

Additionally, a seasonal closure is in place for the recreational and commercial sectors for gag and all other SASWG from January through April each fishing year as specified in 50 CFR 622.35(j). Therefore, the commercial harvest of gag and all other SASWG will not commence until May 1, 2013.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having gag or other SASWG onboard must have landed and bartered, traded, or sold such gag or other SASWG prior to 12:01 a.m., local time, October 20, 2012. During this commercial closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1) and (d)(2), respectively, apply to all harvest or possession of gag or other SASWG in or from the South Atlantic EEZ, and the sale or purchase of gag or other SASWG taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of gag or other SASWG that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 20, 2012, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for gag or other SASWG would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(iii).

During the seasonal closure for the recreational and commercial sectors for gag and all other SASWG from January through April each fishing year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ any SASWG. In addition, for a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, the provisions of this closure apply in the South Atlantic, regardless of where such fish are harvested, *i.e.*, in state or Federal waters as specified in 50 CFR 622.35(j).

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for gag and other SASWG constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to

the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect gag since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: October 10, 2012.

**Emily H. Menashes,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 111207737-2141-02]

RIN 0648-XC288

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Central Regulatory Area of the Gulf of Alaska

**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 Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2012 Pacific cod total allowable catch apportioned to vessels using pot gear in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 12, 2012, through 2400 hrs, A.l.t., December 31, 2012.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 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. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2012 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Central Regulatory Area of the GOA is 11,755 metric tons (mt), as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2012 Pacific cod TAC apportioned to vessels using pot gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 11,755 mt and is setting aside the remaining 0 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 prohibiting directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### 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 directed fishing closure of Pacific cod for vessels using pot gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment

because the most recent, relevant data only became available as of October 9, 2012.

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 10, 2012.

**Emily H. Menashes,**  
*Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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