

500 lb (226.8 kg) of all flounders, no more than 500 lb (226.8 kg) of monkfish, and no more than 500 lb (226.8 kg) of skates), and possession of lobsters is prohibited. Therefore, common pool vessels fishing any part of a trip in any part of the U.S./Canada Management Area (Eastern or Western Areas) are restricted to these catch limits for the duration of that trip, and, of the 500 lb (226.8 kg) of flounders, no more than 100 lb (45.4 kg) may be GB yellowtail flounder.

Catch will be closely monitored through dealer-reported landings, VMS catch reports, and other available information. Further inseason adjustments to increase or decrease the trip limits, or to adjust differential DAS measures, may be considered, based on updated catch data and projections. Conversely, if the common pool sub-ACL is projected to be under-harvested by the end of FY 2010, in-season adjustments to increase the trip limit for the remainder of FY2010 will be considered.

#### Classification

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

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because notice, comment, and a delayed effectiveness would be impracticable and contrary to the public interest. The regulations under §§ 648.86(o) and 648.85(a)(3)(iv)(D) grant the RA the authority to adjust NE multispecies trip limits and implement gear restrictions in the U.S./Canada Management Area to prevent over-harvesting or under-harvesting the common pool sub-ACLs. This action will implement more restrictive trip limits for GOM cod, GB yellowtail flounder, and white hake in order to ensure that the common pool sub-ACLs are not overharvested, and that the biological and economic objectives of the FMP are met. It is important to take this action immediately because, based on current data and projections, continuation of the status quo trip limits will result in reaching the respective common pool sub-ACLs prior to the end of the FY. Inseason adjustments in FY 2010 have already reduced the landing limits for GOM cod (July 30, 2010) and GB yellowtail flounder (May 27, 2010), implemented a gear restriction in most of the Western U.S./Canada Area (July 30, 2010), and implemented differential DAS counting in the GOM and GB to minimize the chance of exceeding the

sub-ACL for GOM cod and white hake, as well as other stocks (September 2, 2010). Attainment of any of the common pool sub-ACLs prior to the end of the FY on April 30, 2011, would result in AMs being put in place for the common pool in FY 2011. These restrictions could result in the loss of yield of other valuable species caught by vessels in the common pool. The information that is the basis for this action includes recent catch data that only recently became available. The time necessary to provide for prior notice and comment, and delayed effectiveness for this action, would prevent NMFS from implementing a reduced trip limit and additional gear restrictions in a timely manner. A resulting delay in the curtailment of the catch rate of these three stocks could result in less revenue for the fishing industry and be counter to the objective of achieving optimum yield from the fishery.

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

Dated: September 21, 2010.

**Carrie Selberg,**

*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 660

[Docket No. 0912281446-0111-02]

RIN 0648-XY79

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Closure

**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 sardine off the coasts of Washington, Oregon and California. This action is necessary because the directed harvest allocation total for the third seasonal period (September 15 December 31) is projected to be reached by the effective date of this rule. From the effective date of this rule until January 1, 2011, Pacific sardine can only be harvested as part of the live bait fishery or incidental to other fisheries; the incidental harvest of Pacific sardine is limited to 30-percent by weight of all fish per trip. Fishing vessels must be at shore and in the process of offloading at

12:01 am Pacific Daylight Time on date of closure.

**DATES:** Effective 12:01 am Pacific Daylight Time (PDT) September 24, 2010, through December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Joshua Lindsay, Southwest Region, NMFS, (562) 980-4034.

**SUPPLEMENTARY INFORMATION:** This document announces that based on the best available information recently obtained from the fishery and information on past effort, the directed fishing harvest allocation for the third allocation period (September 15 December 31) will be reached and therefore directed fishing for Pacific sardine is being closed until January 1, 2011. Fishing vessels must be at shore and in the process of offloading at the time of closure. From 12:01 am on the date of closure through December 31, 2010, Pacific sardine may be harvested only as part of the live bait fishery or incidental to other fisheries, with the incidental harvest of Pacific sardine limited to 30-percent by weight of all fish caught during a trip.

NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). Annual specifications published in the **Federal Register** establish the harvest guideline (HG) and allowable harvest levels for each Pacific sardine fishing season (January 1 - December 31). If during any of the seasonal allocation periods the applicable adjusted directed harvest allocation is projected to be taken, only incidental harvest is allowed and, for the remainder of the period, any incidental Pacific sardine landings will be counted against that period's incidental set aside. In the event that an incidental set-aside is projected to be attained, all fisheries will be closed to the retention of Pacific sardine for the remainder of the period via appropriate rulemaking.

Under 50 CFR 660.509, if the total HG or these apportionment levels for Pacific sardine are reached at any time, NMFS is required to close the Pacific sardine fishery via appropriate rulemaking and it is to remain closed until it re-opens either per the allocation scheme or the beginning of the next fishing season. In accordance with § 660.509 the Regional Administrator shall publish a notice in the **Federal Register** announcing the date of the closure of the directed fishery for Pacific sardine.

The above in-season harvest restrictions are not intended to affect the

prosecution of the live bait portion of the Pacific sardine fishery.

#### Classification

This action is required by 50 CFR 660.509 and is exempt from Office of Management and Budget review under Executive Order 12866.

NMFS 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) for the closure of the directed harvest of Pacific sardine. For the reasons set forth below, notice and comment procedures are impracticable and contrary to the public interest. For the same reasons, NMFS also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This measure responds to the best available information and is necessary for the conservation and management of the Pacific sardine resource. A delay in effectiveness would cause the fishery to exceed the in-season harvest level. These seasonal harvest levels are important mechanisms in preventing overfishing and managing the fishery at optimum yield. The established directed and incidental harvest allocations are designed to allow fair and equitable opportunity to the resource by all sectors of the Pacific sardine fishery and to allow access to other profitable CPS fisheries, such as squid and Pacific mackerel. Many of the same fishermen who harvest Pacific sardine rely on these other fisheries for a significant portion of their income.

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

Dated: September 22, 2010.

**Carrie Selberg,**

*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. 0910131363-0087-02]

RIN 0648-XZ27

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Pot 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 pot catcher/processors in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2010 Pacific cod total allowable catch (TAC) specified for pot catcher/processors in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 23, 2010, through 2400 hrs, A.l.t., December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 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 2010 Pacific cod TAC allocated as a directed fishing allowance to pot catcher/processors in the BSAI is 2,248 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2010 Pacific cod TAC allocated as a directed fishing allowance to pot catcher/processors in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by pot catcher/processors 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 pot catcher/processors 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 September 21, 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: September 22, 2010.

**Carrie Selberg,**

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

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