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■ 3. In § 172.102, amend paragraph (c)(1) by adding special provision 439 in numerical order to read as follows:

**§ 172.102 Special provisions.**

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(c) \* \* \*  
(1) \* \* \*

439 UN1972 is not authorized for transportation by rail tank car until either issuance of a final rule concluding the rulemaking action proceeding under RIN 2137–AF54, or June 30, 2025, whichever occurs first. For information and the status of RIN 2137–AF54, please refer to the Office of Management and Budget’s Office of Information and Regulatory Affairs at [www.reginfo.gov](http://www.reginfo.gov).

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Issued in Washington, DC, on August 23, 2023, under authority delegated in 49 CFR 1.97.

**Tristan H. Brown,**

*Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

[Docket No. FWS–HQ–MB–2022–0090; FF09M32000–234–FXMB1231099BPP0]

RIN 1018–BF64

#### **Migratory Bird Hunting; Migratory Game Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** As part of the rulemaking process for the 2023–2024 season for migratory game bird hunting, the U.S. Fish and Wildlife Service (hereinafter, Service or we) has revised the process for establishing regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. The Service recognizes Tribal treaty rights and the reserved hunting rights and management authority of Indian Tribes and seeks to strengthen Tribal sovereignty. We will no longer require that Tribes annually submit a proposal to the Service for our review and approval and no longer publish in the **Federal Register** the annual Tribal migratory bird hunting regulations. Instead, the regulations now include

elements of our current guidelines for establishing migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. Since 1985, Tribal migratory bird harvest has been small with negligible impact to bird population status, and we anticipate that Tribal hunting of migratory birds will continue to have similar negligible impacts to bird populations in the future. This rule will reduce administrative burdens on both the Tribes and the Service while continuing to sustain healthy migratory game bird populations for future generations.

**DATES:** This rule takes effect September 1, 2023.

**ADDRESSES:** You may inspect comments received on the migratory bird hunting regulations at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2022–0090. You may obtain copies of referenced reports from the Division of Migratory Bird Management’s website at <https://www.fws.gov/program/migratory-birds> or at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2022–0090.

**FOR FURTHER INFORMATION CONTACT:** Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (703) 358–2606. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States.

**SUPPLEMENTARY INFORMATION:**

#### **Background**

Migratory game birds are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when “hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg” of migratory game birds can take place and to adopt regulations for this purpose. These regulations must give due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds (16 U.S.C. 704(a)). The Secretary of the Interior has delegated to the Service the

lead Federal responsibility for managing and conserving migratory birds in the United States; however, migratory bird management is a cooperative effort of Federal, Tribal, and State governments. Federal regulations pertaining to migratory bird hunting are located in title 50 of the Code of Federal Regulations in part 20.

Acknowledging regional differences in hunting conditions, the Service has administratively divided the United States into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State within the Flyway, as well as Provinces in Canada that share migratory bird populations with the Flyway. The Flyway Councils, established through the Association of Fish and Wildlife Agencies, assist in researching and providing migratory game bird management information for Federal, Tribal, State, and Provincial governments, as well as private conservation entities and the general public.

The Service annually develops migratory game bird hunting outside limits (hereinafter, Federal outside limits or Federal limits) for season dates, season lengths, shooting hours, bag and possession limits, and areas where migratory game bird hunting may occur. Hunting seasons selected by the States and Tribes within these Federal limits are set forth in regulations at 50 CFR part 20, subpart K. Because the Service is required to take abundance of migratory game birds and other factors into consideration, the Service undertakes several surveys throughout the year in conjunction with Service Regional Offices, the Canadian Wildlife Service, Tribes, and State and Provincial wildlife management agencies. For each annual regulatory cycle, Service biologists gather, analyze, and interpret biological survey data and provide this information through a series of published status reports and presentations to the Flyway Councils and other interested parties. The August 6, 2015, **Federal Register** at 80 FR 47388 provides a detailed overview of this process.

The Federal outside limits are necessary to allow harvest at levels compatible with migratory game bird population status and habitat conditions. To determine the appropriate outside limits for each species, we consider factors such as population size and trend, geographical distribution, annual breeding effort, condition of breeding and wintering

habitat, number of hunters, and anticipated harvest. After Federal limits are established, States may select migratory game bird hunting seasons within these limits. States may always be more conservative in their selections than the Federal limits, but never more liberal.

### Previous Tribal Rulemaking Process

Beginning with the 1985–86 hunting season, we have employed guidelines described in the June 4, 1985, **Federal Register** (50 FR 23459 at 23467) to establish special (independent from the State or States where the reservation is located) migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. We developed these guidelines in response to Tribal requests for our recognition of their reserved hunting rights, and for some Tribes, recognition of their authority to regulate hunting by both Tribal and nontribal members throughout their reservations. The guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian Tribes while also ensuring that the migratory game bird resource receives necessary protection. The Service adopted the 1985 guidelines as final in 1988 (53 FR 31612, August 18, 1988).

From the 1985 through 2022 hunting seasons, as part of our preliminary proposed rule to annually promulgate Federal migratory bird hunting regulations, we asked Tribes to submit their proposed migratory bird hunting regulations. Proposals were to include season dates and other regulations, methods to monitor harvest, anticipated harvest, steps taken to limit harvest levels, and capabilities to establish and enforce migratory bird hunting regulations. Then, upon receipt of information provided by the Tribes each year on the status of migratory bird populations and expected migratory bird harvest, we evaluated the potential impact of special Tribal hunting regulations on the migratory bird resource. Annually, we published in the **Federal Register** the special Tribal migratory bird hunting regulations as a proposed rule and, following review and consideration of any public comments, published a final rule setting forth the regulations. We have always concluded that this harvest, when conducted within our guidelines, is small and, therefore, would have a negligible impact to the bird population status.

For the 2023–24 hunting season, we published proposed regulations for

certain migratory game birds on November 3, 2022 (87 FR 66247). In that proposed rule, we stated that we would handle Tribal regulations for the 2023–24 hunting season via a separate rulemaking process in later **Federal Register** documents. Accordingly, on March 23, 2023, we proposed a revised process for establishing special regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for migratory bird hunting seasons (88 FR 17511). That proposed rule initiated a process for developing special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands for the 2023–24 hunting season and beyond.

### New Process for Managing Tribal Migratory Bird Hunting

Under the regulations in this final rule, we anticipate that Tribal hunting will continue to have similar minimal impact to the migratory bird resource in the future due to declining trends in active hunters for some Tribes and also increasing population trends for many migratory game birds (as identified in the 2022 State of the Birds Report; see *state-of-the-birds-2022-spreads.pdf* at *stateofthebirds.org.*). Based on the demonstrated successful implementation of our Tribal guidelines since 1985 and the historical and future expected minimal impacts to migratory game bird resources, we have simplified the process for establishing special Tribal migratory game bird hunting regulations for the upcoming hunting season (2023–2024) and afterwards. We have removed the requirement that Tribes annually submit their proposed migratory game bird hunting regulations (and associated monitoring, anticipated harvest, and capabilities for regulation development and enforcement) for our review and approval. We also will no longer publish special Tribal migratory game bird hunting regulations in the **Federal Register** (*i.e.*, a proposed and final rule). The regulations set forth in this rule adopt elements of our guidelines for establishing special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. Tribes that comply with these regulations will be authorized to independently establish special Tribal migratory bird hunting regulations. However, if circumstances change and data indicates migratory game bird populations are substantially declining or Tribal hunting increases significantly, we will reevaluate this regulation.

By allowing Tribes to independently establish special migratory bird hunting regulations, the Service recognizes Tribal sovereignty to exercise reserved hunting rights and, for some Tribes, recognition of their authority to regulate hunting by both Tribal and nontribal members on their reservation. This rule will extend to Tribes with reserved hunting rights the same autonomy as the States to independently establish migratory game bird hunting seasons for nontribal members within annually established, biologically appropriate Federal outside limits. As an alternative to promulgating special Tribal migratory game bird hunting regulations, Tribes may choose to observe the hunting regulations established by the State or States in which the reservation is located. We coordinated with Tribes over the past 2 years via letters and four webinars as we developed this new regulatory approach for Tribal self-management of the harvest, and we have received positive feedback. The new system will reduce the annual administrative burden on both the Tribes and the Service to propose, review, and publish special migratory game bird hunting regulations while continuing to sustain healthy migratory game bird populations for future generations.

As with the prior process, the new regulations will be applicable to those Tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. These regulations also may be applied to the establishment of migratory game bird hunting regulations for nontribal members on all lands within the reservations where Tribes have full wildlife-management authority over such hunting, or where the Tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands within the reservation. Tribes usually have the authority to regulate migratory game bird hunting by nonmembers on Indian-owned reservation lands. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing migratory game bird hunting by non-Indians on these lands. In those cases, we encourage the Tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a Tribe and State with the aim of facilitating an accord. We also will consult jointly with Tribal and State officials in the affected States

where Tribes may wish to establish special migratory game bird hunting regulations for Tribal members on ceded lands. It is incumbent upon the Tribe and/or the State to request consultation. We will not presume to make a determination, without being advised by either a Tribe or a State, that any issue is or is not worthy of formal consultation. Tribal and State requests for consultation with the Service should be sent to the Service's Assistant Director for the Migratory Bird Program; see **FOR FURTHER INFORMATION CONTACT**. We note that our guidance on resolving issues of concern between Tribes and States on reservations and ceded lands is the same guidance we provided under the previous Tribal regulation process.

The rule portion of this document includes requirements for Tribes to follow if they establish special Tribal migratory game bird hunting regulations, which are based on elements from the 1985 guidelines. The regulations provide that all Federal hunting regulations in this part apply to hunting by Tribal and nontribal members. We note that migratory game birds are defined in 50 CFR 20.11(a) as those birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, belonging to certain families (Anatidae, Columbidae, Gruidae, Rallidae, and Scolopacidae), and for which open seasons are prescribed in this part. Open seasons for certain migratory game bird species are established by the Service annually as appropriate based on the biological status of these populations and published in the **Federal Register** as Federal outside limits. Tribes are encouraged to review each year the Federal outside limits to determine the list of migratory game bird species and species groups with authorized open seasons, and any special concerns regarding population status. Furthermore, annual review of the Federal outside limits for migratory game bird hunting seasons ensures that Tribal regulations for nontribal members on reservation lands comply (as required by regulations) with opening and closing dates, season length, and daily bag and possession limits established by the Service.

In addition, we encourage Tribes wanting to establish special migratory game bird hunting regulations to consider the elements we previously required in their proposals:

- (1) Season dates and other regulations;
- (2) anticipated harvest;
- (3) methods that will be employed to measure or monitor harvest;

(4) steps that will be taken to limit the level of harvest, where it could be shown that failure to limit such harvest would have serious impacts on the migratory bird resource; and

(5) Tribal capabilities to establish and enforce migratory bird hunting regulations.

We recommend that Tribes that allow swan hunting require that all swan hunters successfully complete a course on swan identification and conservation to minimize take of trumpeter swans during the swan season.

These regulations provide for the continuation of Tribal members' harvest of migratory game birds on reservations where such harvest is a customary practice. We are supportive of this harvest provided it does not take place during the closed season (March 11 to August 31) mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds and it is not so large as to adversely affect the status of the migratory game bird resource. Since the inception of the 1985 guidelines, we have reached annual agreement with Tribes for migratory game bird hunting by Tribal members on their lands or on lands where they have reserved hunting rights.

We will continue to consult with Tribes that wish to reach a mutual agreement (memorandum of understanding (MOU) or similar type of formal agreement) on conducting short-term (possibly several years) experimental hunting seasons using methods outside of the Federal hunting methods at § 20.21 for on-reservation and ceded lands hunting by Tribal members. The Tribal-member-only experimental hunting season would provide data and evaluation criteria specified in an agreement for consideration if a Tribe would like to make the additional hunting method operational. Tribes should send such requests for consultation to the Service's Assistant Director for the Migratory Bird Program at least 9 months before the season or ceremony regarding hunting methods outside of the Federal regulations (see **FOR FURTHER INFORMATION CONTACT**). While we intend to make proposed MOUs or other agreements available for public comment through a notice of availability, we might not use the public process for very minor or nonsignificant MOUs or agreements. The Service will make all signed agreements publicly available. If any individual Tribe wishes to make these additional experimental hunting methods operational and the Service agrees, the Service will conduct

rulemaking (using any data from the experimental hunting season) to amend 50 CFR part 20 to allow Tribal members to use these additional hunting methods.

Starting with the 2023–2024 hunting season, annual Tribal hunting season regulations will no longer be published in the **Federal Register**, alleviating the administrative burden to both the Service and the Tribes of developing special Tribal migratory bird hunting regulation proposals, reviewing Tribal regulations as Federal regulations. This process would not apply to seasons for subsistence take of migratory birds in Alaska.

### Review of Public Comments for Tribal Proposed Rule

For the 2023–24 migratory bird hunting season and beyond, we proposed regulations (88 FR 17511, March 23, 2023) that followed the revised 1985 guidelines. The comment period for the March 23, 2023, proposed rule closed on May 8, 2023.

We received a total of 10 written responses from 5 individuals, 3 Tribes, 1 State, and 1 organization. Five commenters supported the proposed new process, and two commenters did not support the proposed process. Three commenters were opposed to migratory bird hunting in general. We grouped written comments of a similar nature and discuss them below. We have incorporated, as appropriate, into the final rule information obtained through the public comment period.

We also note that, in addition to the written comments, we received substantial support for the new process via verbal comments (21 supporting, none opposed) during the 4 Tribal webinars during 2022 and 2023 where we explained the proposed new Federal process for establishing Tribal hunting regulations. We also received five emails or telephone calls in support of the new process, and none that were opposed.

*Comment 1:* There is a potential conflict between harvesting wild rice and hunting during September teal seasons, and this issue was not adequately addressed by the Service in the proposed rule. Tribal autonomy is needed to coordinate with Tribal farmers to ensure safety as well as hunting success. A convention between States and Tribes may be needed to find common ground in addressing this potential conflict.

*Service response:* We have since facilitated meetings with the applicable Tribe and State to understand the potential conflict between harvesting

wild rice and teal hunting. These activities are not mutually exclusive. Based on the facilitated meetings held, we remain optimistic that those discussions will result in local solutions that minimize potential conflicts into the future. For the specific area referred to in the comment, an agreement has been reached and area restrictions will be identified in State and Tribal regulations.

*Comment 2:* The Service should consider environmental impacts from new hunting methods on the fish population, water quality, and streambank preservation. For example, lead shot (which is currently illegal) has a high potential to contaminate local waterways creating dangerous drinking water and decimated fish populations.

*Service response:* We share the commenter's concern and do take into consideration and address environmental impacts on a case-by-case basis during the National Environmental Policy Act (NEPA) process for migratory game bird hunting regulations. The Service would analyze these possible environmental impacts as part of any short-term experimental hunting season; and if a Tribe would like to make an additional hunting method operational, the Service would also analyze these possible environmental impacts when conducting rulemaking to amend the regulations.

*Comment 3:* Several commenters oppose the entire migratory game bird hunting regulations process and the killing of migratory birds and questions the status and habitat data on which the migratory bird hunting regulations are based.

*Service response:* As we indicate in the annual population status and harvest reports, our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Sustaining migratory bird populations and ensuring a variety of sustainable uses, including harvest, is consistent with the guiding principles by which migratory birds are to be managed under the conventions between the United States and several foreign nations for the protection and management of these birds. We have taken into account available information and considered public comments and continue to conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. In regard to the

regulations process, the Flyway Council system of migratory bird management has been a longstanding example of State–Federal cooperative management since its establishment in 1952 in the regulation development process and bird population and habitat monitoring. However, as always, we continue to seek new ways to streamline and improve the process and ensure adequate conservation of the resource.

*Comment 4:* Both Indigenous and non-Indigenous hunters need to be addressed on reservations and ceded lands. The proposed rule mentions the importance of this issue but does not address the various cases.

*Service response:* We have concluded that the regulatory framework authorizing the establishment of Tribal hunting regulations does allow Tribes to establish combined or separate regulations within certain limits, and as appropriate for both Tribal and non-Tribal hunters on reservations and ceded lands. This rule does address the various cases. On reservations, nontribal members are subject to the Federal outside limits for season dates, season length, and daily bag and possession limits; Tribal members can have the same regulations as nontribal members, or the Tribe can choose different regulations for Tribal members only that may be outside of the Federal limits, subject to the annual March 11 to August 31 closed season mandated by the 1916 Convention. On ceded lands, Tribes may establish regulations for Tribal members with hunting seasons that may be outside of Federal limits, subject to the closed season mandate.

*Comment 5:* Highly pathogenic avian influenza (HPAI) is causing avian mortality and may decimate bird populations. The most important aspect for these hunting regulations is not only preventing extinction for these species, but maintaining healthy population numbers to ensure sustainable ecosystems.

*Service response:* We are working with partners to monitor HPAI mortality of migratory birds, and we anticipate that our current monitoring programs will detect any significant changes to migratory game bird populations. The Service currently chairs the Interagency Steering Committee for Avian Influenza Surveillance in Wild Migratory Birds, which has increased avian influenza surveillance of wild birds across the country. To ensure effective surveillance, we are coordinating with partners so that there can be early detection; rapid communications; quick and accurate laboratory diagnosis; efficient relay of diagnostic findings back to the field, decision-makers, and

the public; and implementation of prevention and management actions where necessary.

*Comment 6:* The Service is also considering changes to the current hunting regulation promulgation process for States, and advancing the two proposals on a similar timeline could be beneficial for commenters as it is challenging to evaluate the full effect of the proposed rule without being able to place it in a more complete context.

*Service response:* To better serve State partners and the hunting public, we are working to develop a more efficient process for promulgating and publishing annual migratory game bird hunting regulations, while continuing to meet the legal requirements and conservation purpose of the Migratory Bird Treaty Act. We are working to make these improvements as soon as practicable, but this effort will take some time and involves extensive coordination with the Service's Office of Law Enforcement, the Department's Solicitor's Office, and the Flyway Councils. Also, we note that any such changes are expected to change only the Federal internal process for hunting regulation promulgation and does not otherwise change the long-established effective process of annually working with the Tribes, Flyway Councils, and States to monitor the status of migratory game bird populations, make informed regulatory decisions from established frameworks, or change the process for Flyway Councils to make recommendations on Federal outside limits.

*Comment 7:* The Service should add recognition of Tribal treaty rights to migratory bird hunting regulations to ensure that impacts on Tribal treaty rights are considered and protected.

*Service response:* We added a statement above in the preamble of this final rule regarding recognition of Tribal treaty rights.

*Comment 8:* The rule should clarify that, for on-reservation lands, hunting methods outside of the Federal hunting methods at § 20.21 remain available for ceded lands and add this clarification to § 20.110.

*Service response:* We agree that clarification is needed in the rule in regard to hunting by Tribal members and also note that the proposed regulations allowed for this change. For clarification, we have added “and ceded lands” to the preamble of this final rule under the section “New Process for Managing Tribal Migratory Bird Hunting” and to the final regulations that are set forth in this final rule (§ 20.110).

*Comment 9:* The Service should continue to publish proposed Tribal

regulations in the **Federal Register**. This process should not be mutually exclusive with advances in recognition of Tribal sovereignty and pursuit of administrative efficiency. Further, should the Service determine that changes or efficiencies are needed in the existing process, we would recommend that States, Tribes, and Flyway Councils be engaged collectively to determine the best path forward for any modifications.

*Service response:* Similar to this rulemaking, we will publish any subsequent proposed changes to Tribal migratory bird hunting regulations in the **Federal Register** for public review and comment.

Regarding the regulations set forth in this final rule, we have determined that annual publication of Tribal regulations is not necessary so long as Tribal hunting seasons are consistent with our guidelines. As described above, beginning with the 1985–86 hunting season, we have employed guidelines described in the June 4, 1985, **Federal Register** (50 FR 23459 at 23467) to establish special migratory game bird hunting regulations (independent from the State or States where the reservation is located) on Federal Indian reservations (including off-reservation trust lands) and ceded lands. We developed these guidelines in response to Tribal requests for our recognition of their reserved hunting rights, and for some Tribes, recognition of their authority to regulate hunting by both Tribal and nontribal members throughout their reservations. The guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian Tribes while also ensuring that the migratory game bird resource receives necessary protection. The Service adopted the 1985 guidelines as final in 1988 (53 FR 31612, August 18, 1988).

The regulations set forth in this final rule include elements of our current guidelines successfully employed since 1985 for establishing special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. By incorporating these guidelines into regulations, Tribes are authorized to independently establish hunting seasons for migratory game birds, so long as they are within certain limits as specified in these regulations. This rule will extend to Tribes with reserved hunting rights the same autonomy as the States to independently establish migratory game bird hunting seasons for nontribal members within annually established, biologically appropriate Federal limits. This approach results in

a more efficient promulgation process for both the Tribes and the Service. Resultant Tribal regulations for migratory game bird hunting are unchanged as a result of the new process. This rule does provide some flexibility for hunting by Tribal members on reservations and ceded lands to deviate from Federal regulations that apply in this part where such harvest is a customary practice, but these deviations are subject to an MOU between the Service and the Tribe or Federal rulemaking, both of which will be published in the **Federal Register** and subject to public review and comment. However, we may not use the public process for very minor or nonsignificant MOUs or agreements.

Furthermore, each year from the 1985–86 hunting season through the 2022–2023 hunting season, the Service received game bird harvest data from the Tribes. Using information on the status of migratory bird populations, the Service evaluated the potential impact of special Tribal hunting regulations on migratory game bird populations. Throughout that time, the Service concluded that annual Tribal harvest is small and, therefore, would have negligible impacts on the population status of migratory game birds. For each species/species group reported, Tribal harvest was less than one-half a percent of the total U.S. harvest, and for several species/species groups was less than one-tenth a percent as indicated in the NEPA review process.

*Comment 10:* The Service should include a presumption that Tribes have reserved hunting rights on Federal Indian reservations and trust lands. Unless a treaty or Federal statute clearly revokes a Tribe's rights to hunt or fish, those rights are reserved to the Tribe. *See, e.g., United States v. Winans*, 198 U.S. 371 (1905). The Service should make the following clarification to paragraph (b) of the regulatory text regarding applicability: Unless a Tribe's hunting rights have been expressly revoked by Congress, special Tribal migratory game bird hunting regulations may be established by Tribes that have reserved hunting rights on Federal Indian reservations.

*Service response:* We conclude that the proposed regulation authorizing, within limits, certain Tribes to establish hunting seasons for migratory game birds on Federal Indian reservations, off-reservation trust lands, and ceded lands give Tribes more flexibility, consistent with Tribal sovereignty and in recognition of Tribal treaty rights. Further, the Service has been charged by Congress to manage migratory birds and given authority over associated

migratory bird hunting regulations. We also conclude that Congress' process to revoke the hunting rights for Tribal migratory bird hunting is outside the scope of these regulations. In this final rule, we have retained the language from the proposed rule for paragraph (b).

*Comment 11:* The United States Code (16 U.S.C. 704(a)) requires the Service to consider certain factors in authorizing and regulating migratory bird harvest, including: zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds. Under the proposed rule, it is not clear how the Service will continue to assess these factors with respect to Tribal migratory bird regulations moving forward.

*Service response:* The new process for authorizing, within limits, Tribal regulations for migratory game bird hunting seasons will not change resultant Tribal regulations or cooperative monitoring programs to evaluate migratory game bird population status. Also, it will not change the established decision frameworks for informing Federal outside limits or the Tribal, State, and Federal collaborative process for establishing these Federal limits. The Federal limits allow Tribal and State selections of hunting seasons and limits and the opportunity for harvest at levels compatible with population status and habitat conditions.

*Comment 12:* The proposed rule is predicated on the Service's anticipation that Tribal harvest will always have minimal impacts on migratory bird resources in the future due to declining trends in Tribal hunting participation and increasing trends for many migratory bird populations. The potential exists that circumstances, which underlie the Service's conclusion, may change. The proposed rule does not clarify what steps the Service may take if such change in circumstances occurs.

*Service response:* To address this issue, we have stated above in the preamble of this final rule that, if circumstances change and data indicates that migratory game bird populations are substantially declining or Tribal hunting increases significantly, we intend to reevaluate this regulation. Also, we note that the regulations as set forth in this final rule provide that regulations for nontribal members on reservations must be within the annual outside limits for migratory bird hunting seasons established by the Service, and all Federal hunting regulations in this part also apply to nontribal hunters. The

annual establishment of Federal limits for migratory game bird hunting seasons ensures harvest each year is at levels compatible with game bird population status and habitat conditions (see the response to the previous comment for more details).

*Comment 13:* Due to the unique shared nature of migratory bird resources, there is benefit in Tribes continuing to share information (including proposed regulations, anticipated harvest, harvest monitoring methods, steps that will be taken to limit harvest if necessary to avoid harm to migratory bird resources, and enforcement capabilities) with the Service but the commenter recognized that there may be other ways of facilitating this information exchange compared to what is currently required. Additionally, it would add clarity if all expectations related to data gathering and consideration are relocated from the nonbinding explanatory text to the rule itself.

*Service response:* We conclude that the Tribal information sharing pertaining to migratory game bird hunter activity and harvest is not necessary to ensure harvest is sustainable within the limits specified within our authorizing regulations set forth in this final rule. Our conclusion on annual information sharing is based on Tribal harvests having negligible impacts on the population status of migratory game birds as noted in this final rule. However, any new proposed experimental hunting would require an agreement with specific evaluation criteria, and any new Federal regulations would require rulemaking. Both of these proposals would be published in the **Federal Register** and be subject to public review and comment prior to any final agreement or regulations. Regarding experimental hunting, the requirement for a formal agreement has been incorporated into 50 CFR 20.110 for certain Federal Indian reservations and ceded lands. Also, we note that, in accordance with 50 CFR 20.20(c), Migratory Bird Harvest Information Program—Tribal exemptions, the regulations' general provisions for information collection and sharing does not apply to Tribal members on Federal Indian reservations or to Tribal members hunting on ceded lands. However, our regulations do not preclude the Tribes from sharing hunter activity and harvest information. Tribes may voluntarily share information with the Service and/or States or post this information on Tribal websites for public review.

Finally, we continue to work with the Tribes, Flyway Councils, and States to

annually monitor the status of migratory game bird populations and habitat conditions and to make informed regulatory decisions on appropriate Federal outside limits. This monitoring data is the most informative information available on the status of these managed populations, and significant reductions in population status should first be identified in these long-term monitoring data sets. Further, this rule will not change the established decision frameworks for informing Federal outside limits from monitoring data or the Tribal, State, and Federal collaborative process for establishing these Federal limits.

*Comment 14:* Formal consultation between States and Tribes may be appropriate in certain circumstances, and the rule is silent on this topic. It is unclear when consultation may be requested and what process would be applied. Additionally, because advanced notice of proposed Tribal regulations may not be required, there is potential that States may not have timely or sufficient information to make a consultation request.

*Service response:* We agree that Tribes should notify the associated State as soon as reasonably possible before hunting seasons begin regarding regulations for Tribal members on ceded lands to maximize the opportunity to coordinate with State law enforcement and minimize the time needed for hunter checks in the field. We clarified the regulation in this regard (see § 20.110(d)). Further, we encourage Tribes to consult with States on any significant changes in hunting regulations for Tribal members on ceded lands before adopting such regulations. Also, States may request formal consultation directly with the Tribe, and vice versa, at any time there is concern regarding appropriate hunting regulations for Tribal members on ceded lands, or Tribal members on reservations, with the aim of facilitating an accord. We may consult with a Tribe and State at the request of either party to help resolve any relevant migratory game bird hunting regulation issues. Regarding hunting regulations for nontribal members on reservations, we have noted throughout this final rule that regulations for nontribal members on reservations must be within the annually established, biologically appropriate Federal limits for migratory bird hunting seasons, and all Federal hunting regulations in this part also apply to nontribal hunters. The annual establishment of outside limits for migratory game bird hunting seasons allows harvest at levels compatible with

game bird population status and habitat conditions.

#### Effective Date

We are making this substantive rule effective immediately upon its publication because this rule: (1) Relieves a restriction that Tribes annually submit a proposal to the Service for our review and approval to establish annual regulations for hunting migratory game birds; (2) reduces the administrative burden on Tribes and the Service; and (3) is necessary to allow hunting seasons to begin as soon as September 1, 2023. For the reasons cited above, we find that “good cause” exists, within the terms of the Administrative Procedure Act at 5 U.S.C. 553(d)(3), for these regulations to take effect immediately upon publication.

#### Required Determinations

##### *National Environmental Policy Act (NEPA) Consideration*

The programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),” filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual outside limits for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting outside limits through the annual preparation of separate environmental assessments, the most recent being “Duck Hunting Regulations for 2023–24,” with its corresponding finding of no significant impact. Both of these documents are available at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2022–0090.

We completed a Biological Review and NEPA Categorical Exclusion Analysis in 2023 for this final rule available at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2022–0090. We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4332(C)), 43 CFR part 46, and 516 Departmental Manual (DM) 8. In addition, an August 1985 environmental assessment entitled “Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands” is available from the person listed above

under **FOR FURTHER INFORMATION CONTACT**.

*Endangered Species Act Consideration*

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Secretary shall insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

After we published the March 23, 2023, proposed rule, we conducted formal consultations to ensure that actions resulting from this regulation, and other Federal fall-winter hunting regulations, would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that this regulation, and other Federal fall-winter hunting regulations, are not likely to jeopardize the continued existence of any endangered or threatened species. The biological opinion resulting from this section 7 consultation is available for public inspection at the address indicated under **ADDRESSES**.

*Regulatory Planning and Review—Executive Orders 12866, 13563, and 14094*

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. We have developed this final rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. The annual migratory bird hunting regulations are considered a “significant regulatory action,” as defined under section 3(f)(1) of Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023).

An economic analysis was prepared for the 2023–24 migratory bird hunting

season. This analysis was based on data from the 2011 and 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent year for which data are available. See discussion under Required Determinations, *Regulatory Flexibility Act*, below. This analysis estimated consumer surplus for four alternatives for duck hunting regulations. As defined by OMB in Circular A–4, consumers’ surplus is the difference between what a consumer pays for a unit of a good or service and the maximum amount the consumer would be willing to pay for that unit. The duck hunting regulatory alternatives are (1) not opening a hunting season, (2) issuing restrictive regulations that allow fewer days than the 2022–23 season, (3) issuing moderate regulations that allow more days than those in Alternative 2 but fewer days than the 2022–23 season, and (4) issuing liberal regulations that allow days similar to the 2022–23 season. For the 2023–24 season, we chose Alternative 4, with an estimated consumer surplus across all flyways of \$356 million. We also chose Alternative 4 for the 2009–10 through 2022–2023 seasons. The 2023–24 analysis is part of the record for this rulemaking action and is available at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2022–0090.

*Regulatory Flexibility Act*

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis was prepared to analyze the economic impacts of the annual hunting regulations on small business entities. This analysis is updated annually. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2023–24 analysis is based on the 2011 and 2016 National Survey and the U.S. Department of Commerce’s County Business Patterns, from which it is estimated that migratory bird hunters would spend approximately \$2.5 billion (2022\$) at small businesses during the 2023–24 migratory bird hunting season. Copies of the analysis are available upon request from the person listed above under **FOR FURTHER INFORMATION CONTACT** or from <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2022–0090.

*Congressional Review Act*

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act (also known as the Congressional Review Act or CRA), 5 U.S.C. 801 *et seq.*, OIRA designated the annual migratory bird hunting regulations as a major rule, as defined by 5 U.S.C. 804(2), because this activity is likely to result in an annual effect on the economy of \$100 million or more. However, because this rule would establish a regulatory program for activity related to hunting and because hunting seasons are time sensitive, we do not plan to defer the effective date under the exemption in the CRA, 5 U.S.C. 808(1).

*Paperwork Reduction Act*

This rule does not contain any new collection of information that requires approval by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, “North American Woodcock Singing Ground Survey” (expires 02/29/2024).
- 1018–0023, “Migratory Bird Surveys, 50 CFR 20.20” (expires 05/31/2026). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.
- 1018–0171, “Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20” (expires 10/31/2024).

You may view the information collection request(s) at <http://www.reginfo.gov/public/do/PRAMain>. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*Unfunded Mandates Reform Act*

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*, that this final rulemaking does not include any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted for inflation) in any one year.

*Civil Justice Reform—Executive Order 12988*

The Department, in promulgating this final rule, has determined that this rule

will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

*Takings Implication Assessment—Executive Order 12630*

In accordance with E.O. 12630, this final rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule would allow hunters to exercise otherwise unavailable privileges and, therefore, would reduce restrictions on the use of private and public property.

*Energy Effects—Executive Order 13211*

E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy and is not a significant energy action. Therefore, no statement of energy effects is required.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian Tribes and have determined that there are de minimis effects on Indian trust resources. Through the process to establish annual hunting regulations, we regularly coordinate with Tribes, and we coordinated with Tribes on the development of this new regulatory process.

*Federalism Effects—Executive Order 13132*

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe Federal limits from which Tribes and States may establish hunting seasons for migratory game birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more

restrictive in its regulations than the Federal limits. The Federal limits are developed annually in a cooperative process with the Tribes, States, and Flyway Councils. This process allows Tribes and States to participate in the development of Federal limits from which they will make selections, thereby having an influence on their own regulations. These rules do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, these regulations do not have federalism implications and do not warrant the preparation of a federalism summary impact statement.

**Signing Authority**

Shannon Estenoz, Assistant Secretary for Fish and Wildlife and Parks, approved this action on August 7, 2023, for publication. On August 24, 2023, Shannon Estenoz authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of the Interior.

**List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

Accordingly, for the reasons described in the preamble, we hereby amend title 50, chapter I, subchapter B, part 20, of the Code of Federal Regulations as set forth below:

**PART 20—MIGRATORY BIRD HUNTING**

■ 1. The authority citation for part 20 continues to read as follows:

**Authority:** 16 U.S.C. 703 et seq., and 16 U.S.C. 742a–j.

■ 2. Revise § 20.110 to read as follows:

**§ 20.110 Regulations for certain Federal Indian reservations and ceded lands.**

(a) *Tribal sovereignty.* The Service recognizes Tribal sovereignty to exercise reserved hunting rights and, for some Tribes, recognition of their authority to regulate hunting by both Tribal and nontribal members on their reservation. Accordingly, Tribes may independently establish special (separate from the State or States in which the reservation is located) migratory game bird hunting regulations. Migratory birds may be taken if the take is consistent with the

regulations in this section and applicable Tribal hunting regulations.

(b) *Applicability.* Special Tribal migratory game bird hunting regulations may be established by Tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. These regulations also may be applied to the establishment of migratory game bird hunting regulations for nontribal members on all lands within the reservations where Tribes have full wildlife-management authority over such hunting, or where the Tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands within the reservation.

(c) *Special regulations.* Special Tribal migratory game bird hunting regulations must be consistent with the annual March 11 to August 31 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds, as amended by the Protocol Between the Government of Canada and the Government of the United States of America Amending the 1916 Convention Between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States, and with these provisions:

(1) Tribes may establish on-reservation hunting regulations, for both Tribal and nontribal members, with hunting seasons that may differ from those in the State(s) in which the reservations are located.

(i) *Regulations for both Tribal and nontribal members:* Opening and closing dates, season length, and daily bag and possession limits for nontribal members on the reservations must be within the Federal limits for migratory bird hunting seasons established by the Service, and all Federal hunting regulations in this part also apply to nontribal hunters. Tribes may choose to set the same opening and closing dates, season length, and daily bag and possession limits for hunting by Tribal members and nontribal members on their reservations, or, in accordance with the provisions in paragraph (c)(1)(ii) of this section, Tribes may choose to establish regulations for Tribal members only.

(ii) *Regulations for Tribal members only:* Tribes may establish on-reservation hunting regulations by Tribal members only, with hunting seasons that may be outside of Federal limits for season dates, season length, and daily bag and possession limits. All Federal hunting regulations in this part apply.



(A) For a short-term experimental hunting season, a Tribe and the Service may formally agree on allowed methods of take, notwithstanding the regulations in § 20.21 for on-reservation and ceded lands hunting by Tribal members. The Service will make public any such formal agreement.

(B) A Tribe that would like to make an additional hunting method operational would need to provide data to the Service for consideration. If the Service agrees with the Tribe's proposal, the Service will conduct rulemaking to amend the regulations in this part to allow Tribal members to use the additional hunting method.

(2) Tribes may establish off-reservation hunting regulations by Tribal members on ceded lands, with hunting seasons that may be outside of Federal limits for season dates, season length, and daily bag and possession limits.

(d) *Provisions for ceded lands.* Tribes that have special migratory game bird hunting regulations for Tribal members on ceded lands must send a copy of the Tribal regulations to officials in the affected State(s) as soon as reasonably possible prior to the season opening.

**Maureen D. Foster,**

*Chief of Staff, Office of the Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2023-19067 Filed 8-30-23; 4:15 pm]

**BILLING CODE 4333-15-P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 230224-0053; RTID 0648-XD251]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Trawl Catcher Vessels in the Western Regulatory Area of the Gulf of Alaska

**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 catcher vessels using trawl gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2023 Pacific cod total allowable catch apportioned to trawl catcher vessels in the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2023, through 2400 hours, A.l.t., December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Krista Milani, 907-581-2062.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA 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 (Magnuson-Stevens 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 2023 Pacific cod total allowable catch (TAC) apportioned to trawl catcher vessels in the Western Regulatory Area of the GOA is 1,956 metric tons (mt), as established by the final 2023 and 2024 harvest specifications for groundfish of the GOA (88 FR 13238, March 2, 2023).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2023 Pacific cod TAC apportioned to trawl catcher vessels in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,356 mt and is setting aside the remaining 600 mt as bycatch 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 catcher vessels using trawl gear in the Western Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be 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 directed fishing closure of Pacific cod by catcher vessels using trawl gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 28, 2023.

The Assistant Administrator for Fisheries, NOAA 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.

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

Dated: August 28, 2023.

**Jennifer M. Wallace,**

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

[FR Doc. 2023-18910 Filed 8-31-23; 8:45 am]

**BILLING CODE 3510-22-P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 230224-0053; RTID 0648-XD283]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 50 Feet Length Overall Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting retention of Pacific cod by catcher vessels greater than or equal to 50 feet (15.2 meters (m)) length overall using hook-and-line (HAL) gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2023 total allowable catch of Pacific cod apportioned to catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA has been reached.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2023, through 2400 hours, A.l.t., December 31, 2023.