

NMFS published a proposed rule to implement Amendment 16 in the **Federal Register** (82 FR 55551), with a comment period ending December 22, 2017. NMFS approved Amendment 16 on February 1, 2018.

This final rule implements Amendment 16 by allowing “minor directed fishing” for CPS finfish after a directed fishery has been closed. Current regulations allow live bait fishing and incidental landings to continue even after a directed fishery closure; this rule allows a small sector of the CPS fishery that is not part of the primary commercial directed fishery to harvest minor amounts of CPS even during a directed fishery closure. This minor directed fishery intentionally targets CPS and typically sells the catch as specialty dead bait to recreational and commercial fisheries, or as fresh fish to restaurants and the public. Total landings from this sector typically make up less than one percent of the total landings of any particular CPS stock. Currently, directed fishing closures apply even to minor directed fisheries.

This final rule will allow minor directed fishing to continue after a directed fishery is closed. Minor directed fishing will be allowed unless otherwise specified by NMFS when closing the directed fishery, or if an applicable ACL is anticipated to be exceeded. To prevent this rule from being exploited by those who would make large aggregate harvests, “minor directed fishing” is limited to landings that do not exceed 1 mt per day per vessel or person or one fishing trip per day by any vessel. The intent of distinguishing between a “vessel” and “person” in these regulations is that some minor directed fishermen target CPS from a platform other than a vessel (e.g., beach seine); in that case, a single fishing trip (e.g., a single haul of a beach seine) may only land a few hundred pounds. Therefore, Amendment 16 allows a person not using a vessel to make multiple fishing trips in a single day as long as the person’s total landings do not exceed 1 mt in a day. Vessels are limited to a single trip per day as their typical landings are much greater per trip. For vessels, the 1-mt daily landing restriction functions like a trip limit.

This rule also updates the definition of “Regional Administrator” to reflect the absorption of the former NMFS Southwest Region into the West Coast Region, and to explicitly reference the fact that directed “live bait” fisheries may continue to operate after most other directed fishing is prohibited (which is an original provision of the FMP, not a change made by Amendment 16).

A total of 10 public comments relevant to this action were received on Amendment 16 and the proposed rule. Commenters consisted of West Coast fishing industry representatives, seafood companies, fishermen, and charter boat owners/operators. All comments expressed support for Amendment 16, primarily noting that the ability to harvest small amounts of sardine will provide new business opportunities to small-scale fishermen, including sale to specialty markets, restaurants, and as dead bait. No changes were made from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP as revised by Amendment 16, other provisions of the MSA, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 8, 2018.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.502, revise the definition of “*Regional Administrator*” to read as follows:

§ 660.502 Definitions.

* * * * *

Regional Administrator means the Regional Administrator, West Coast Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, or a designee.

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■ 3. In § 660.505, revise paragraph (i) to read as follows:

§ 660.505 Prohibitions.

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(i) When a directed fishery has been closed, take and retain, possess, or land more than the incidental trip limit announced in the **Federal Register**, or a directed trip limit as described in § 660.511(d).

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■ 4. In § 660.511, revise paragraph (d) to read as follows:

§ 660.511 Catch restrictions.

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(d) After the directed fishery for a CPS is closed under § 660.509, no person may take and retain, possess or land more of that species than the incidental trip limit set by the Regional Administrator, except the following directed fisheries may continue until the effective date of a **Federal Register** document published by the Regional Administrator that the annual catch limit has been reached or is projected to be reached:

(1) Fishing exclusively for live bait;

(2) Minor directed fishing for finfish that does not exceed 1 mt per day per vessel or person, and which is limited to 1 fishing trip per day by any vessel.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XG023

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea Subarea of 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 trawl catcher vessels in the Bering Sea subarea of the

Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2018 Pacific cod allocation of the total allowable catch (TAC) for the Bering Sea Trawl Catcher Vessel A-Season Sector Limitation in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), February 11, 2018, through 1200 hours, A.l.t., April 1, 2018.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 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 2018 allocation of Pacific cod total allowable catch (TAC) for the Bering Sea Trawl Catcher Vessel A-Season Sector Limitation in the Bering Sea subarea of the BSAI is 24,768 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for

groundfish in the BSAI (82 FR 11826, February 26, 2017) and inseason adjustment (82 FR 60329, December 20, 2017).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2018 allocation of Pacific cod TAC for the Bering Sea Trawl Catcher Vessel A-Season Sector Limitation in the Bering Sea subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 23,268 mt and is setting aside the remaining 1,500 mt as incidental catch 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 trawl catcher vessels in the Bering Sea subarea of 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 directed fishing for Pacific cod by trawl catcher vessels in the Bering Sea subarea of 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 February 8, 2018.

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: February 9, 2018.

Emily H. Menashes,

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

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