

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 111207737-2141-02]

RIN 0648-XC333

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Western Regulatory Area of the Gulf of Alaska 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 amount of Pacific cod from catcher vessels using trawl gear and hook-and-line catcher/processors (C/Ps) to vessels using pot gear in the Western Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to allow the 2012 total allowable catch of Pacific cod in the Western Regulatory Area of the GOA to be harvested.

DATES: Effective November 1, 2012, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Gulf of Alaska 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. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2012 Pacific cod total allowable catch specified for catcher vessels using trawl gear in the Western Regulatory Area of the GOA is 7,802 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish in the GOA (77 FR 15194, March 14, 2012) and reallocation on September 1, 2012 (77 FR 54838, September 6, 2012). The 2012 Pacific

cod total allowable catch specified for hook-and-line C/Ps in the Western Regulatory Area of the GOA is 4,100 mt as established by the final 2012 and 2013 harvest specifications for groundfish in the GOA (77 FR 15194, March 14, 2012). The Administrator, Alaska Region (Regional Administrator) has determined that catcher vessels using trawl gear will not be able to harvest 1,400 mt and hook-and-line C/Ps will not be able to harvest 600 mt of the 2012 Pacific cod TAC allocated to those vessels under § 679.20(a)(12)(i)(A). In accordance with § 679.20(a)(12)(ii)(B), the Regional Administrator has also determined that the pot vessels currently have the capacity to harvest this excess allocation and reallocates 2,000 mt to vessels using pot gear in the Western Regulatory Area of the GOA.

The harvest specifications for Pacific cod in the Western Regulatory Area of the GOA included in the final 2012 harvest specifications for groundfish in the GOA (77 FR 15194, March 14, 2012) are revised as follows: 6,402 mt for catcher vessels using trawl gear, 3,500 mt for hook-and-line C/Ps and 9,869 mt for vessels using 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 catcher vessels using trawl gear and hook-and-line C/Ps to vessels using 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 October 31, 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.

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: November 1, 2012.

Lindsay Fullenkamp,

Acting Deputy 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**

RIN 0648-XA500

North Pacific Fishery Management Council; Essential Fish Habitat Amendments

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of Amendment 98 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI Groundfish FMP); Amendment 90 to the FMP for Groundfish of the Gulf of Alaska (GOA Groundfish FMP); Amendment 40 to the FMP for Bering Sea/Aleutian Islands King and Tanner Crabs (BSAI Crab FMP); Amendment 15 to the FMP for the Scallop Fishery off Alaska (Scallop FMP); and Amendment 1 to the FMP for Fish Resources of the Arctic Management Area (Arctic FMP). These amendments update the existing essential fish habitat (EFH) provisions in the FMPs based on a 5-year EFH review. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable laws.

DATES: The amendments were approved on October 31, 2012.

ADDRESSES: Electronic copies of the Final EFH 5-year Review for 2010

Summary Report, the Environmental Assessment prepared for this action and the amendments may be obtained from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

Sarah Ellgen, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment.

On August 8, 2012, NMFS published the notice of availability for the amendments, with a comment period that ended on October 9, 2012 (77 FR 47356). NMFS did not receive any comments on these proposed amendments.

NMFS determined that these amendments are consistent with the Magnuson-Stevens Act and other applicable laws and approved the amendments on October 31, 2012. The notice of availability contains additional information on this action. No changes to Federal regulations are necessary to implement these FMP amendments.

NMFS and regional fishery management councils must describe and identify EFH in FMPs. The Magnuson-Stevens Act defines EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” The FMPs contain various EFH components, including the requirement to review EFH every 5 years.

In 2009 and 2010, a 5-year EFH review was conducted for the North Pacific Fishery Management Council (Council), and the results of this review are documented in the Final EFH 5-year Review for 2010 Summary Report (see **ADDRESSES**). Based on the 5-year review and the summary report, the Council identified various elements of the EFH FMP text that merited revision. EFH revisions to the FMP for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP), Amendment 11, were proposed with Amendments 10 and 12 to the Salmon FMP (77 FR 19605, April 2, 2012). The Secretary of Commerce approved Amendments 10, 11, and 12 to the Salmon FMP on June 29, 2012.

The five amendments addressed by this notice revise the following FMP components for EFH:

- The EFH provisions of the BSAI and GOA Groundfish FMPs for 24 groundfish species or complexes.
- The EFH provisions of the BSAI Crab FMP for five crab species or complexes.
- The EFH provisions of the Scallop FMP for weathervane scallop.

- The EFH conservation recommendations for non-fishing activities in all five FMPs.

- The timeline for considering habitat areas of particular concern from 3 years to 5 years in all five FMPs.

- The research objectives for EFH in the four FMPs subject to the 2010 EFH 5-year review (excludes the Arctic FMP).

The details of these revisions are in each amendment (see **ADDRESSES**).

The 5-year review concluded that no change to the 2005 EFH EIS conclusions on the evaluation of fishing effects on EFH was warranted based on information from 2005 through 2010.

An Environmental Assessment was prepared for the amendments that describe the EFH background, the purpose and need for action, the EFH alternatives, and the environmental, social, and economic impacts of the alternatives (see **ADDRESSES**). These amendments improve fisheries management by updating EFH provisions in the FMPs with the best available information.

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

Dated: November 1, 2012.

Alan D. Risenhoover,

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

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