

procedures would apply. Both Entravision and M&M suggested that the Commission draw a “bright line” as of the Second R&O’s release date, to clarify the cases to which the new rules apply. Entravision stated that the prior section 307(b) procedures should apply in any instance in which the Commission had rendered a decision as of March 2, 2011, even if there was still a petition for reconsideration or application for review pending, as an equitable solution to keep parties from having to expend further time and resources revising their section 307(b) showings after having already obtained a favorable result from the Commission under pre-Second R&O procedures. M&M requested that the Commission only apply the new procedures to community of license change applications filed after release of the Second R&O.

20. The Commission disagreed that it was unclear, in the Second R&O, as to when the new procedures would apply, and further disagreed with M&M that all pending community of license change applications were “similarly situated” to the categories of cases the Commission exempted from the new procedures. The majority of pending community of license change applications were filed after release of the Rural NPRM, and thus were on notice that the procedures could change while their applications were pending. While the Commission further carved out a limited exception to the new procedures in FM allotment and hybrid proceedings where licenses were modified or construction permits granted, to the extent that similar equities may exist in the case of certain pending community of license change applications, it stated it would entertain requests for waiver of the revised procedures on a case-by-case basis. The Commission rejected M&M’s attempt to analogize those pending community of license change applications without such equities, however, and thus M&M’s request to apply the prior procedures to all such applications pending as of release of the Second R&O.

21. The Commission was more persuaded by Entravision’s equitable argument to reconsider its application of the new policies. It envisioned situations in which, for example, two applications for change of community of license were granted on the same day, but one would become final under the pre-Second R&O procedures while the other would be subject to the new procedures merely because of a factor beyond the applicant’s control, i.e., the filing of a petition for reconsideration or application for review of the application grant. The Commission found no

principled reason to apply different procedures to such otherwise similarly situated applications, especially where any applicant facing reconsideration or review would have to go to the additional expense of revising its (previously successful) section 307(b) showing, above and beyond the expense of rebutting a reconsideration petition. On reconsideration, the Commission thus revised its previous determination as to the application of the new procedures. In addition to those categories of applications and rulemaking proceedings listed in paragraph 21 of the Order, and in the Second R&O (26 FCC Rcd at 2575–76), the Commission held that the revised section 307(b) procedures shall not apply to any pending community of license change application or FM allotment proceeding in which a decision on the application, or allotment *Report and Order*, was released prior to March 3, 2011, the release date of the Second R&O. The Commission therefore granted the Entravision Petition to the extent set forth in the Order, and denied the M&M Petition.

Report to Congress

22. Because no new rules are being adopted by the Commission in the Order, but merely clarifications of methodology and applicability of rules previously adopted, the Commission will not send a copy of the Order to Congress under the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

23. Accordingly, *it is ordered*, pursuant to the authority contained in sections 1, 2, 4(i), 303, 307, and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 307, and 309(j), that this *Second Order on Reconsideration is adopted*.

24. *It is further ordered* that the Petition for Reconsideration & Comments Regarding the Following Matter, filed by Anthony V. Bono, Friendship Broadcasting, LLC; the Petition for Partial Reconsideration, filed by William B. Clay; the Petition for Partial Reconsideration, filed by M&M Broadcasters, Ltd.; and the Petition for Reconsideration, filed by Educational Media Foundation and the Kent Frandsen Radio Companies, *are denied*. *It is further ordered* that the Petition for Reconsideration and/or Clarification, filed by Entravision Communications Corporation; and the Petition for Partial Reconsideration, filed by Radio One, Inc., et al., *are granted in part and denied in part*.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 2012–29423 Filed 12–4–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120109034–2171–01]

RIN 0648–XC369

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; White Hake Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

ACTION: Temporary rule; closure.

SUMMARY: This temporary rule closes the White Hake Trimester Total Allowable Catch (TAC) Area to all common pool groundfish vessels fishing with trawl gear, sink gillnet gear, or longline/hook gear for the remainder of Trimester 2, through December 31, 2012. This action is necessary to prevent the common pool fishery from exceeding its Trimester 2 TAC or its annual catch limit for white hake. This rule is expected to slow the catch rate of white hake in the common pool fishery for the remainder of Trimester 2.

DATES: Effective December 5, 2012, through 2400 hours, December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, 978–675–2153, Fax 978–281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the NE multispecies fishery are found at 50 CFR part 648, subpart F. Beginning in fishing year (FY) 2012 (May 1, 2012–April 30, 2013), the common pool’s sub-annual catch limit (ACL) for each stock is apportioned into trimester TACs (Trimester 1 May 1–August 31; Trimester 2 September 1–December 31; and Trimester 3 January 1–April 30). The regulations at § 648.82(n) require the Regional Administrator to close the Trimester TAC Area for a stock when available information supports a determination that 90 percent of the Trimester TAC is projected to be caught. The Trimester TAC Area for a stock will close to all common pool vessels fishing

with gear capable of catching that stock for the remainder of the trimester. Any overages of a trimester TAC will be deducted from Trimester 3, and any overages of the common pool's sub-ACL at the end of the FY will be deducted from the common pool's sub-ACL the following FY. Any uncaught portion of the Trimester 1 and Trimester 2 TAC will be carried over into the next trimester. Any uncaught portion of the common pool's sub-ACL may not be carried over into the following FY.

The FY 2012 common pool sub-ACL for white hake is 26 mt (57,320 lb). The Trimester 2 TAC is 8.1 mt (17,853 lb). Because only a few vessels are responsible for the white hake catch, it was difficult to project when 90 percent of the Trimester TAC would be reached. Therefore, NMFS has monitored the white hake catch very closely to determine when 90 percent was exceeded. Based on the best available data, which includes vessel trip reports (VTRs), dealer reported landings, and vessel monitoring system (VMS) information, NMFS has projected that 90 percent of the Trimester 2 TAC for white hake was harvested on November 26, 2012. Therefore, effective December 5, 2012, the White Hake Trimester TAC Area is closed for the remainder of Trimester 2, through December 31, 2012, to all common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. The White Hake Trimester TAC Area will reopen to common pool vessels fishing with trawl, sink gillnet, and longline/hook gear at the beginning of Trimester 3, at 0001 hours, January 1, 2013.

Classification

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

The Assistant Administrator for Fisheries, NOAA (AA), 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 impracticable and contrary to the public interest. This action closes the White Hake Trimester TAC Area for common pool vessels fishing with trawl gear, sink gillnet gear, or longline/hook gear through December 31, 2012. The regulations at § 648.82 require this action to ensure that the common pool fishery does not exceed its catch limits for white hake in FY 2012. The catch data indicating that 90 percent of the Trimester 2 TAC for white hake has been caught only recently became available. If implementation of this closure is delayed to solicit prior public comment, the white hake Trimester 2 TAC could be exceeded, thereby

undermining the conservation objectives of the Fishery Management Plan. Any overage of the Trimester 2 TAC must be deducted from the Trimester 3 TAC, and any overage of the total sub-ACL in FY 2012 must be deducted from the FY 2013 sub-ACL. This would have adverse economic consequences on common pool vessels. The AA 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: November 29, 2012.

Lindsay Fullenkamp,

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

[FR Doc. 2012-29401 Filed 11-30-12; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111213751-2102-02]

RIN 0648-XC376

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod 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; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod from catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear to hook-and-line catcher/processors, pot catcher/processors, and catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2012 total allowable catch of Pacific cod to be harvested.

DATES: Effective November 30, 2012, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (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 2012 Pacific cod total allowable catch (TAC) specified for catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear in the BSAI is 19,509 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet LOA using pot gear will not be able to harvest 6,300 mt of the 2012 Pacific cod TAC allocated to those vessels under

§ 679.20(a)(7)(ii)(A)(5). In accordance with § 679.20(a)(7)(iii) and taking into account the capabilities of the sectors to harvest reallocated amounts of Pacific cod, the Regional Administrator has also determined that this unharvested amount is unlikely to be entirely harvested through the reallocation hierarchy set forth in § 679.20(a)(7)(iii)(A). Therefore, following the reallocation hierarchies set forth in both § 679.20(a)(7)(iii)(A) and § 679.20(a)(7)(iii)(C), NMFS reallocates 500 mt to catcher vessels less than 60 ft. LOA using hook-and-line or pot gear, 800 mt to pot catcher/processors, and 5,000 mt to hook-and-line catcher/processors.¹

The harvest specifications for Pacific cod included in the final 2012 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012) and inseason adjustment (77 FR 53152, August 31, 2012) are revised as follows: 118,106 mt for hook-and-line catcher/processors, 4,284 mt for pot catcher/processors, 8,880 mt for catcher vessels less than 60 ft. LOA using hook-and-line or pot gear, and 13,209 mt for catcher vessels greater than or equal to 60 ft. LOA using pot gear.

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

¹ § 679.20(a)(7)(iii)(A) requires that the projected unharvested amount from catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear that is unlikely to be harvested through the reallocation hierarchy set forth in § 679.20(a)(7)(iii)(A) be reallocated to the pot catcher/processor sector in accordance with the reallocation hierarchy set forth in 679.20(a)(7)(iii)(C).