

(End of provision)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 970219034-7034-01; I.D. 021097D]

RIN 0648-XX81

American Lobster Fishery; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to add a provision allowing vessels issued Maine state lobster permits to fish in designated waters of the Federal exclusive economic zone (EEZ). This technical amendment conforms the American lobster regulations to existing statutory language, as amended by the Sustainable Fisheries Act.

EFFECTIVE DATE: February 28, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Tokarcik, Fisheries Management Specialist, 508-281-9326.

SUPPLEMENTARY INFORMATION: On October 11, 1996, the Sustainable Fisheries Act (SFA) was signed into law. The SFA amended, among other statutes, the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 *et seq.*) to allow fishing for lobster by vessels issued Maine State American lobster permits in designated areas of the EEZ. These areas are often referred to as Maine pocket waters. The SFA provides that any person holding a valid permit issued by the State of Maine may engage in lobster fishing in these pocket waters, if such fishing is in accordance with all other applicable Federal and State regulations. These pocket waters are small areas of the EEZ that lie between two areas of State waters, created by islands near the coast of Maine. This technical amendment changes § 649.8, modifying the prohibitions to allow for this provision. It also adds § 649.24 to designate areas of the EEZ in which State-permitted vessels may harvest American lobster.

Classification

This rule only conforms to an existing set of regulations to a recently enacted

statutory provision for which the agency has no discretion. As such, under authority at 5 U.S.C. 553(b)(B), there is good cause to waive the requirement to provide prior notice and an opportunity for public comment as such procedures are unnecessary. Similarly, as the statute is already effective, there is good cause under authority at 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: February 27, 1997.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 649 is amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

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

2. In § 649.8, paragraphs (a) introductory text, (b), (c) introductory text, (c)(1)(iv), (c)(2), and (c)(4) are revised and (c)(1)(v) is added to read as follows.

§ 649.8 Prohibitions.

(a) In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person owning or operating a vessel issued a Federal American lobster permit under § 649.4 or a vessel or person holding a valid State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 649.24 to do any of the following:

* * * * *

(b) In addition to the prohibitions specified in paragraph (a) of this section, it is unlawful for any person owning or operating a vessel that has not been issued a limited access American lobster permit as described under § 649.4(b) or a vessel or person holding a valid State of Maine American lobster permit or license and fishing under the provisions of and in the area designated under § 649.24, to possess on board a vessel or land American lobsters unless the vessel is a party, charter, or dive boat and there are six or fewer American lobsters per person on such boats, and the lobster are not sold, traded or bartered, or unless the vessel is a recreational vessel, or a vessel

fishing for American lobsters exclusively in State waters.

(c) In addition to the general prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraphs (a) and (b) of this section, it is unlawful for any person to do any of the following:

(1) * * *

(iv) The American lobsters were harvested by a recreational fishing vessel; or

(v) The American lobsters were harvested by a vessel or person holding a valid State of Maine American lobster permit or license that is fishing under the provisions of and in the areas designated in § 649.24.

(2) Sell, barter or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer for a commercial purpose, any American lobsters from a vessel, unless the vessel had been issued a valid Federal American lobster permit under § 649.4, the American lobsters were harvested by a vessel without a Federal lobster permit that fishes for lobsters exclusively in State waters or unless the vessel or person holds a valid State of Maine American lobster permit or license and is fishing under the provisions of and in the areas designated in § 649.24.

* * * * *

(4) Purchase, possess, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, American lobsters caught by a vessel other than one issued a Federal American lobster permit under § 649.4 or one holding or owned or operated by one holding a valid State of Maine American lobster permit or license and fishing under the provisions of and in the areas designated in § 649.24, unless the American lobsters were harvested by a vessel without a Federal American lobster permit and that fishes for American lobster exclusively in state waters.

* * * * *

3. Section 649.24 is added to subpart B to read as follows:

§ 649.24 Exempted waters for Maine State American lobster permits.

A person or vessel holding a valid permit or license issued by the State of Maine that lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobsters in the following areas designated as EEZ, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

(a) West of Monhegan Island in the area located north of the line 43.5°42'08" N. lat., 69.5°34'18" W. long., and 43.5°42'15" N. lat., 69.5°19'18" W. long.

(b) East of Monhegan Island in the area located west of the line 43.5°44'00" N. lat., 69.5°15'05" W. long., and 43.5°48'10" N. lat., 69.5°08'01" W. long.

(c) South of Vinalhaven in the area located west of the line 43.5°52'21" N. lat., 68.5°39'54" W. long., and 43.5°48'10" N. lat., 67.5°40'33" W. long.

(d) South of Boris Bubert Island in the area located north of the line 44.5°19'15" N. lat., 67.5°49'30" W. long., and 44.5°23'45" N. lat., 67.5°40'33" W. long.

[FR Doc. 97-5440 Filed 2-28-97; 4:43 pm]

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50 CFR Part 679

[Docket No. 961126334-7025-02; I.D. 022897A]

Fisheries of the Exclusive Economic Zone Off Alaska, Pollock in the Eastern Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for pollock by vessels catching

pollock for processing by the inshore component in the Eastern Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of the total allowable catch (TAC) for pollock by vessels catching pollock for processing by the inshore component in the Eastern Regulatory Area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), March 2, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907-486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS 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. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final specification of the allocation of pollock to vessels catching pollock for processing by the inshore component in the Eastern Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 5,580 metric tons (mt), determined in accordance with § 679.20 (a)(6)(ii).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the allocation of the TAC of pollock to vessels catching pollock for processing by the inshore component in the Eastern Regulatory Area will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,480, 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 will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Eastern Regulatory Area.

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

Classification

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: February 28, 1997.

Bruce Morehead,

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

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