

with gear capable of catching that stock for the remainder of the trimester. Any overages of a trimester TAC will be deducted from Trimester 3, and any overages of the common pool's sub-ACL at the end of the FY will be deducted from the common pool's sub-ACL the following FY. Any uncaught portion of the Trimester 1 and Trimester 2 TAC will be carried over into the next trimester. Any uncaught portion of the common pool's sub-ACL may not be carried over into the following FY.

The FY 2012 common pool sub-ACL for white hake is 26 mt (57,320 lb). The Trimester 2 TAC is 8.1 mt (17,853 lb). Because only a few vessels are responsible for the white hake catch, it was difficult to project when 90 percent of the Trimester TAC would be reached. Therefore, NMFS has monitored the white hake catch very closely to determine when 90 percent was exceeded. Based on the best available data, which includes vessel trip reports (VTRs), dealer reported landings, and vessel monitoring system (VMS) information, NMFS has projected that 90 percent of the Trimester 2 TAC for white hake was harvested on November 26, 2012. Therefore, effective December 5, 2012, the White Hake Trimester TAC Area is closed for the remainder of Trimester 2, through December 31, 2012, to all common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. The White Hake Trimester TAC Area will reopen to common pool vessels fishing with trawl, sink gillnet, and longline/hook gear at the beginning of Trimester 3, at 0001 hours, January 1, 2013.

Classification

This action is required by 50 CFR part 648, and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest. This action closes the White Hake Trimester TAC Area for common pool vessels fishing with trawl gear, sink gillnet gear, or longline/hook gear through December 31, 2012. The regulations at § 648.82 require this action to ensure that the common pool fishery does not exceed its catch limits for white hake in FY 2012. The catch data indicating that 90 percent of the Trimester 2 TAC for white hake has been caught only recently became available. If implementation of this closure is delayed to solicit prior public comment, the white hake Trimester 2 TAC could be exceeded, thereby

undermining the conservation objectives of the Fishery Management Plan. Any overage of the Trimester 2 TAC must be deducted from the Trimester 3 TAC, and any overage of the total sub-ACL in FY 2012 must be deducted from the FY 2013 sub-ACL. This would have adverse economic consequences on common pool vessels. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: November 29, 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

[Docket No. 111213751-2102-02]

RIN 0648-XC376

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 catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear to hook-and-line catcher/processors, pot catcher/processors, and catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2012 total allowable catch of Pacific cod to be harvested.

DATES: Effective November 30, 2012, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

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 2012 Pacific cod total allowable catch (TAC) specified for catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear in the BSAI is 19,509 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet LOA using pot gear will not be able to harvest 6,300 mt of the 2012 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(5). In accordance with § 679.20(a)(7)(iii) and taking into account the capabilities of the sectors to harvest reallocated amounts of Pacific cod, the Regional Administrator has also determined that this unharvested amount is unlikely to be entirely harvested through the reallocation hierarchy set forth in § 679.20(a)(7)(iii)(A). Therefore, following the reallocation hierarchies set forth in both § 679.20(a)(7)(iii)(A) and § 679.20(a)(7)(iii)(C), NMFS reallocates 500 mt to catcher vessels less than 60 ft. LOA using hook-and-line or pot gear, 800 mt to pot catcher/processors, and 5,000 mt to hook-and-line catcher/processors.¹

The harvest specifications for Pacific cod included in the final 2012 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012) and inseason adjustment (77 FR 53152, August 31, 2012) are revised as follows: 118,106 mt for hook-and-line catcher/processors, 4,284 mt for pot catcher/processors, 8,880 mt for catcher vessels less than 60 ft. LOA using hook-and-line or pot gear, and 13,209 mt for catcher vessels greater than or equal to 60 ft. LOA 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

¹ § 679.20(a)(7)(iii)(A) requires that the projected unharvested amount from catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear that is unlikely to be harvested through the reallocation hierarchy set forth in § 679.20(a)(7)(iii)(A) be reallocated to the pot catcher/processor sector in accordance with the reallocation hierarchy set forth in 679.20(a)(7)(iii)(C).

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 for the Pacific cod sectors affected by this action. 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 November 29, 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 30, 2012.

Lindsay Fullenkamp,

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

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