application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

(2) All other applications for booster stations and reserved band FM translator stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the FCC will periodically release a Public Notice listing reserved band applications that have been accepted for filing and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all mutually exclusive applications and/or petitions to deny the listed applications must be filed.

* * * * *

(d) * * *

(1) Applications for minor modifications for non-reserved band FM translator stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a ''first come/first served'' basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Applications received on the same day will be treated as simultaneously filed and, if they are found to be mutually exclusive, must be resolved through settlement or technical amendment. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

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[FR Doc. 99–9951 Filed 4–20–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

50 CFR Part 648

National Oceanic and Atmospheric Administration

[I.D. 111998B]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Atlantic Sea Scallop Fishery, and Atlantic Salmon Fishery; Fishery Management Plan (FMP) Amendments to Designate Essential Fish Habitat (EFH), Atlantic Salmon Overfishing Definition, and Aquaculture Framework Specification Process

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

ACTION: Approval of amendments to FMPs.

SUMMARY: NMFS announces that the Secretary of Commerce (Secretary) has approved Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP. These amendments were prepared by the New England Fishery Management Council (NEFMC) to implement the requirements of section 303(a)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The amendments describe and identify EFH for the specified fisheries, discuss measures to address the effects of fishing on EFH, and identify other actions for the conservation and enhancement of EFH. Atlantic Salmon Amendment 1 also discusses a definition for overfishing and establishes an aquaculture framework adjustment process for Atlantic salmon.

The amendments are included in an omnibus amendment that also includes Amendment 1 to the Monkfish FMP prepared jointly by NEFMC and the Mid-Atlantic Fishery Management Council (MAFMC). Because of additional time required for coordination with MAFMC, the monkfish FMP amendment is being considered for Secretarial approval in a separate action. Finally, the omnibus amendment includes the EFH components of the Atlantic Herring FMP that are being developed by the NEFMC. The EFH information for Atlantic Herring will be incorporated by reference into the Atlantic Herring FMP when that FMP is submitted for Secretarial approval.

DATES: The amendments were approved on March 3, 1999.

ADDRESSES: Copies of the amendments and the Environmental Assessment (EA) are available from the Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036.

FOR FURTHER INFORMATION CONTACT: Jonathan M. Kurland, Assistant Habitat Program Coordinator, 978–281–9204 or Jon.Kurland@NOAA.gov.

SUPPLEMENTARY INFORMATION:

Background

The omnibus EFH amendment was prepared by NEFMC to satisfy the EFH mandates of the Magnuson-Stevens Act. The omnibus amendment includes an Environmental Assessment (EA), which describes the background, purpose and need for the action, the management action alternatives, and the environmental, social and economic impacts of the alternatives. A copy of the EA can be obtained from the NEFMC (see **ADDRESSES**).

A notice of availability (NOA) for Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP was published on December 1, 1998 (63 FR 66110). The comment period ended on February 1, 1999. An amendment to the NOA was issued on December 7, 1998 (63 FR 67450) to clarify that Atlantic Salmon Amendment 1 also discusses an overfishing definition and establishes a framework process to add or adjust Atlantic salmon aquaculture management measures, if necessary, to meet the goals and objectives of the Atlantic Salmon FMP. A second amendment to the NOA, issued January 6, 1999 (64 FR 823), clarified that there would be implementing regulations to allow for Atlantic salmon aquaculture through a framework adjustment process. The proposed rule for these regulations was published on February 5, 1999 (64 FR 5754). The comment period closed on March 22, 1999.

The omnibus EFH amendment designates EFH in waters of the United States for 14 species of groundfish, as

well as Atlantic sea scallops and Atlantic salmon. The omnibus amendment designates Habitat Areas of Particular Concern (HAPC) for Atlantic salmon and juvenile Atlantic cod in accordance with 50 CFR 600.815(a)(9). Although no new management measures are proposed for these HAPC, the Atlantic cod HAPC would be protected from potential adverse effects from fishing by maintaining the existing restrictions on fishing for the region known as Closed Area II on Georges Bank, pursuant to 50 CFR 648.81(b). In addition to the original rationale for implementing Closed Area II in 1994 (reducing overfishing of severely depleted groundfish stocks, as noted in the preamble to the emergency interim rule published in the **Federal Register** 59 FR 63926, December 12, 1994), under the omnibus amendment these management measures would be retained for habitat protection reasons.

In addition to the amendments for the Northeast Multispecies, Atlantic Sea Scallops, and Atlantic Salmon FMPs, the omnibus amendment also includes Amendment 1 to the Monkfish FMP and the EFH components of the Atlantic Herring FMP that is being developed by NEFMC. Monkfish Amendment 1 was submitted for Secretarial review under separate action on January 22, 1999 (64 FR 3480), and the comment period closed on March 23, 1999. The EFH information for herring will be incorporated by reference into the Atlantic Herring FMP when that FMP is submitted for Secretarial review, and an NOA will be published in the **Federal Register**.

Amendment 1 to the Atlantic Salmon FMP also includes an aquaculture framework process and information on an overfishing definition for Atlantic salmon. The overfishing definition is based on the assumption that the number of spawning salmon corresponding to maximum sustainable yield is 54,000 (a proxy for B_{msy}) and that fishing mortality on the current stock of 200 fish should be zero. No biomass threshold is given that describes when fishing mortality can be greater than zero. However, overfishing is not occurring in this fishery since fishing mortality in the exclusive economic zone has been reduced to zero and is expected to stay at zero for the foreseeable future. NMFS informed the Council that should the status of the resource change, it would need to revisit the overfishing definition to clarify what level of fishing mortality is appropriate to rebuild the resource to a sustainable level. In the interim, the omnibus amendment is providing maximum protection to conserve Atlantic salmon habitat and may offer solutions to enhance Atlantic salmon spawning habitat.

Amendment 1 to the Atlantic Salmon FMP also contains an aquaculture framework process to allow the Council to initiate action to implement, add or adjust Atlantic salmon management measures, provided that such an action is consistent with the goals and objectives of the Atlantic Salmon FMP. The proposed rule to implement the aquaculture framework process was published on February 5, 1999 (64 FR 5754). NMFS anticipates that a final rule will be published within the next few weeks.

NMFS determined that Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP are consistent with the Magnuson-Stevens Act and other applicable laws, and approved these amendments on March 3, 1999. Additional information on this action is contained in the NOA published on December 1, 1998 (63 FR 66110).

Upon initial consideration, it appeared that regulations to implement the EFH provisions of the amendments were not required. However, NMFS subsequently determined that implementing regulations are required to add the framework specification process for designating EFH and HAPC to existing regulations for the Northeast Multispecies FMP, the Atlantic Sea Scallop FMP, and the Atlantic Salmon FMP. NMFS will initiate these rulemaking actions in the near future.

Comments and Responses

Eight letters were received during the comment period, including four from environmental organizations (two from the American Oceans Campaign and one each from Marine Fish Conservation Network and Conservation Law Foundation), two from the fishing industry (Cape Cod Commercial Hook Fisherman's Association and Fisheries Survival Fund), one from the U.S. Department of State, and a joint letter from Maine Pulp and Paper Association and Maine Forest Products Council.

Comments on Identification and Description of EFH

Comment: One commenter stated that the EFH designations were overly broad and exceeded the intent of Congress. The commenter cited specific concerns about the designation for Atlantic salmon extending into state waters, including inland rivers upstream of manmade barriers, which will affect non-fishing interests and activities in adjacent upland areas. Other commenters noted that the Council had done a good job at using the precautionary approach to EFH identification.

Response: The Magnuson-Stevens Act defines EFH as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. Therefore, the geographic scope of EFH may be sufficiently broad to encompass the biological requirements of the species. The information that the Council used for EFH designation was primarily species distribution and relative abundance data, which would be classified as ''level 2'' information under the EFH regulations (50 CFR 600.815). Since the information available was not more specific (e.g., did not show species production by habitat type), the precautionary approach prescribed by the regulations led to fairly broad EFH designations. The EFH regulations at 50 CFR 600.10 interpret the definition of EFH to include aquatic areas that are used by fish, including historically used areas, where appropriate, to support a sustainable fishery and the managed species' contribution to a healthy ecosystem, provided that restoration is technologically and economically feasible. The Council's EFH designation for Atlantic salmon is consistent with these requirements.

Comment: An environmental organization commented that biological attributes such as epiflora and epifauna should have been included in the EFH text descriptions.

Response: The information that was available for EFH designation by the Council consisted primarily of regional species abundance and distribution. Although some species- specific information exists that indicates species associations with more complex habitat such as that including epiflora and/or epifauna, it is unclear whether or to what degree these habitat attributes are actually essential.

Comment: One environmental organization commended the Council's designating the HAPC for juvenile cod and its adding protection of EFH as a reason for the basis of the current closure to fishing in the area. Another environmental organization stated that HAPCs should be designated for all species under management.

Response: The EFH regulations (50 CFR 600.815(a)(9)) suggest the designation of HAPCs, which are defined as areas that are ecologically important, sensitive to human-induced degradation, impacted by development activities, or rare. It is conceivable that many areas of Council-designated EFH could satisfy these criteria. The Council

has designated HAPCs for both juvenile cod and Atlantic salmon based on readily available information and has committed in its strategic plan to continue to evaluate further HAPC designations.

Comments on Impacts to EFH from Fishing Gear

The majority of comments from the environmental organizations and one fishing industry association addressed the section of the amendments that evaluated the impacts of fishing gears on EFH, and measures to minimize any such impacts.

Comment: Two commenters stated that the amendments did not adequately evaluate the impacts of fishing gear on EFH. The commenters found that the evaluation of impacts in the amendments was cursory and did not specifically evaluate the impacts of each fishing gear on each type of EFH. One of the commenters pointed out that the Council did not follow the recommendations of the NMFS EFH technical guidance in addressing this topic and stated that a lack of sufficient detail in the discussion of fishing gear impacts was an impediment to public involvement, since it was difficult for the public to ascertain the reasoning behind the conclusions. The commenter also identified that cumulative impacts from fishing gears were not assessed.

Response: The Council approached the evaluation of impacts from fishing gears methodically. It identified the major gears used in the region based on landings; described the major gears; identified that otter trawls and scallop dredges were the most likely to have adverse impacts on habitat; appended a summary of the literature on fishing gear impacts to habitat; and described other impacts from fishing activities such as the impacts of fishing-related marine debris and lost gear, impacts of aquaculture, and impacts of at-sea fish processing. The Council also evaluated fisheries management measures currently in place, and determined their impact on EFH. Finally, the Council identified a number of areas that required further research in order to provide a better basis for determining fishing gear impacts, such as the spatial distribution and extent of fishing effort for gear types; the effects of specific gear types along a gradient of effort on specific habitat types; and recovery rates of various habitat types following fishing activity. The information in the document could have been presented in a more convenient manner (e.g., rather than the fishing impacts summary being appended it could have been synthesized into the document). This would have addressed the comment regarding the need for a thorough discussion of the Council's deliberations on fishing gear impacts, which is duly noted. However, based on the information available, the Council satisfied the requirements of the EFH regulations (50 CFR 600.815(a)(3)) regarding the assessment of fishing gear impacts.

The Council was not required to implement the recommendations of the draft NMFS EFH Technical Guidance (NMFS 1998); nor was it required to address cumulative impacts, absent adequate information.

Comment: The majority of environmental organizations and one fishing industry association stated that the amendments did not satisfy the Magnuson-Stevens Act requirements to minimize impacts from fishing gears to EFH, to the extent practicable, and the commenters thought that the amendments should be disapproved, or section 4 of the document should be disapproved. One commenter requested that the amendments be disapproved, and/or that the Secretary prepare a separate EFH amendment, or promulgate emergency regulations, or pursue negotiated conservation and management measures. One of the commenters suggested that the legal basis for existing management measures should be changed to include protection of EFH, since the Council relied on these measures to provide such protection. One commenter stated that the Council did not request public input on this issue.

Response: The EFH regulations at 50 CFR 600.815(a)(3)(iv) require that the Council consider a number of factors when evaluating whether it is practicable to minimize an adverse effect from fishing. These factors include (1) whether and to what extent the fishing activity is adversely impacting EFH including the fishery; (2) the nature and extent of the adverse effect on EFH; (3) whether management measures are practicable, taking into consideration the long and short-term costs and benefits to the fishery and its EFH; and (4) any other appropriate factors.

In the amendments, the Council concludes and NMFS concurs that no additional fishing restrictions to protect EFH are practicable at this time. It bases this conclusion on a number of findings relative to the factors outlined in the EFH regulations. The Council has determined that otter trawls and scallop dredges are the New England fishery gear types most likely to have an impact on EFH. The amendments cite an appended document by Auster and Langton (1998), which describes the impacts of such bottom tending mobile fishing gears on different habitat types in general. Auster and Langton state that the direction and type of impact of these gears can be determined; however, information that is required for a complete analysis of impacts is currently unavailable. The impact rate in relationship to the effort for each gear type is required in order to evaluate the effects of fishing on different habitat types. In order to determine these relationships, effort- specific rates of impacts for different gear types would need to be determined experimentally. Auster and Langton also found that information on distribution of fishing effort is lacking. Additionally, a detailed review of the habitat types and their locations is necessary. These information needs are identified in the amendments under the section of research needs. Without this information, the Council is unable to perform a complete analysis of fishing gear impacts.

In considering whether further management measures were practicable based on impacts to the fishery and its EFH, the Council, first, reviewed current and proposed fishery management measures that could protect EFH and had already been established as ''practicable'' under the Magnuson-Stevens Act. The Council found that many potential adverse effects to EFH from fishing are already minimized because of some of the current fishery management measures under the FMPs for the Atlantic Sea Scallop Fishery and the Northeast Multispecies Fishery. Such measures include Closed Areas I and II on Georges Bank (4,150 sq. nautical miles), which prohibits all gear capable of taking groundfish (including groundfish bottom trawls and scallop dredge gear), and the Hudson Canyon South and Virginia Beach closed areas (2,300 sq. nautical miles), which prohibit the use of scallop dredges. The Council also found that other effort reduction measures, such as days-at-sea allocations and vessel size/power limits, limit impacts to EFH as well. Second, the Council determined that some management measures contained in Amendment 7 to the Atlantic Sea Scallop FMP and Amendment 9 to the Northeast Multispecies FMP, designed to fulfill requirements of the Sustainable Fisheries Act, other than EFH, will also reduce adverse impacts to EFH. These new measures include the prohibition of streetsweeper gear and, beginning in year 2 of the Atlantic sea scallop rebuilding plan, a reduction in sea scallop fishing effort by more than 50

percent. Third, the Council approved the designation of a HAPC for juvenile Atlantic cod, and stated that the current Closed Area II restrictions, pursuant to 50 CFR 648.81(b) will be maintained in the HAPC portion, for habitat protection reasons. All of these current and proposed measures are consistent with those identified in the EFH regulations for controlling fishing gear impacts to EFH. The EFH regulations at 50 CFR 600.815(a)(4) specifically list fishing equipment restrictions, time/area closures, and harvest limits as methods to control fishing gear impacts to EFH. In addition, the measures currently in place and under review for other amendments under development have been determined to be practicable for New England fisheries, have addressed socio-economic impacts, including long and short-term benefits to the fishery, and are consistent with the national standards. Neither the Magnuson-Stevens Act, nor the EFH regulations, require that fishing impacts be controlled by newly proposed management measures.

The Council found that further information is necessary before it can responsibly determine what additional practicable measures may be necessary specifically for the protection of EFH from fishing impacts. For example, information on the net effects of using one particular gear design over another, as well as the effects of effort displacement that may be associated with additional closed areas or reductions to days-at-sea, is needed. To illustrate this point, the Council considers that reductions to scallop or groundfish days-at-sea programs may have the unintended effect of forcing fisheries to be concentrated in small areas near shore, which may also be EFH. The Council points out that any additional measures that might be imposed would likely be similar to those measures currently in place to control fishing effort. In FMP amendments and framework actions to address overfishing in the New England region, fishing has already been substantially reduced. Any additional EFH protection measures would impose additional socio-economic impacts to an already stressed industry. In the amendments, the Council determines that the uncertainty associated with the actual benefits predicted from additional management measures designed to mitigate habitat impacts impedes it from concluding that the additional short- and long-term costs to the fishing industry associated with those measures would be justifiable. Based on the fisheries management measures proposed and in place that will serve to protect habitat, the economically depressed status of the fisheries, and the Council's expressed intent to continue to move forward on EFH conservation, the amendments meet the requirement of the Act to minimize fishing gear impacts on EFH to the extent practicable.

The Council added habitat protection as one of the reasons for the current closure to the juvenile cod HAPC in Closed Area II; however, the reasons for implementation of the other fishery management measures that the Council found to protect EFH were not modified to include habitat. Although this issue does not affect approvability of the amendments, NMFS agrees with the comment that the Council should identify habitat protection as a reason for any management measures it has identified as providing for the protection of EFH. Council acknowledgment of its intent to protect EFH with the fishery management measures currently in place would clarify that the habitat benefits of measures originally developed for other purposes should be considered expressly whenever future management actions are contemplated. It is noted that, under the Magnuson-Stevens Act, fishery management councils are required to evaluate the impact of management measures on EFH, regardless of the management measure's purpose.

The Council provided opportunity for public input on these amendments as required by the Magnuson-Stevens Act.

Comment: One fishing industry group opposed the permanent closure of any areas to scallop gear. One environmental organization opposed access of scallop dredges or otter trawls to currently closed areas.

Response: Since the Council retains the ability to re-open any closed area, any future closures could be reconsidered by the Council, and would not in fact be ''permanent.'' Potential scallop fishery access to existing closed areas is the subject of proposed Framework Adjustment 11 to the Atlantic Sea Scallop FMP and Framework Adjustment 29 to the Northeast Multispecies FMP, and will be addressed during the review of those actions.

Comment: One commenter suggested that all complex cobble-bottom should be protected.

Response: Further research is needed to identify all areas of this habitat type. Adoption of additional HAPCs in areas of cobble-bottom through the framework adjustment provision is a vehicle for identifying complex cobble-bottoms and/or other habitat types as particularly important. The Council has identified the designation of additional HAPCs as one of its objectives in the strategic plan portion of the amendments.

Comments on Framework Provisions

Comment: A fishing industry organization opposed the framework provision for designation of EFH, and stated that permanent closures should be subjected to the process of an amendment.

Response: The framework adjustment process for EFH designation will allow the Council to respond quickly when additional information becomes available regarding important habitats that should be classified as EFH while still allowing the opportunity for public participation. Nevertheless, the Council could decide to invoke the full amendment process if circumstances warranted. Moreover, the issue of area closures as adjustments that may be made under the framework procedures has already been addressed, and area closures have been approved under the Multispecies FMP and Sea Scallop FMP as fishery management measures that may be implemented under the framework procedures.

Comments on EFH Consultations

Comment: A commenter suggested that the consultation and conservation recommendation provisions of the Act will be burdensome and unworkable, citing that every Federal and state action, including all permitting actions that occur near coastal or inland waters, would trigger an EFH consultation. The commenter also indicated concern that the process would add little in the way of environmental benefit to fish or EFH.

Response: The Magnuson-Stevens Act requires Federal action agencies to consult with NMFS on activities that may adversely impact EFH. The EFH consultation requirements will be consolidated with other existing consultation and environmental review procedures wherever appropriate. This approach will ensure that EFH consultations do not duplicate other environmental reviews, yet still fulfill the statutory requirement for Federal actions to consider potential effects on EFH.

Comments on Atlantic Salmon Amendment 1

Comment: The commenter is concerned with how EFH and HAPC designations will impact ongoing salmon conservation efforts being implemented by Maine.

Response: NMFS is committed to ensure that EFH consultations and EFH

conservation recommendations in areas designated as EFH for Atlantic salmon will complement the goals set by the Maine Atlantic Salmon Conservation Plan. NMFS will be working closely with the State of Maine and other interested parties on this issue.

Comments on Other Issues

Comment: One fishing industry group commented that continued closure of HAPC will be a significant impact under the Regulatory Flexibility Act.

Response: NMFS does not believe that supplementing the basis for the current closure as a measure to protect juvenile cod HAPC and continuing this closure as a part of Closed Area II have any bearing on the Regulatory Flexibility Act because no additional regulatory impacts occur.

Comment: A commenter suggested that the Council establish and implement a plan for satisfying information needs with specific time frames for when objectives will be met and when notice will be provided to the public.

Response: The Council included a strategic plan in the amendments that addresses the refinement of EFH designations, designation of additional HAPCs, and improving understanding of fishing gear impacts, among other things. Since the Council is not a research body, it cannot schedule research activities to complement EFH conservation efforts. However, in its plan, the Council has committed to annual reviews of its EFH conservation program, which specifically includes identification and incorporation of ongoing and future studies as the results become available. Information on these efforts will be available to the public through the Council process.

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

Dated: April 14, 1999.

Gary C. Matlock,

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

[FR Doc. 99–9990 Filed 4–20–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 041599A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for Vessels Using Hook-and-line and Pot Gear in the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels using hook-and-line and pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal allowance of the 1999 total allowable catch (TAC) of Pacific cod allocated for vessels using hook-and-line and pot gear in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 17, 1999, until 1200 hrs, A.l.t., May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands 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 Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the first seasonal allowance of the TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI during the time period January 1 to April 30 as 60,000 metric tons (mt). See § 679.20(c)(3)(iii) and § 679.20(a)(7)(i)(A).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal allowance of the TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 59,900 mt, and is setting aside the remaining 100 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 closing directed fishing for Pacific cod for vessels using hook-and-line and pot gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal allowance of the 1999 TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The Pacific cod directed fishing first seasonal allowance established for vessels using hook-and-line and pot gear has been reached. Further delay would only result in overharvest which would disrupt the FMP's objective of providing sufficient Pacific cod to support bycatch needs in other anticipated groundfish fisheries throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: April 15, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–9960 Filed 4–16–99; 4:30 pm]

BILLING CODE 3510–22–F