

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA364

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear 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; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels using trawl gear in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the B season allowance of the 2011 total allowable catch (TAC) of Pacific cod allocated to catcher vessels using trawl gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 9, 2011, through 1200 hrs, A.l.t., April 12, 2011. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 25, 2011.

ADDRESSES: Send comments to James W. Balsiger, Regional Administrator, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XA364, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- *Mail:* P.O. Box 21668, Juneau, AK 99802.

- *Fax:* (907) 586-7557.

- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. Comment will generally be posted without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business

Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone 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. 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.

NMFS closed directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI under § 679.20(d)(1)(iii) on April 4, 2011 (76 FR 18663, April 5, 2011).

As of April 6, 2011, NMFS has determined that approximately 2,000 metric tons remain in the directed fishing allowance of Pacific cod allocated to catcher vessels using trawl gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the B season allowance of the 2011 TAC of Pacific cod allocated to catcher vessels using trawl gear in the BSAI, NMFS is terminating the previous closure and is reopening directed fishing Pacific cod by catcher vessels using trawl gear in the BSAI. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by catcher vessels using trawl gear in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 72 hours. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI effective 1200 hrs, A.l.t., April 12, 2011.

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 opening of directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 6, 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.

Without this inseason adjustment, NMFS could not allow the B season allowance of the 2011 TAC of Pacific cod allocated to catcher vessels using trawl gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until April 25, 2011.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: April 8, 2011.

James P. Burgess,

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

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