

Bering Sea and Aleutian Islands 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 2003 red king crab bycatch allowance specified for Zone 1 of the BSAI trawl yellowfin sole fishery category, which is defined at § 679.21(e)(3)(iv)(B)(1), is 16,664 animals (68 FR 9907, March 3, 2003).

In accordance with § 679.21(e)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 bycatch allowance of red king crab specified for the trawl yellowfin sole fishery in Zone 1 of the BSAI has been reached. Consequently, the Regional Administrator is closing directed fishing for yellowfin sole by vessels using trawl gear in Zone 1 of the BSAI.

Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

#### 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 contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 bycatch allowance of red king crab specified for the trawl yellowfin sole fishery in Zone 1 of the BSAI, and therefore reduce the public's ability to use and enjoy the fishery resource.

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 50 CFR 679.21 and is exempt from review under Executive Order 12866.

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

Dated: May 21, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 030128021-3124-02; I.D. 121602A]

**RIN: 0648-AQ45**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Opening Waters to Pacific Cod Pot Fishing off Cape Barnabas and Caton Island

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to allow use of pot gear in waters around Cape Barnabas and Caton Island located in the Gulf of Alaska (GOA) for directed fishing for Pacific cod. Waters within 3 nautical miles (nm) of these sites currently are closed to Pacific cod fishing by vessels using pot gear and named on a Federal fisheries permit. This action is necessary to provide consistency between State and Federal fishing restrictions and to relieve a potential burden on the Pacific cod pot gear fishing sector. This final rule is intended to meet the objectives in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and to further the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

**DATES:** Effective June 27, 2003.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action and the Final Regulatory Flexibility Analysis (FRFA) may be obtained from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall, or by calling (907) 586-7228.

**FOR FURTHER INFORMATION CONTACT:** Melanie Brown, (907) 586-7228 or [melanie.brown@noaa.gov](mailto:melanie.brown@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the domestic groundfish fisheries of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Act. Regulations governing the groundfish fisheries of the GOA appear at 50 CFR parts 600 and 679.

The background regarding this action, including the Steller sea lion protection

measures, the Council action, U. S. District Court orders, and the State of Alaska fishery restrictions, is detailed in the preamble to the proposed rule (68 FR 7750, February 18, 2003). This final rule removes restrictions on using pot gear for directed fishing for Pacific cod by vessels named on a Federal groundfish fishing permit in waters within 3 nm of Cape Barnabas and Caton Island. Accordingly, Table 5 to part 679 is revised by removing the 3 nm restriction in column 9 for Caton Island and Cape Barnabas.

No comments were received on the proposed rule.

#### Changes in the Final Rule From the Proposed Rule

This final rule revises Table 5 to part 679 from the proposed rule. Since the proposed rule was published on February 18, 2003, (68 FR 7750), NMFS published a correction to the Steller sea lion protection measures (SSL correction) at 68 FR 24615, May 08, 2003. The corrections to Table 5 in the SSL correction were not included in the proposed rule for this action. To ensure the corrections to Table 5 from the SSL correction remain in the Code of Federal Regulations, Table 5 in this final rule is revised from the proposed rule to include those revisions that were published in the SSL correction. For details on these revisions, see the preamble to the SSL correction (68 FR 24615).

#### Classification

The Administrator, Alaska Region, NMFS has determined that removing restrictions on directed fishing for Pacific cod using pot gear within 3 nm of Caton Island and Cape Barnabas is necessary for the conservation and management of the Pacific cod pot gear fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

Species listed under the Endangered Species Act (ESA) are present in the action area. This action is not expected to result in increases of Pacific cod harvest beyond those experienced with the opening of the State parallel fishery in these areas. With no additional removals of Pacific cod expected, informal ESA consultation completed on December 11, 2001, concluded that this action is not likely to adversely affect listed species or critical habitat.

NMFS has prepared a FRFA for this action pursuant to Section 604(a) of the Regulatory Flexibility Act. The need for and objectives of this action have been