

in 40 U.S.C.502(c)(3)(A), when a public health emergency has been declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act. The GSA program implementing this authority is the Public Health Emergencies program.

(14) FAR subpart 51.1, which provides for the use by contractors, including subcontractors, when such use is authorized pursuant to FAR subpart 51.1.

(b) [Reserved]

(End of clause)

**552.238-114 Use of Federal Supply Schedule Contracts by Eligible Non-Federal Entities.**

As prescribed in 538.7005, insert the following clause:

**Use of Federal Supply Schedule Contracts by Eligible Non-Federal Entities (Mar 2024)**

(a) *Definition—Non-Federal entity*, as used in this clause, means any State, local, territorial, or Tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education); and any other non-Federal organization (e.g., a qualified nonprofit agency as defined in 40 U.S.C. 502(b)).

(b) *Responsibilities*. Eligible non-Federal entities are responsible for complying with—

(1) FSS ordering guidance. Information about GSA's FSS contracts, including ordering guidance is available at <https://www.gsa.gov/schedules>; and

(2) Any conditions of the underlying authority(ies) supporting the use of FSS contracts (e.g., 40 U.S.C. 502(c) limits purchases to specific supplies and services available under FSS contracts).

(c) *Acceptance*. (1) The Contractor is encouraged, but not obligated, to accept orders from eligible non-Federal entities under this contract. The Contractor may, within 5 business days of receipt of an order, reject an order from an eligible non-Federal entity for any reason. However, purchase card orders must be rejected within 24 hours of receipt of the order. Failure to reject an order within these timeframes shall constitute acceptance.

(2) The Contractor is encouraged, but not obligated, to enter into blanket purchase agreements (BPAs) with eligible non-Federal entities under the terms of this contract. The Contractor should respond to any requests to enter into a BPA within 5 business days of receipt of the request.

(d) *Conditions of acceptance*. If the Contractor accepts an order from or enters into a BPA with an eligible non-Federal entity under this contract, the following conditions apply:

(1) For orders, a separate contract is formed between the Contractor and the eligible non-Federal entity (herein “the parties”). For BPAs, a separate agreement is formed between the parties.

(2) The resultant order or BPA shall incorporate by reference all the terms and conditions of this contract except for:

(i) FAR clause 52.233-1, Disputes, and  
(ii) Paragraphs (d) Disputes, (h) Patent indemnity, and (r) Compliance with laws

unique to Government contracts, of GSAR clause 552.212-4, Contract Terms and Conditions—Commercial Products and Commercial Services.

(3) The U.S. Government is not liable for the performance or nonperformance of any order or BPA entered into under this contract by the parties. Disputes which cannot be resolved by the parties may be litigated in any State or Federal court with jurisdiction over the parties, applying Federal procurement law, including statutes, regulations, and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law, the parties are encouraged to resolve disputes through alternative dispute resolution.

(4) Neither party will look to, primarily or in any secondary capacity, or file any claim against the U.S. Government or any of its agencies with respect to any failure of performance by the other party.

(e) *Additional terms and conditions*. Terms and conditions required by statute, ordinance, regulation, or as otherwise required by an eligible non-Federal entity may be made a part of an order or a BPA to the extent that these terms and conditions do not conflict with the terms and conditions of this contract. The Contractor should review any such additional terms and conditions prior to accepting an order or entering into a BPA with an eligible non-Federal entity.

(f) *Payment*. (1) The Contractor is responsible for obtaining all payments due to the Contractor from the eligible non-Federal entity under the terms and conditions of the order or the BPA entered into under this contract, without recourse to the U.S. Government or any of its agencies that awarded this contract or administer this contract.

(2) If an eligible non-Federal entity is subject to a State prompt payment law, the terms and conditions of the applicable State law apply to the orders placed under this contract by such entities. If an eligible non-Federal entity is not subject to a State prompt payment law, the terms and conditions of paragraph (i) of the GSAR clause at 552.212-4, apply to such entities in the same manner as to Federal entities.

(g) *Fee and sales reporting*. The requirements of the GSAR clause at 552.238-80, Industrial Funding Fee and Sales Reporting, apply to any sales to eligible non-Federal entities under this contract.

(End of clause)

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 230224-0053; RTID 0648-XD654]

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Western 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 Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2024 total allowable catch (TAC) of Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), February 19, 2024, through 1200 hours, A.l.t., June 10, 2024.

**FOR FURTHER INFORMATION CONTACT:** Adam Zaleski, 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 (Magnuson-Stevens 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 A season allowance of the 2024 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA is 1,182 metric tons (mt) as established by the final 2023 and 2024 harvest specifications for groundfish in the GOA (88 FR 13238, March 2, 2023) and inseason adjustment (88 FR 88840, December 26, 2023).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2024 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,175 mt and is setting aside the remaining 7 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 Western Regulatory Area of the GOA.

While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR

part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be 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 closure of Pacific cod by vessels using pot gear in the Western 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 February 15, 2024.

The Assistant Administrator for Fisheries, NOAA 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.

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

Dated: February 16, 2024.

**Everett Wayne Baxter,**

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

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