

Cape Sarichef in the Bering Sea subarea. The purpose of this action is to support a NMFS research project investigating the effect of commercial fishing on Pacific cod abundance in localized areas. This study is an integral part of a NMFS comprehensive research program designed to evaluate effects of fishing on the foraging behavior of Steller sea lions. The western distinct population segment (DPS) of Steller sea lions is listed as endangered under the Endangered Species Act and is likely to be adversely affected by the Atka mackerel, pollock, and Pacific cod fisheries. Steller sea lion protection measures are currently implemented to ensure that the pollock, Atka mackerel, and Pacific cod fisheries are not likely to jeopardize the continued existence of or adversely modify or destroy critical habitat for the western DPS of Steller sea lions (68 FR 204, January 2, 2003).

Currently, the information available to evaluate alternative methods for protecting Steller sea lions and their critical habitat is very limited. Improved information could enhance the effectiveness and efficiency of existing protection measures. NMFS and other management agencies and organizations have undertaken numerous research initiatives to learn more about Steller sea lions and interactions with their environment, including fishery related effects potentially associated with the ongoing decline of the western DPS of Steller sea lions.

The goal of the study is to evaluate the effects of commercial trawl fishing on Pacific cod and to test a localized depletion hypothesis. This hypothesis states that the commercial fisheries by depleting the local Steller sea lion prey may adversely affect the critical habitat of Steller sea lions. This study is designed as a comparison between sites within the area subject to intensive seasonal trawling and control sites within a nearby zone where trawling is prohibited and requires that experimental pot gear be deployed before and after the period of intense trawl fishing for Pacific cod. NMFS will deploy pot fishing gear in the restriction area during March 15 through March 31, a time period that historically includes a less intense rate of fishing during the winter trawl fishery for Pacific cod. This time period would reduce the risk of trawl gear disturbing the experimental pot gear. Pot loss or displacement would lead to economic losses to NMFS and would reduce the quality of the information gathered in the study. The commercial pot and hook-and-line gear closures are necessary to ensure that observed fishing effects are due to trawl fishing and not to additional fishing

effort by hook-and-line and pot vessels moving into the area due to the trawl closure. A concern also exists that pot and hook-and-line vessels would enter areas historically fished by trawl gear. A complete description of the study is available in the EA/RIR/IRFA for this action (see **ADDRESSES**).

This final rule imposes a seasonal ban on all directed groundfish fishing by vessels using trawl, pot, or hook-and-line gear in waters located outside the existing 10-nm no-trawl area around Cape Sarichef and inside the boundary of the following coordinates joined in order by straight lines:

54°30' N lat., 165°14' W long.;  
54°35' N lat., 165°26' W long.;  
54°48' N lat., 165°04' W long.;  
54°44' N lat., 164°56' W long.; and,  
54°30' N lat., 165°14' W long.

Cape Sarichef is located at coordinates 164°56.8' W long. and 54°34.30' N lat. See Figure 21 in the regulatory language below.

This fishing restriction will be in effect annually during the period of March 15 through March 31 in the years 2003 through 2006. The Council will review the experimental results after March 2003 to decide whether any changes to the rule are needed in 2004 through 2006.

The proposed rule for this action was published in the **Federal Register** on January 23, 2003 (68 FR 3225). No comments were received during the 15-day public review and comment period, and no changes are made from the proposed rule in the final rule.

#### Classification

NMFS has determined that the seasonal adjustments of fishery closure this rule implements is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

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

Nothing in this action results in any changes in reporting or recordkeeping requirements.

Species listed under the Endangered Species Act (ESA) are present in the action area. According to an informal consultation completed on November 25, 2002, no listed species are likely to be adversely affected by this action.

The analysis for this action did not reveal any existing Federal rules that duplicate, overlap, or conflict with this action.

An IRFA was prepared prior to publication of the proposed rule. The proposed rule was published in the **Federal Register** on January 23, 2003 (68 FR 3225), and included a summary of the IRFA. The public comment period

ended on February 7, 2003. No comments were received on the IRFA. The entities that will be regulated by this action are the catcher vessels and catcher processors that would have fished in the treatment area in the second half of March, and that will not be able to do so from 2003 through 2006. These include vessels using trawl, hook-and-line, and pot gear. The numbers of small and large entities active in Alaskan statistical area 655430 in the second half of March for each year from 1998 through 2001 ranged between 21 in 2000 and 57 in 1998. This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities.

NMFS considered three alternatives to the proposed action. The status quo would not have accomplished the objectives of this action. A second alternative would have restricted trawling activities during the same period in an "arc" shaped treatment area that overlaps the treatment area in the preferred alternative. However, because of some differences in shape, the area in this alternative restricts trawling activity more than is necessary to increase the experimental results. Closing the area to trawling, but allowing an influx of hook-and-line and pot gear, may confound the experimental results and may lead to gear conflicts when the treatment area is reopened to trawling in early April. These negative impacts are mitigated by the preferred alternative which adjusts the area of the arc to avoid certain areas of particular concern to fishermen and prevents new entry by other gear users. A third alternative would have used the same treatment area as the second alternative, but would have restricted hook-and-line and pot activity as well as trawl activity. However, because of some differences in shape, the area in this alternative restricts trawling activity more than is necessary to increase the experimental results. This negative impact is mitigated by the preferred alternative which adjusts the area of the arc to avoid areas of particular concern to fishermen.

This action must be effective by March 15, 2003, to facilitate NMFS' experiments to evaluate the effects of commercial trawl fishing on Pacific cod and to help determine whether commercial fisheries adversely affect the critical habitat of Steller sea lions by depleting the local Steller sea lion prey. The 16-day closure is necessary to ensure the quality of the information gathered, to prevent losses to NMFS from gear interactions, and to minimize disruption to trawl fishermen who have historically used this area. NMFS