

or operators of otter trawl vessels fishing for and/or possessing *Loligo* may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purpose of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

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[FR Doc. 2010-2282 Filed 2-2-10; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 09100091344-9056-02]

RIN 0648-XU20

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central 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 catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allocation of the 2010 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 31, 2010, through 1200 hrs, A.l.t., September 1, 2010.

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 allocation of the 2010 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA is 19,862 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2010) and inseason adjustment (74 FR 68713, December 29, 2009).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allocation of the 2010 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 17,862 mt, and is setting aside the remaining 2,000 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 catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

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 apportioned to vessels catching Pacific cod for processing by the inshore component of the Central 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 January 28, 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: January 29, 2010.

Emily H. Menashes,

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

[FR Doc. 2010-2257 Filed 1-29-10; 4:15 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351-0040-03]

RIN 0648-XL28

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2009 and 2010 Harvest Specifications for Groundfish; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correcting amendment.

SUMMARY: On February 17, 2009, NMFS published the final 2009 and 2010 harvest specifications for groundfish of the Bering Sea and Aleutian Islands (BSAI) management area. Table 8c of that document contained the final 2009 and 2010 prohibited species bycatch allowances for the BSAI trawl limited access sector and non-trawl fisheries of the BSAI management area. That table contained an error that is corrected in this rule.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.) February 3, 2010, through 2400 hrs, A.l.t., December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the Fisheries Management Plan (FMP) for groundfish of the BSAI and govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

On February 17, 2009 (74 FR 7359) NMFS published harvest specifications

for groundfish of the BSAI that included Table 8c, which allocated the final 2009 and 2010 prohibited species bycatch allowances for the BSAI trawl limited access sector and non-trawl fisheries of the BSAI management area. However, NMFS inadvertently left out the date of April 15, 2010, associated with the 2010 allocation of halibut mortality for the rockfish fishery category for the BSAI

trawl limited access sector. This document corrects the error and republishes Table 8c in its entirety. Without this correction, the rockfish fishery for this sector opened on January 20, 2010, instead of April 15, 2010, as intended by the Council and NMFS to address operational issues raised by the fisheries participants.

Correction

Accordingly, the revised Table 8c from the temporary rule (FR Doc. E9–3297) published on February 17, 2009, at 74 FR 7359, is corrected as follows:

On page 7371, Table 8c is corrected and republished in its entirety to read as follows:

TABLE 8C—FINAL 2009 AND 2010 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

BSAI trawl limited access fisheries	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (ani- mals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole	187	47,397	1,176,494	346,228	1,185,500
Rock sole/flathead sole/other flatfish ²	0	0	0	0	0
Turbot/arrowtooth/sablefish ³	0	0	0	0	0
Rockfish (in 2010 April 15–December 31)	5	0	2,000	60,000	1,000
Pacific cod	508	6,000	50,000	60,000	50,000
Pollock/Atka mackerel/other species ⁴	175	400	20,000	5,000	5,000
Total BSAI trawl limited access PSC	875	53,797	1,248,494	411,228	1,241,500
Non-trawl fisheries	Catcher processor	Catcher vessel			
Pacific cod—Total	760	15			
January 1–June 10	314	10			
June 10–August 15	0	3			
August 15–December 31	446	2			
Other non-trawl—Total	58				
May 1–December 31	58				
Groundfish pot and jig	Exempt				
Sablefish hook-and-line	Exempt				
Total non-trawl PSC	833				

¹ Refer to § 679.2 for definitions of areas.

² “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

³ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

⁴ “Other species” for PSC monitoring includes sculpins, sharks, skates, and octopus.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under E.O. 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Acting Assistant Administrator of Fisheries (AA) finds good cause to waive prior notice and opportunity for public comment, as notice and comment would be impracticable and contrary to the public interest. Through this action, NOAA seeks to correct the inadvertent omission of the 2010 dates associated with the allocation of halibut mortality for the rockfish category for the BSAI

trawl limited access sector. Prior notice and an opportunity for public comment on this action would be impracticable and contrary to the public interest for the following reasons: Corrections to ensure the rule’s compliance with the intent of the Council and NMFS to address operational issues raised by fisheries participants must be made immediately; since the rockfish fishery for this sector opened prematurely, on January 20, 2010, instead of the intended date of April 15, 2010. A premature opening of the fishery would fail to limit directed fishing for rockfish

to a time period when all interested participants would have equal opportunity to participate and would unfairly advantage some participants at the expense of other participants. Additionally, this correction must be made immediately in order to give the regulated community as much time as is practical to plan upcoming fishing activities. As such, prior notice and an opportunity for public comment on these measures are impracticable and contrary to the public interest because NMFS only recently discovered these errors and must ensure the timely,

uninterrupted, comprehensive and rational management of the fisheries consistent with the Magnuson-Stevens Act.

Additionally, for the reasons listed above, the AA finds good cause to waive the 30-day delay in the effective date under 5 U.S.C. 553(d)(3), as such

procedures would be contrary to the public interest. Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

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

Dated: January 28, 2010.

Samuel D. Rauch III,

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

[FR Doc. 2010-2284 Filed 2-2-10; 8:45 am]

BILLING CODE 3510-22-P