

**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) and 50 CFR 679.20(b)(3)(iii)(A) as such a requirement is impracticable and contrary to the public interest. This requirement is 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 apportionment of the non-specified reserves of groundfish to the arrowtooth flounder fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 2, 2005.

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.

Under 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see *ADDRESSES*) until August 23, 2005.

This action is required by 50 CFR 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 8, 2005.

**Anne M. Lange,**

*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. 041126332-5039-02; I.D. 080805C]

**Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 Meters) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2005 catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI to harvest their Pacific cod allocation.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 8, 2005, through 2400 hrs, A.l.t., December 31, 2005.

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

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

NMFS closed directed fishing for Pacific cod by catcher vessels less than

60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI under § 679.21(d)(1)(iii) on April 19, 2005 (70 FR 20840, April 22, 2005).

NMFS has determined that as of August 2, 2005, approximately 453 metric tons of Pacific cod remain in the 2005 Pacific cod TAC specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI. Therefore, in accordance with §§ 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to allow the catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI to harvest their Pacific cod allocation, NMFS is terminating the previous closure and is reopening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI. The reopening is effective 1200 hrs, Alaska local time (A.l.t.), August 8, 2005, through 2400 hrs, A.l.t., December 31, 2005.

Directed fishing by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line gear remains closed until August 15, 2005, when the third seasonal halibut mortality limit becomes available.

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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 § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 8, 2005.

**Anne M. Lange,**

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