

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
Sturgeon, Sakhalin ..	<i>Acipenser mikadoi</i> ..	Northwest Pacific Ocean in Japan and Russia.	Entire	E	845	NA	NA
*	*	*	*	*	*	*	*

* * * * *
 Dated: August 25, 2014.

Stephen Guertin,
Acting Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140128077-4691-02]

RIN 0648-BD93

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States

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

ACTION: Final rule.

SUMMARY: This final rule changes on-reel trawl gear stowage requirements when fishing vessels are transiting closed areas or fishing in areas with mesh size restrictions. Specifically, this action allows a vessel to use a highly visible orange or yellow mesh material as an alternative to the current requirement to use a tarp or similar canvas material. In addition, this action removes the requirement to detach the towing wires from the doors for all on-reel gear stowage and removes the requirement to detach the towing wires from the net. Finally, to help streamline the gear stowage requirements, this action also reorganizes the current gear stowage regulations. This action is being implemented under authority delegated to the NMFS Regional Administrator. This action is intended to improve safety of fishing operations while at sea.

DATES: This rule is effective September 4, 2014.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, phone: (978) 281-9177.

SUPPLEMENTARY INFORMATION:

Background

The current trawl gear stowage regulations, at 50 CFR 648.23(b), require that trawl gear being stowed on the net reel be covered with a “canvas or similar opaque material” when transiting closed areas and areas with mesh size restrictions. The industry typically uses a commonly available opaque plastic tarp to meet this requirement, which is intended to help facilitate enforcement. However, industry has raised two safety concerns with this requirement. First, the tarps most frequently used have very few places where a rope or similar material can be attached to assist in pulling the tarp over the net reel. As a result, crew members at sea often have to climb or stand on the net reel or surrounding parts of the vessel to successfully cover the reel. This creates a safety concern for crew members who may slip or fall and injure themselves or others. In addition, because the tarps are non-porous, they catch wind, similar to a sail, adding to the difficulty of covering the net reel and increasing the safety risks.

As a result of these safety concerns, the New England Fishery Management Council’s Enforcement Committee has been working with the fishing industry and the United States Coast Guard (USCG) to develop an alternative to the tarp requirement for stowing trawl nets on the reel. Through public workshops and at-sea trials, the industry, USCG, and NMFS developed an orange mesh material as a safer alternative to the current tarp requirement. At its September 2013 meeting, the Council approved a motion requesting that the Regional Administrator implement two new trawl gear stowage methods and modify one provision of the existing methods. This action adds a provision to allow the use of a highly visible orange or yellow mesh material, as an alternative to the current requirement to use a tarp or similar canvas material. This action is being implemented under authority delegated to the NMFS Regional Administrator at § 648.23(b)(5), at the request of the Council.

In addition, when considering this revision to the gear stowage regulations, the Committee examined whether the current requirement that the “towing wires are detached from the doors” was also a safety concern. When trawl gear is being stowed, detaching the wires leaves the doors unsecured and swinging freely, which can result in damage to the vessel. This is particularly problematic for smaller fiberglass vessels. If the wires were allowed to remain attached to the doors, the doors could be held securely in place, preventing them from moving and causing damage to the vessel or injuring crew. The Committee, with support from the USCG and NMFS Office of Law Enforcement (OLE), concluded that this measure is no longer needed to conduct enforcement and, as such, recommends this measure be removed from the regulations pertaining to all on-reel gear stowage requirements. As a result, the new stowage methods do not include the requirement to remove the towing wires from the doors, and for all on-reel trawl gear stowage methods where it currently applies, this requirement is removed. In addition, the requirement that vessels remove the towing wire from the net is removed in this action. During the public comment period, as described below, the Council indicated that this requirement is outdated, as it was designed for use on Eastern rigged vessels, which have become obsolete, and is not necessary for the proper enforcement of the gear stowage provisions.

NMFS is also taking this opportunity under its authority at section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act to reorganize the current gear stowage regulations. Currently, all Greater Atlantic Region gear stowage regulations reside under the Atlantic mackerel, squid, and butterfish regulations at subpart B of 50 CFR part 648. The gear stowage regulations were originally implemented in Amendment 1 to the Northeast Multispecies Fishery Management Plan as part of the exempted fishing programs. These regulations were subsequently expanded and modified a number of

times. In 1996, NMFS undertook a comprehensive reorganization of fishery regulations in response to a Presidential directive. As a result, the gear stowage regulations that had previously been part of the Northeast multispecies regulations were moved to subpart B of the regulations. While there is not information available as to exactly why this move occurred, it is likely because the mackerel, squid, and butterfish fisheries constitute a large majority of the small-mesh fisheries, which were the original focus of the gear stowage regulations.

Consequently, when considering updating or revising the gear stowage regulations for fisheries other than mackerel, squid, and butterfish, the rulemaking process is unnecessarily complex and confusing because these regulations are in subpart B, but are referenced by the regulations in several other subparts. To help streamline the regulations and to assist in making future adjustments to these regulations, this action moves the entirety of the gear stowage regulations at § 648.23(b) to the definitions section of subpart A at § 648.2. The way the regulations are currently organized can be interpreted that gear stowage regulations are specific to mackerel, squid, and butterfish fisheries, when in fact they apply to several fisheries. This change should help clarify that these regulations apply to numerous fisheries and not just mackerel, squid, and butterfish. The current organization of these regulations also causes confusion with the Council process, because the regulations are within a section of the regulations managed by the Mid-Atlantic Council, but also apply to several fisheries managed by the New England Council. Although this is outside of the request of the Council, this restructuring will not directly affect fisheries operations and would better organize the regulations. As such, this change should be beneficial to fisheries, future policy development, and Council proceedings.

Comments and Responses

One comment was received from the New England Fishery Management Council in support of the action; the Council also requested some additional measures.

Comment 1: The New England Council submitted a comment in support of the proposed action, but also requested that we add a highly visible yellow mesh color as an optional color for the mesh material.

In addition, the comment received from the Council also requested that we remove the requirement that the towing

wires be detached from the net. The Council explained that this requirement is outdated and no longer applicable. The towing wires were only attached to the net on eastern rigged type vessels, which no longer operate in the fishery. The Council is recommending this requirement be removed for consistency with the intent of this rule and to avoid confusion for fishermen and enforcement.

Response: The Council's Enforcement Committee previously discussed adding a yellow mesh, but the Committee had not agreed to add the yellow mesh due to concerns from the USCG. While the proposed rule for this action was being developed, discussion on the yellow mesh continued, and at the April 23, 2014, Council meeting, the Council agreed to add the yellow mesh. We have consulted with the USCG and OLE and they have since concurred that a yellow mesh is acceptable as an additional option. As such, this action implements the yellow mesh material as an optional color for the mesh material.

With regard to removing the requirement that the towing wire be detached from the net, this provision was previously considered and recommended by the Enforcement Committee, but due to an oversight by the Committee, never made it into the Council's final recommendation that prompted the rulemaking. Because this requirement is no longer considered necessary, this action removes it based on the request from the Council received during the comment period and the work previously conducted by the Enforcement Committee.

Changes From the Proposed Rule

Based on the recommendation from the Council and with concurrence from the USCG and OLE, this final rule adds the yellow mesh as an optional mesh color. Also, based on recommendation from the Council and a previous workshop held by the Enforcement Committee, this final rule includes removing the requirement that the towing wires be detached from the net since this provision is no longer relevant. These changes should provide the industry with some added flexibility and should have no effects on the resource or the enforceability of the gear stowage measures. Although these measures were not specifically considered in the proposed rule, they are logical outgrowths of the type of measures that were considered, and, therefore, are being implemented without further prior public comment. These additional measures have been part of the public dialog and consideration before the proposed rule

was published and will not be a surprise to the public. In addition, these measures have no effect on the resource or any additional impacts outside of the additional flexibility and increase to safety at sea for the industry and are not considered to be controversial.

Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries finds good cause to waive the 30-day delay in effectiveness provision of the Administrative Procedure Act pursuant to 5 U.S.C. 553(d)(3). This rule imposes no new requirements or burdens on the public; to the contrary, it provides additional flexibility for the fishing industry and should help increase safety at-sea. Specifically, this rule provides for an additional gear stowage method option. An additional gear stowage method allows fishermen to choose how to stow their gear, allowing them to pick whichever method works best for them. The new method is also designed to be easier and safer than existing methods. The mesh material allows the net reel to be covered without having to climb on top of the reel, and because there are holes between meshes, the mesh material would not catch the wind the way a tarp would with the existing method. Further, this new method is optional only and not required. As such, the fishing industry can choose to continue to use the existing stowage method of using a common tarp. In addition, this rule adds yellow mesh as an optional mesh color, which provides the industry with some added flexibility.

Finally, to help streamline the regulations and to assist in making future adjustments to these regulations, this action moves the entirety of the gear stowage regulations at § 648.23(b) to the definitions section of subpart A at § 648.2. This provision is merely an administrative reorganization of the regulations and does not change the rights or obligations of regulated entities.

Failure to make this final rule effective upon publication will undermine the intent of the rule to increase safety at-sea. Imposing a 30-day delay in effectiveness would be another 30 days that the industry would not be allowed to use the new, safer method implemented by this rule. For these reasons, the 30-day delay is waived and this rule will become effective upon publication in the **Federal Register**.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was provided in the proposed rule for this action (May 29, 2014; 79 FR 30799) and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule does not contain policies with federalism or “takings” implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This action does not contain any new recordkeeping or reporting requirements, and does not impose any additional costs to affected vessels.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 27, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, add a definition for “Not available for immediate use” in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Not available for immediate use means that the gear is not being used for fishing and is stowed in conformance with one of the following methods:

(1) *Nets*—(i) *Below-deck stowage.* (A) The net is stored below the main working deck from which it is deployed and retrieved;

(B) The net is fan-folded (flaked) and bound around its circumference.

(ii) *On-deck stowage.* (A) The net is fan-folded (flaked) and bound around its circumference;

(B) The net is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) *On-reel stowage.* (A) The net is on the net reel;

(B) The codend of the net is removed from the net and stored below deck; and

(C) The entire surface of the net is covered and securely bound by:

(1) Canvas of other similar opaque material; or

(2) A highly visible orange or yellow mesh material that is not capable of catching fish or being utilized as fishing gear. An example of highly visible orange or yellow mesh includes but is not limited to the orange fence material commonly used to enclose construction sites.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas and the Georges Bank Seasonal Closure Area.* (A) If a vessel is transiting the *Gulf of Maine Rolling Closure Areas and the Georges Bank Seasonal Closure Area*, not available for immediate use also means, the net is on the net reel;

(B) No containment rope, codend tripping device, or other mechanism to close off the codend is attached to the codend;

(C) The entire surface of the net is covered and securely bound by:

(1) Canvas of other similar opaque material; or

(2) A highly visible orange or yellow mesh material that is not capable of catching fish or being utilized as fishing

gear. Highly visible orange or yellow mesh includes but is not limited to the orange fence material commonly used to enclose construction sites.

(2) *Scallop dredges.* (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured, and the dredge or the winch is covered so that it is rendered unusable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic).* All anchors and buoys are secured and all hook gear, including jiggling machines, are covered.

(4) *Sink gillnet gear.* All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the **Federal Register**.

* * * * *

§§ 648.13, 648.14, 648.17, 648.23, 648.51, 648.58, 648.59, 648.60, 648.61, 648.62, 648.80, 648.81, 648.82, 648.85, 648.86, 648.88, 648.89, 648.90, 648.91, 648.94, 648.95, 648.124, 648.125, 648.201 and 648.202 [Amended]

■ 3. In the table below, for each paragraph indicated in the left column, remove the reference in the middle column from wherever it appears in the paragraph and add the text indicated in the right column.

Section	Remove	Add
§ 648.13(i)(2)(ix)	in accordance with § 648.23(b)(1);	and not available for immediate use as defined in § 648.2;
§ 648.14(g)(2)(iii)(A)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.14(i)(1)(vi)(B)	unavailable for immediate use as defined in § 648.23(b),	not available for immediate use as defined in § 648.2,
§ 648.14(i)(2)(v)(C)	unavailable for immediate use as defined in § 648.23(b),	not available for immediate use as defined in § 648.2,
§ 648.14(i)(3)(iv)(C)	unavailable for immediate use as defined in § 648.23(b),	not available for immediate use as defined in § 648.2,
§ 648.14(k)(5)(ii)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.14(k)(5)(vi)(B)	stowage requirements of § 648.23(b),	definition of not available for immediate use as defined in § 648.2,

Section	Remove	Add
§ 648.14(k)(5)(vii)(B)	stowage requirements of § 648.23(b),	definition of not available for immediate use as defined in § 648.2,
§ 648.14(k)(6)(i)(E)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.14(k)(13)(ii)(G)	in accordance with § 648.23(b)	with gear stowed and not available for immediate use as defined in § 648.2
§ 648.14(r)(1)(vi)(C)	as required by § 648.23(b)	as defined in § 648.2
§ 648.14(r)(1)(vi)(F)	as required by § 648.23(b)	as defined in § 648.2
§ 648.14(r)(1)(vii)(A)	is stowed as specified by § 648.23(b)	is not available for immediate use as defined in § 648.2
§ 648.14(r)(1)(vii)(D)	as required by § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.17(b)(3)	one of the applicable methods specified in § 648.23(b);	the definition of not available for immediate use as defined in § 648.2;
§ 648.23(a)(2) introductory text	they are fishing consistent with exceptions specified in paragraph (b) of this section.	their gear is stowed and not available for immediate use as defined in § 648.2.
§ 648.23(a)(2)(ii)	as specified in paragraph (b) of this section.	and not available for immediate use as defined in § 648.2.
§ 648.23(a)(3)	paragraph (b) of this section	§ 648.2
§ 648.51(a)(1)	specified in § 648.23,	defined in § 648.2,
§ 648.51(b)(5)(ii)(C)	in accordance with § 648.23(b) and not available for immediate use	and not available for immediate use as defined in § 648.2
§ 648.58(c)	unavailable for immediate use as defined in § 648.23(b),	stowed and not available for immediate use as defined in § 648.2,
§ 648.59(f)	in accordance with § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.60(a)(4)	in accordance with § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.60(a)(7)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.61(b)	in accordance with the provisions of § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.62(b)(2)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(3)(vi)	as specified in § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.80(a)(4)(i)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(ii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(iii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(iv) introductory text	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(6)(i)(E)	in accordance with one of the methods specified in § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(7)(i)	in accordance with one of the methods specified in § 648.23(b).	as defined in § 648.2.
§ 648.80(a)(7)(ii)	in accordance with one of the methods specified in § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(7)(iii)(A)	in accordance with one of the methods specified in § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.80(a)(10)(i)(C)	unavailable for immediate use in accordance with § 648.23(b).	not available for immediate use as defined in § 648.2.
§ 648.80(b)(2)(i)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(ii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(iii)	in accordance with § 648.23(b)	as defined in § 648.2,
§ 648.80(b)(2)(iv) introductory text	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(vi)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(b)(3)(ii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(b)(6)(i)(C)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(b)(9)(i)(E)	in accordance with one of the methods described under § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(c)(2)(i)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(ii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(iii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(v) introductory text	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(3)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.81(b)(2)(iv)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(h)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(j)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(k)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2

Section	Remove	Add
§ 648.81(l)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(m)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(n)(2)(iii)(B)	pursuant to § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.82(b)(6)(iv)	in accordance with the provisions at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.82(j)(1)(ii)(A)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(iii) introductory text	according to the regulations in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(iv)(E)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(vii)	in accordance with the regulations in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(b)(3)(x)(A)	according to the regulations at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(b)(8)(v)(E)(1)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.86(a)(3)(ii)	vessel complies with the gear stowage provisions specified in § 648.23(b)	vessel's gear is stowed and not available for immediate use as defined in § 648.2
§ 648.86(b)(4)(ii)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.88(a)(2)(iv)	in accordance with the provisions at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.89(a)	must stow all other fishing gear on board the vessel as specified in § 648.23(b)	all other gear on board must be stowed and not available for immediate use as defined in § 648.2
§ 648.90(a)(5)(i)(D)(2)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.90(a)(5)(i)(D)(3)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.91(c)(2)(ii)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.94(e)	in accordance with the regulations specified under § 648.23(b)	as defined in § 648.2
§ 648.95(f)	in accordance with the gear stowage provisions specified under § 648.23(b)	as defined in § 648.2
§ 648.124(c)	not available for immediate use and are stowed in accordance with the provisions of § 648.23(b)	stowed and not available for immediate use as defined in § 648.2
§ 648.125(a)(1)	in accordance with § 648.23(b)(1)	and not available for immediate use as defined in § 648.2
§ 648.125(a)(5)	in conformance with one of the methods specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.201(a)(2)	vessel complies with the gear stowage provisions specified in § 648.23(b)	vessel's gear is stowed and not available for immediate use as defined in § 648.2
§ 648.201(b)	required by § 648.23(b)	defined in § 648.2
§ 648.201(c)	required by § 648.23(b)	defined in § 648.2
§ 648.202(a)	pursuant to § 648.23(b)	and not available for immediate use as defined in § 648.2

§ 648.23 [Amended]

■ 4. In § 648.23, remove and reserve paragraph (b).

■ 5. In § 648.80:

■ a. Revise the last sentence of paragraph (a)(4)(iv)(B)(2).

■ b. Revise the last sentence of paragraph (b)(2)(iv)(B)(1).

■ c. Revise the last sentence of paragraph (c)(2)(v)(B)(1).

The revisions read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(4) * * *

(iv) * * *

(B) * * *

(2) * * * Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(B) * * *

(1) * * * Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(B) * * *

(1) * * * Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

■ 6. In § 648.85, revise the last sentence of paragraph (b)(6)(iv)(J)(1) to read as follows:

§ 648.85 Special management programs.

* * * * *

(b) * * *

(6) * * *

(iv) * * *

(j) * * *

(1) * * * When the vessel is fishing under the Regular B DAS Program other gear may be on board provided it is stowed and not available for immediate use as defined in § 648.2.

* * * * *

■ 7. In § 648.108, revise the last sentence of paragraph (e) to read as follows:

§ 648.108 Summer flounder gear restrictions.

* * * * *

(e) * * * Nets must be stowed and not available for immediate use as defined in § 648.2.

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■ 8. In § 648.144, revise the last sentence of paragraph (a)(4) to read as follows:

§ 648.144 Black sea bass gear restrictions.

(a) * * *

(4) * * * Nets must be stowed and not available for immediate use as defined in § 648.2.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878-4158-02]

RIN 0648-XD480

Fisheries of the Exclusive Economic Zone Off Alaska; 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; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2014 total allowable catch of Pacific cod allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2014, through 2400 hrs, A.l.t., December 31, 2014. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 15, 2014.

ADDRESSES: You may submit comments on this document, identified by 2013-0152, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0152, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7269.

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.

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI under § 679.20(d)(1)(iii) on February 4, 2014 (79 FR 7404, February 7, 2014).

NMFS has determined that as of August 20, 2014, approximately 2,050 metric tons of Pacific cod remain in the 2014 Pacific cod apportionment for catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2014 total allowable catch (TAC) of Pacific cod in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

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 opening of directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. 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 and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 20, 2014.

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.