

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-02]

RIN 0648-XA956

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Non-American Fisheries Act Crab Vessels Operating as Catcher/Processors 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; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by non-American Fisheries Act (AFA) crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the Gulf of Alaska (GOA) for seven days. This action is necessary to fully use the A season allowance of the 2012 Pacific cod sideboard limit established for non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 23, 2012 through 1200 hrs, A.l.t., January 30, 2012. Comments must be received at the following address no later than 4:30 p.m., A.l.t., February 10, 2012.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2012-0010, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0010 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on that line.

- **Mail:** Address 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.

- **Fax:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to (907) 586-7557.

- **Hand delivery to the Federal Building:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will 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). Attachments to electronic comments will be accepted in Microsoft Word or 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.

The A season allowance of the 2012 Pacific cod sideboard limit established for non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA is 98 metric tons as established by the final 2011 and 2012 harvest specifications for groundfish in the GOA (76 FR 11111, March 1, 2011) and inseason adjustment (77 FR 438, January 5, 2012).

NMFS closed directed fishing for Pacific cod by non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA under § 680.22(e)(3) on January 1, 2012 (76 FR 81860, December 29, 2011).

As of January 17, 2012, NMFS has determined that approximately 98

metric tons remains in the A season allowance of the 2012 Pacific cod sideboard limit established for non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA. Furthermore, NMFS has determined that this remaining amount of Pacific cod is sufficient to support a directed fishery. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2012 Pacific cod sideboard limit established for non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA, NMFS is terminating the previous closure and is reopening directed fishing of Pacific cod by non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

In accordance with § 680.22(e)(2)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2012 Pacific cod sideboard limit established for non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA will be reached after seven days. Therefore, the Regional Administrator is establishing a sideboard directed fishing allowance of 88 mt, and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 680.22(e)(3), the Regional Administrator finds that this sideboard directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA.

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 in the Pacific cod by non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA. 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 January 17, 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.

Without this inseason adjustment, NMFS could not allow of Pacific cod by non-AFA crab vessels operating as catcher/processors using pot gear in the Western Regulatory Area of the GOA 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 February 10, 2012.

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: January 23, 2012.

Steven Thur,

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

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