring fishery in each of the four management areas designated in the Fishery Management Plan for the herring fishery and, based on dealer reports, state data, and other available information, to determine when the harvest of herring is projected to reach 95 percent of the management area sub-ACL. When such a determination is made, NMFS must publish notification in the **Federal Register** and prohibit herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per calendar day in or from the specified management area for the remainder of the closure period. Transiting of Area 1A with more than 2,000 lb (907.2 kg) of herring on board is allowed under the conditions described below.

The Regional Administrator has determined, based upon dealer reports and other available information that 95 percent of the total herring sub-ACL allocated to Area 1A for 2011 is projected to be harvested. This projection takes into consideration an additional 3,000 mt that will be allocated to Area 1A, effective November 1, 2011 from an under-harvest in the New Brunswick weir fishery. Therefore, effective 0001 hr local time, October 27, 2011, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring in or from Area 1A per calendar day through December 31, 2011. Vessels may transit through Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided such herring was not caught in Area 1A and provided all fishing gear aboard is stowed and not available for immediate use as required by § 648.23(b). Effective 0001 hr, October 27, 2011, federally permitted dealers are also advised that they may not purchase herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A through 2400 hr local time, December 31, 2011.

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the herring fishery for Management Area 1A until January 1, 2012, under current regulations. The regulations at § 648.201(a) require such action to ensure that herring vessels do not exceed the 2011 sub-ACL allocated to Area 1A. The herring fishery opened for the 2011 fishing year on January 1, 2011. Data indicating the herring fleet will have landed at least 95 percent of the 2011 sub-ACL allocated to Area 1A have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1A for this fishing year can be exceeded, thereby undermining the conservation objectives of the FMP. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: October 24, 2011.

**Steven Thur,**

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

[FR Doc. 2011-27841 Filed 10-25-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA794

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod and Octopus 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 vessels using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to limit incidental catch of octopus by vessels using pot gear to fish for Pacific cod the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 24, 2011, through 2400 hrs, A.l.t., December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone 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 Magnuson-Stevens Fishery Conservation and Management Act requires that conservation and management measures prevent overfishing. The 2011 octopus overfishing level in the BSAI is 528 metric tons (mt) and the acceptable biological catch (ABC) is 396 mt as established by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011). NMFS closed directed fishing for octopus on January 13, 2011 (76 FR 3044, January 19, 2011) and prohibited retention of octopus on September 1, 2011 (76 FR 55276, September 7, 2011).

As of October 15, 2011, approximately 530 mt of octopus has been harvested in the BSAI. Vessels using pot gear have significant incidental catch of octopus and have taken the vast majority of octopus in the BSAI. Substantial fishing effort by vessels using pot gear is being directed at remaining amounts of Pacific cod in the BSAI. If vessels using pot gear were allowed to continue fishing for Pacific cod in the BSAI then further

incidental catch of octopus would occur.

The Regional Administrator has determined, in accordance with § 679.20(d)(3), that prohibiting directed fishing for Pacific cod by vessels using pot gear in BSAI is necessary to prevent further incidental catch of octopus by the Pacific cod sector.

#### 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, would delay prohibiting directed fishing for Pacific cod by vessels using pot gear in the BSAI and allow further incidental catch of octopus by the Pacific cod sector. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 20, 2011.

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: October 24, 2011.

**Steven Thur,**

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

[FR Doc. 2011-27848 Filed 10-24-11; 4:15 pm]

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