

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008) are revised as follows: 5,210 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, 0 mt to catcher vessels ≥ 60 feet (18.3 m) LOA using hook-and-line gear, and 260 mt to vessels using jig 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 to catcher vessels using hook-and-line or pot 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 September 5, 2008.

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: September 8, 2008.

**James P. Burgess,**

*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. 071106673-8011-02]

RIN 0648-XK39

##### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands

**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 fully use the 2008 total allowable catch (TAC) of Pacific cod allocated to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 12, 2008, through 2400 hrs, A.l.t., December 31, 2008. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 23, 2008.

**ADDRESSES:** Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-XK39," by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586-7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain

anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Hogan, 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 prohibited 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 § 679.20(d)(1)(iii) on March 21, 2008 (73 FR 15677, March 25, 2008), reopened the fishery on April 30, 2008 (73 FR 22063, April 24, 2008), and closed the fishery again on May 6, 2008 (73 FR 26339, May 10, 2008). NMFS reallocated 1,200 metric tons (mt) from jig gear on February 26, 2008 (73 FR 11562, March 4, 2008), 400 mt from jig gear on April 11, 2008 (73 FR 19748, April 11, 2008), and 577 mt from jig gear and catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear on September 5, 2008 (73 FR 51243, September 2, 2008).

NMFS has determined that as of September 5, 2008, approximately 600 mt of Pacific cod remain in the 2008 Pacific cod TAC allocated to 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)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2008 TAC of Pacific cod allocated to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI, NMFS is terminating the previous closure and is opening 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 opening is effective 1200 hrs, A.l.t., September 12, 2008, through 2400 hrs, A.l.t., December 31, 2008.

#### 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 opening of the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI. 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 and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 5, 2008.

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.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI to be

harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 23, 2008.

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: September 8, 2008.

**James P. Burgess,**

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