

cod among gear types and is reallocating the currently projected unused amount of Pacific cod from vessels using trawl and jig gear to catcher/processor vessels using hook-and-line gear and vessels using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). These actions are necessary to allow the 2003 total allowable catch (TAC) of Pacific cod to be harvested in accordance with regulations at 50 CFR part 679.

**DATES:** Effective December 8, 2003, until 2400 hours, A.l.t., December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the 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.

Effective November 26, 2003, NMFS reallocated the projected unused amount of Pacific cod from vessels using trawl and jig gear to vessels using hook-and-line gear in the BSAI (68 FR 67379, December 2, 2003). As of December 2, 2003, based on revised catch amounts, NMFS has determined that catcher vessels using trawl gear have already harvested all but 1,671 mt originally apportioned to them by the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003). This reduces the projected unused amount available to catcher/processor vessels using hook-and-line gear by 4,113 metric tons (mt) and to vessels using pot gear by 216 mt. Therefore, NMFS is rescinding the previous action and reallocating the projected unused amount of Pacific cod as follows.

The 2003 BSAI Pacific cod TAC was established by the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003) as 191,938 metric tons. Pursuant to § 679.20(a)(7)(i)(A), 3,839 mt was allocated to vessels using jig gear, 97,388 mt to vessels using hook-and-line or pot gear as a directed fishing allowance, and 90,211 mt to vessels using trawl gear. The share of the Pacific cod TAC allocated to trawl gear was further allocated 50 percent to catcher vessels and 50 percent to catcher/processor vessels (§ 679.20(a)(7)(i)(B)). The share of the Pacific cod TAC

allocated to hook-and-line or pot gear was further allocated 80 percent to catcher/processor vessels using hook-and-line gear; 0.3 percent to catcher vessels using hook-and-line gear; 18.3 percent to vessels using pot gear; and 1.4 percent to catcher vessels less than 60 ft LOA that use either hook-and-line or pot gear (§ 679.20(a)(7)(i)).

As of December 2, 2003, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that trawl catcher/processors will not be able to harvest 11,500 mt and trawl catcher vessels will not be able to harvest 1,671 mt of Pacific cod allocated to those vessels under 679.20(a)(7)(i)(B). Therefore, in accordance with § 679.20(a)(7)(ii), NMFS apportions 13,171 mt of Pacific cod from trawl gear to catcher/processor vessels using hook-and-line gear and vessels using pot gear.

The Regional Administrator has determined that vessels using jig gear will not harvest 3,600 mt of their Pacific cod allocation by the end of the year. Therefore, in accordance with § 679.20(a)(7)(ii), NMFS is reallocating the unused amount of 3,600 mt of Pacific cod allocated to vessels using jig gear to catcher/processor vessels using hook-and-line gear and vessels using pot gear.

In accordance with § 679.20(a)(7)(ii)(C)(2), the combined reallocation of unused Pacific cod from jig gear and trawl gear, 16,771 mt is apportioned so that catcher/processor vessels using hook-and-line gear will receive 95 percent and vessels using pot gear will receive 5 percent of the reallocation.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003) are revised as follows: 239 mt to vessels using jig gear, 93,843 mt to catcher processor vessels using hook-and-line gear, 18,661 mt to vessels using pot gear, 33,605 mt to trawl catcher/processors, and 43,434 mt to trawl catcher vessels.

#### 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 implementation of these measures in a timely fashion in order to allow full

utilization of the Pacific cod TAC, 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 taken under 50 CFR 679.20 and is exempt from OMB review under Executive Order 12866.

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

Dated: December 8, 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. 021212307-3037-02; I.D. 120403C]

#### Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Vessels Using Pot Gear in the Bering Sea and Aleutian Islands

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific cod allocated to vessels using pot gear in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), December 9, 2003, until 2400 hrs, A.l.t., December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the 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