

References Cited

A complete list of all references cited in this document is available on the Internet at <http://www.regulations.gov> at Docket No. FWS-R9-ES-2011-0073 or upon request from the U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

Authority

We are taking this action under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

List of Subjects in 50 CFR Part 424

Administrative practice and procedure, Endangered and threatened species.

Regulation Promulgation

PART 424—[AMENDED]

- 1. The authority citation for part 424 is revised to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

- 2. Revise § 424.19 to read as follows:

§ 424.19 Impact analysis and exclusions from critical habitat.

(a) At the time of publication of a proposed rule to designate critical habitat, the Secretary will make available for public comment the draft economic analysis of the designation. The draft economic analysis will be summarized in the **Federal Register** notice of the proposed designation of critical habitat.

(b) Prior to finalizing the designation of critical habitat, the Secretary will consider the probable economic, national security, and other relevant impacts of the designation upon proposed or ongoing activities. The Secretary will consider impacts at a scale that the Secretary determines to be appropriate, and will compare the impacts with and without the designation. Impacts may be qualitatively or quantitatively described.

(c) The Secretary has discretion to exclude any particular area from the critical habitat upon a determination that the benefits of such exclusion outweigh the benefits of specifying the particular area as part of the critical habitat. In identifying those benefits, in addition to the mandatory consideration of impacts conducted pursuant to paragraph (b) of this section, the Secretary may assign the weight given to any benefits relevant to the designation of critical habitat. The Secretary, however, will not exclude any particular area if, based on the best scientific and commercial data available, the Secretary determines that

the failure to designate that area as critical habitat will result in the extinction of the species concerned.

Dated: May 14, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior.

Dated: August 20, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563-3148-02]

RIN 0648-XC831

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of 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; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod from vessels using jig gear and catcher vessels greater than 60 feet (18.3 meters) length overall (LOA) using hook-and-line gear to catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2013 total allowable catch of Pacific cod to be harvested.

DATES: Effective August 23, 2013, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) 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.

The 2013 Pacific cod total allowable catch (TAC) specified for vessels using jig gear in the BSAI is 3,251 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013). The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 2,500 mt of the remaining 2013 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(1). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 2,500 mt of Pacific cod to catcher vessels less than 60 feet (18.3 meters(m)) LOA using hook-and-line or pot gear.

The 2013 Pacific cod TAC specified for catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear in the BSAI is 463 mt as established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear will not be able to harvest 450 mt of the remaining 2013 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(3). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 450 mt of Pacific cod to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2013 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) are revised as follows: 751 mt for vessels using jig gear, 13 mt for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear, and 7,577 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

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 reallocation of Pacific cod specified from other sectors to catcher vessels less than 60 feet (18.3 m) LOA

using hook-and-line or pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. 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 as well as processors. NMFS was unable to

publish a notice providing time for public comment because the most recent, relevant data only became available as of August 21, 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.

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: August 23, 2013.

Kelly Denit,

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

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