

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

[Docket No. 070213033-7033-01; I.D. 040607E]

**Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and "Other Flatfish" by Vessels Using Trawl Gear in 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 closing directed fishing for rock sole, flathead sole, and "other flatfish" by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and "other flatfish" fishery category in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 9, 2007, through 1200 hrs, A.l.t., July 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 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 second seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and "other flatfish" fishery category in the BSAI is 164 metric tons as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the second seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and "other flatfish" fishery category in the BSAI has been reached. Consequently, NMFS

is closing directed fishing for rock sole, flathead sole, and "other flatfish" by vessels using trawl gear in the BSAI.

"Other flatfish" includes Alaska plaice, as well as all other flatfish species except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, flathead sole, and arrowtooth flounder.

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 directed fishing for rock sole, flathead sole, and "other flatfish" by vessels using trawl 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 April 6, 2007.

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

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

Dated: April 6, 2007.

**Alan D. Risenhoover**

*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. 070213033-7033-01; I.D. 040607A]

**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.

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using pot or hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). These actions are necessary to allow the 2007 B season total allowable catch (TAC) of Pacific cod to be harvested.

**DATES:** Effective April 30, 2007, 1200 hrs, Alaska local time (A.l.t.), through 2400 hrs, A.l.t., December 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 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 2007 B season allowance of the Pacific cod TAC specified for vessels using jig gear in the BSAI is 632 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) and the adjustment of the Pacific cod TACs in the BSAI on March 5, 2007 (72 FR 10428, March 8, 2007), for the period 1200 hrs, A.l.t., April 30, 2007, through 1200 hrs, A.l.t., August 31, 2007. See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(A).

The Administrator, Alaska Region, NMFS, has determined that jig vessels will not be able to harvest 532 mt of the B season apportionment of Pacific cod allocated to those vessels under

§ 679.20(a)(7)(i)(A) and § 679.20(a)(7)(iii)(A)(3). Therefore, in accordance with § 679.20(a)(7)(ii)(C)(1), NMFS apportions 532 mt of Pacific cod from the B season jig gear apportionment to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) are revised as follows: 100 mt to the B season apportionment for vessels using jig gear and 2,853 mt to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear.

#### 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 specified for jig vessels to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear. 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 April 5, 2007.

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: April 6, 2007.

**Alan D. Risenhoover**

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

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