

officers are authorized, in appropriate cases, to revise paragraph (a) of this clause to specify the work required under the contract, in lieu of using contract line item numbers as well as revise paragraph (c) of this clause to specify a different notification period and percentage. The 30-day period may

be varied from 45, 60 to 90 days, and the 75 percent from 75 to 85 percent:

**Limitation of Government’s Obligation (Nov 2016)**

(a) Funding is not currently available to fully fund this contract due to the Government operating under a continuing

resolution (CR). The item(s) listed in the table below are being incrementally funded as described below. The funding allotted to these item(s) is presently available for payment and allotted to this contract. This table will be updated by a modification to the contract when additional funds are made available, if any, to this contract.

| Contract line item number (CLIN) | CLIN total price | Funds allotted to the CLIN | Funds required for complete funding of the CLIN |
|----------------------------------|------------------|----------------------------|---|
|                                  | \$               | \$                         | \$  |
|                                  | \$               | \$                         | \$  |
|                                  | \$               | \$                         | \$  |
|                                  | \$               | \$                         | \$  |
| Totals .....                     | \$               | \$                         | \$  |

(b) For the incrementally funded item(s) identified in paragraph (a) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including any invoice payments to which the Contractor is entitled and reimbursement of authorized termination costs in the event of termination of those item(s) for the Government’s convenience, does not exceed the total amount currently obligated to those item(s). The Contractor is not authorized to continue work on these item(s) beyond that point. The Government will not be obligated in any event to reimburse the Contractor in excess of the amount allotted to the line items of the contract regardless of anything to the contrary in any other clause, including but not limited to the clause entitled “Termination for Convenience of the Government” or paragraph (1) entitled “Termination for the Government’s Convenience” of the clause at FAR 52.212-4, “Commercial Terms and Conditions Commercial Items.”

authorizing termination for the convenience of the Government. Failure to make the notification required by this paragraph, whether for reasons within or beyond the Contractor’s control, will not increase the maximum amount payable to the Contractor under paragraphs (a) and (b) of this clause.

(d) The Government may at any time prior to termination allot additional funds for the performance of the item(s) identified in paragraph (a) of this clause.

(e) The termination provisions of paragraphs (a) through (h) of this clause do not limit the rights of the Government under the clause entitled “Default” or “Termination for Cause.” The provisions of this clause are limited to the work and allotment of funds for the item(s) set forth in paragraph (a) of this clause. This clause no longer applies once the contract is fully funded.

(f) Nothing in this clause affects the right of the Government to terminate this contract pursuant to the Government’s termination for convenience terms set forth in this contract.

(g) Nothing in this clause shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342.

(h) The parties contemplate that the Government will allot funds to this contract from time to time as the need arises and as funds become available. There is no fixed schedule for providing additional funds. (End of clause)

Dated: November 8, 2016.

**Iris B. Cooper,**  
Senior Procurement Executive, Office of the Procurement Executive.

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(c) Notwithstanding paragraph (h) of this clause, the Contractor shall notify the Contracting Officer in writing at least thirty days prior to the date when, in the Contractor’s best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the item(s) identified in paragraph (a) of this clause. The notification shall state the estimated date when that point will be reached and an estimate of additional funding, if any, needed to continue performance. The notification shall also advise the Contracting Officer of the estimated amount of additional funds required for the timely performance of the item(s) funded pursuant to this contract. If after such notification additional funds are not allotted by the date identified in the Contractor’s notification, or by an agreed upon substitute date, the Contracting Officer will terminate any item(s) for which additional funds have not been allotted, pursuant to the terms of this contract

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 150916863-6211-02]

RIN 0648-XF036

**Fisheries of the Exclusive Economic Zone Off Alaska; 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; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by catcher/processors using pot gear in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2016 total allowable catch of Pacific cod allocated to catcher/processors using pot gear in the BSAI.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), November 15, 2016, through 2400 hours, A.l.t., December 31, 2016. Comments must be received at the following address no later than 4:30 p.m., A.l.t., December 1, 2016.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2015-0118, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) #/docketDetail;D=NOAA-NMFS-2015-0118, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

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

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

NMFS closed directed fishing for Pacific cod by catcher/processors using pot gear in the BSAI under § 679.20(d)(1)(iii) on October 18, 2016 (81 FR 72009, October 19, 2016).

NMFS has determined that as of November 7, 2016, approximately 2,000 metric tons of Pacific cod remain in the 2016 Pacific cod apportionment for catcher/processors using pot 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 use the 2016 total allowable catch (TAC) of Pacific cod in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher/processors using pot 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/processors using pot gear in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

#### **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/processors using pot 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 November 7, 2016.

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 fishery for Pacific cod by catcher/processors using pot 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 December 1, 2016.

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: November 10, 2016.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries.*

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