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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737-2141-02]

RIN 0648-XC522

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catch Vessels

Using Trawl 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 catcher vessels (CVs) using trawl gear in the Western Regulatory Area of the Gulf of Alaska (GOA) for 48 hours. This action is necessary to fully use the A season allowance of the 2013 Pacific cod total allowable catch apportioned to CVs using trawl gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 1, 2013, through 1200 hours, A.l.t., March 3, 2013. Comments must be received at the following address no later than 4:30 p.m., A.l.t., [insert date 15 days after date of filing for public inspection with the OFFICE OF THE FEDERAL REGISTER](#).

ADDRESSES: You may submit comments on this document, identified by FDMS

Docket Number NOAA-NMFS-2012-0180 by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-180, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- 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 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 without change. All personal identifying information (e.g., name, address, etc.), 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: 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.

NMFS closed directed fishing for Pacific cod by catcher vessels using trawl gear in the Western Regulatory area of the GOA under § 679.20(d)(1)(iii) on February 14, 2013 (78 FR 11790, February 20, 2013).

As of February 25, 2013, NMFS has determined that approximately 226 metric tons of Pacific cod remain in the A season directed fishing allowance for CVs using trawl gear in the Western Regulatory Area of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2013 TAC of Pacific cod in the Western Regulatory Area of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for Pacific cod by catcher vessels using trawl gear in the Western Regulatory Area of the GOA, effective 1200 hours, A.l.t., March 1, 2013.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Western Regulatory Area of the GOA, effective 1200 hours, A.l.t., March 3, 2013. The Administrator, Alaska Region (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 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.

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 the directed Pacific cod fishery by catcher vessels using trawl 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 February 25, 2013.

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 Pacific cod fishery by catcher vessels using trawl 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 [INSERT DATE 15 DAYS AFTER DATE OF FILING FOR PUBLIC INSPECTION WITH THE OFFICE OF THE FEDERAL REGISTER].

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: February 26, 2013.

Kara Meckley,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.