

gear restrictions in the U.S./Canada Management Area. Such a delay would allow the current slow catch rates of GB yellowtail flounder and Eastern GB cod to continue and could result in under-harvest of the GB yellowtail flounder and Eastern GB cod TACs. Thus, delayed implementation could undermine the conservation objectives of the FMP and the Magnuson-Stevens Act. Under-harvesting of the GB yellowtail TAC would result in increased negative economic impacts to the industry and social impacts beyond those analyzed for Amendment 13 as the full potential revenue from the fishery would not be realized.

The rate of harvest of the Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder TACs in the U.S./Canada Management Area are updated weekly on the internet at <http://www.nero.noaa.gov>. Accordingly, the public is able to obtain information that would provide at least some advanced notice of a potential action to provide additional opportunities to the NE multispecies industry to fully harvest the TAC for any species during FY 2009. Further, the Regional Administrator's authority to modify gear requirements in the U.S./Canada Management Area to help ensure that the shared U.S./Canada stocks of fish are harvested, but not exceeded, was considered and open to public comment during the development of Amendment 13 and Framework Adjustment 42. Therefore, any negative effect the waiving of public comment and delayed effectiveness may have on the public is mitigated by these factors.

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

Dated: March 11, 2010.

**Emily H. Menashes,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XV21

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear 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; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2010 Pacific cod allowable catch (TAC) specified for catcher vessels using trawl gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 12, 2010, though 1200 hrs, A.l.t., April 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 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.

The A season allowance of the 2010 Pacific cod TAC allocated to catcher vessels using trawl gear in the BSAI is 24,647 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009) and inseason adjustment (74 FR 68717, December 29, 2009).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the A

season allowance of the 2010 Pacific cod TAC allocated to catcher vessels using trawl gear in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 24,497 mt, and is setting aside the remaining 150 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 catcher vessels using trawl gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### 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 closure of Pacific cod by catcher vessels using trawl gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 10, 2010.

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: March 10, 2010.

**Emily H. Menashes,**

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

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