

Amendment 77 or the proposed rule focused on the Council's action to change the way unharvested jig gear quota is reallocated. Six commenters wrote in support of that change, and three in opposition. The comments otherwise were generally supportive of Amendment 77 and the proposed rule implementing it. The tenth commenter did not address the provisions of Amendment 77 but criticized fishing in the North Pacific more generally. No comments were received on the proposed TAC split between pot catcher vessels and pot catcher processors. The comments on the proposed change in jig gear reallocation have been grouped by subject matter. Some of the arguments were made by more than one respondent.

*Comments on Economic and Equity Issues and Compliance With National Standards*

*Comment 1:* The proposed reallocation of unharvested jig quota is inconsistent with national standard 5: "Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose."

Many measures that the Council has adopted include reallocations, but such measures have usually also provided improved ease of management or an increased conservation benefit. In this case, the proposed rollover provisions complicate management and have potential adverse risk in regards to Steller sea lions.

*Response:* The main purpose of Amendment 77 is to maintain stability in the Pacific cod BSAI fishery by maintaining the TAC allocations for fixed gear sectors that have been in effect since September 1, 2000. The relatively modest reallocation of unused jig gear TAC to small catcher vessels is consistent with that goal. It maintains the Council's original intent to support coastal fisheries through an allocation that will benefit a group of vessels with similarities to the jig gear sector for which the quota was originally intended.

In addition, this action will support biological conservation objectives of the FMP, because the vessels potentially receiving unused Pacific cod TAC from the jig gear sector primarily will be vessels less than 60 ft (18.3 m) LOA that use pot gear. These vessels have a relatively low bycatch rate for halibut, most groundfish, and most other marine species. Hence, NMFS finds that this action is consistent with National Standard 5.

The final rule implementing Amendment 77 will slightly increase the complexity of inseason management because of the seasonal apportionments of the jig gear quota and associated rollover provisions for the unharvested amounts. Staff resources are available, however, to accommodate this fairly routine adjustment in management of the Pacific cod TAC.

The action does not change the Steller sea lion protection measures that are currently in place; any change in the potential risk to Steller sea lions is discussed in the response to Comments 16 to 19.

*Comment 2:* The proposed rollover of unharvested jig quota is inconsistent with National Standard 10:

"Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea." Reallocation of TAC to small boats would pose safety at sea considerations. Fishing in the Bering Sea can be dangerous, which is why "small boat participation in the directed Pacific-cod fishery has been minimal in this region even during the years of unrestricted open access."

*Response:* The Pacific cod TAC allocations created by this action are assigned to categories of vessels and gear types. Several potential new rollover provisions were considered, and the selected provision was specifically developed to provide additional cod for the small catcher vessel sector during the months when these vessels prefer to fish, for safety reasons. Without the additional opportunity to harvest cod during the summer months, the small catcher vessel sector would be more likely to continue to compete for the portion of the cod TAC allocated to the general pot catcher vessel sector and general hook-and-line catcher vessel sector (available to vessels of all lengths) during the late winter and early spring. Providing for a reallocation of jig quota to the small catcher vessel sector may encourage these vessels to delay fishing until the summer months, when it is considered most safe for smaller vessels in the BSAI.

*Comment 3:* The proposal for the new rollover provision was initiated not by a pot vessel but a jig fisherman from Dutch Harbor, whose stated reasons included both safety and ecological concerns. From a safety perspective, this action would encourage the presence of other small vessels nearshore, which would enhance safety for the small number of jig vessels participating in the BSAI jig gear fishery.

*Response:* To the extent that this action increases the number of vessels

available to provide aid to a vessel in need, this final rule could enhance safety during the summer months. Also see response to comment 2.

*Comment 4:* The proposed rollover of unharvested Pacific cod TAC from jig gear supports the National Standard 1 requirement to provide "optimum yield from each fishery." The RIR analysis shows that the highest average value per metric ton of round cod is inshore deliveries from fixed gear catcher vessels (p 79).

*Response:* The Council did not attempt to determine which sector is most efficient in making its decision on unused jig gear cod allocations. The jig gear cod allocation amounts to only 2 percent of the total BSAI Pacific cod quota. The Council's action was intended to roughly maintain the status quo, while enhancing an opportunity for relatively small catcher vessels to continue participating in the fishery.

*Comment 5:* Freezer-longliners are highly efficient, producing frozen product of the highest quality and value. By contrast, cod kept on ice and processed long after harvest are of a lower quality and command a lower price.

*Response:* Please see the response to Comment 4.

*Comment 6:* The freezer-longliner sector has received the jig rollovers for 10 years and has grown dependent on them. The small catcher vessel fleet has not taken the rollovers, and is in no way dependent on them. The proposed reallocation of a portion of these rollovers to a fleet that 'needs room to grow' is not consistent with the problem statement.

The proposed rollover provisions would take TAC from the freezer longliners with a historic long-term dependency on the resource and the jig rollovers, and give the TAC to a sector with considerably less dependency on the resource. Of 125 vessels that qualify for the less than 60 ft (18.3 m) sector, only 32 have ever made a directed landing; in 2002, only 19 of them made a directed landing.

*Response:* The Council and NMFS' intent in allocating 2 percent of the total BSAI Pacific cod quota to jig gear in Amendment 64 (65 FR 51553, August 24, 2000) was to foster limited development of a small, low-impact coastal fishery. If the jig fleet were to harvest its entire quota, consistent with the intent of Amendment 64, the alleged "dependency" of the catcher processor fleet on the unused jig TAC would be moot.

Because the jig fleet has been unable to catch as much of its quota as expected or even as much as it had been