

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 0810141351–9087–02]

RIN 0648–XS72

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 ft (18.3 m) LOA and Longer Using Hook-and-Line 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; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 60 ft (≥18.3 meters (m)) length overall (LOA) using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2009 Pacific cod total allowable catch (TAC) allocated to catcher vessels ≥60 ft (18.3 m) LOA using hook-and-line gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), November 2, 2009, through 2400 hrs, A.l.t., December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI 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.

The 2009 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels ≥60 ft (18.3 m) LOA using hook-and-line gear in the BSAI is 314 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that the 2009 Pacific cod directed fishing allowance allocated to catcher vessels ≥60 ft (18.3 m) LOA using hook-and-line gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by

catcher vessels ≥60 ft (18.3 m) LOA using hook-and-line gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**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 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 closure of Pacific cod by catcher vessels ≥60 ft (18.3 m) LOA using hook-and-line gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 30, 2009.

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 section 679.20 and is exempt from review under Executive Order 12866.

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

Dated: November 02, 2009.

**Emily H. Menashes,**

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

[FR Doc. E9–26696 Filed 11–2–09; 4:15 pm]

**BILLING CODE 3510–22–S**

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is reallocating projected unused amounts of Pacific cod from catcher vessels using trawl gear, catcher vessels using pot gear, catcher vessels using hook and line gear, and vessels using jig to catcher/processors using pot gear and catcher/processors using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). These actions are necessary to allow the 2009 total allowable catch (TAC) of Pacific cod to be harvested.

**DATES:** Effective October 30, 2009, until 2400 hours, A.l.t., December 31, 2009.

**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 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.

The 2009 Pacific cod TAC in the BSAI is 176,540 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009). Pursuant to § 679.20(a)(7)(ii) and the reallocation on September 17, 2009 (74 FR 48170, September 22, 2009), the allocations of the Pacific cod TAC are 77,725 mt to catcher/processors using hook-and-line gear, 2,852 mt to catcher/processors using pot gear, 11,873 mt to catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using pot gear, 314 mt to catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using hook and line gear, and 30,641 mt to catcher vessels using trawl gear.

The allocation to catcher vessels less than 60 feet (18.3m) LOA using hook-and-line or pot gear is 4,737 mt after two reallocations (74 FR 9965, March 9, 2009 and 74 FR 19021, April 27, 2009). The allocation to vessels using jig gear is 57 mt after three reallocations (74 FR 9965, March 9, 2009, 74 FR 19021, April 27, 2009, and 74 FR 48170, September 22, 2009).

As of October 20, 2009, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear will not be able to harvest

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 0810141351–9087–02]

RIN 0648–XS69

**Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific cod in the Bering Sea and Aleutian Islands Management Area**

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

5,000 mt of Pacific cod. The Regional Administrator has determined that the projected unharvested amount is unlikely to be harvested by any of the other catcher vessel sectors as described in § 679.20(a)(7)(iii)(A). Additionally, the Regional Administrator has determined that catcher/processors using pot gear will be unable to fully harvest this amount of Pacific cod. Therefore, in accordance with § 679.20(a)(7)(iii)(C), NMFS is reallocating 698 mt of Pacific cod allocated to catcher vessels greater than 60 feet (18.3 m) LOA using pot gear to catcher/processors using pot gear and 4,302 mt of Pacific cod allocated to catcher vessels greater than 60 feet (18.3 m) LOA using pot gear to catcher/processors using hook-and-line gear.

The Regional Administrator also has determined that catcher vessels using trawl gear will not be able to harvest 901 mt of Pacific cod allocated to those vessels under § 679.20(a)(7)(ii). The Regional Administrator has determined that the projected unharvested amount is unlikely to be harvested by any of the jig or other catcher vessel sectors as described in § 679.20(a)(7)(iii)(A) or trawl sectors as described in § 679.20(a)(7)(iii)(B). Additionally, the Regional Administrator has determined that catcher/processors using pot gear will be unable to harvest any additional amounts of Pacific cod. Therefore, in accordance with § 679.20(a)(7)(iii)(B), NMFS is reallocating 901 mt of Pacific cod from catcher vessels using trawl gear to catcher/processors using hook-and-line gear.

The Regional Administrator also has determined that catcher vessels greater than 60 feet (18.3 m) LOA using hook-and-line gear will not be able to harvest 312 mt of Pacific cod allocated to those vessels under § 679.20(a)(7)(ii). The Regional Administrator has determined that the projected unharvested amount is unlikely to be harvested by any of the jig or other catcher vessel sectors as described in § 679.20(a)(7)(iii)(A). Additionally, the Regional Administrator has determined that catcher/processors using pot gear will be unable to harvest any additional amounts of Pacific cod. Therefore, in accordance with § 679.20(a)(7)(iii)(B), NMFS is reallocating 312 mt of Pacific cod from catcher vessels greater than 60 feet (18.3 m) LOA using hook-and-line gear to catcher/processors using hook-and-line gear.

The Regional Administrator also has determined that catcher vessels less than 60 feet (18.3m) LOA using hook-and-line or pot gear will not be able to harvest 303 mt of Pacific cod allocated to those vessels under § 679.20(a)(7)(ii). The Regional Administrator has determined that the projected unharvested amount is unlikely to be harvested by any of the jig or other catcher vessel sectors as described in § 679.20(a)(7)(iii)(A). Additionally, the Regional Administrator has determined that catcher/processors using pot gear will be unable to harvest any additional amounts of Pacific cod. Therefore, in accordance with § 679.20(a)(7)(iii)(B), NMFS is reallocating 303 mt of Pacific cod from catcher vessels less than 60 feet (18.3m) LOA using hook-and-line or pot gear to catcher/processors using hook-and-line gear.

The Regional Administrator also has determined that vessels using jig gear will be unable to harvest 32 mt of Pacific cod. The Regional Administrator has determined that catcher vessels less than 60 feet (18.3m) LOA using hook-and-line or pot gear will be unable to harvest additional Pacific cod. Additionally, the Regional Administrator has determined that other catcher vessel sectors as described in § 679.20(a)(7)(iii)(A) will be unable to harvest any additional amounts of Pacific cod. Therefore, in accordance with § 679.20(a)(7)(iv)(C) and § 679.20(a)(7)(iii)(A), NMFS is reallocating 32 mt of Pacific cod allocated to jig vessels to catcher/processors using hook-and-line gear.

The allocations for Pacific cod specified in the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009) and subsequent three reallocations (74 FR 9965, March 9, 2009, 74 FR 19021, April 27, 2009, and 74 FR 48170, September 22, 2009) are revised as follows: 83,575 mt to catcher/processor vessels using hook-and-line gear, 3,550 mt to catcher/processor vessels using pot gear, 6,873 mt to catcher vessels greater than or equal to 60 feet (18.3 m) length overall using pot gear, 2 mt to catcher vessels greater than or equal to 60 feet (18.3 m) length overall using hook and line gear, 29,740 mt to catcher vessels using trawl gear, 4,434 to catcher vessels less than 60 feet (18.3m) LOA using hook-and-line or pot gear and 25 mt to vessels using jig gear.

This will enhance the socioeconomic well-being of harvesters dependent upon Pacific cod in this area. The Regional Administrator considered the following factors in reaching this decision: (1) the current catch of Pacific cod by the applicable BSAI sectors and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in the sectors participating in this fishery.

#### 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 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 reallocation of Pacific cod. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 29, 2009.

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

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

Dated: October 30, 2009

**Emily H. Menashes**

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

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