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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111213751-2102-02]

RIN 0648-XC202

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 amounts of Pacific cod from vessels using jig gear, catcher vessels greater than 60 feet (18.3 meters) length overall (LOA) using hook-and-line gear, and catcher vessels using trawl gear to catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2012 total allowable catch of Pacific cod to be harvested.

DATES: Effective August 28, 2012, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2012.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (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 2012 Pacific cod total allowable catch (TAC) specified for vessels using jig gear in the BSAI is 1,463 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012). The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 1,000 mt of the remaining 2012 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(1). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 1,000 mt of Pacific cod to catcher vessels less than 60 feet (18.3 meters(m)) LOA using hook-and-line or pot gear.

The 2012 Pacific cod TAC specified for catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear in the BSAI is 465 mt as established by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear will not be able to harvest 435 mt of the remaining 2012 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(3). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 435 mt of Pacific cod to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The 2012 Pacific cod total allowable catch specified for catcher vessels using trawl gear in the BSAI is 51,509 mt as established by the final 2012 and 2013 harvest

specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012). The Regional Administrator has determined that catcher vessels using trawl gear will not be able to harvest 500 mt of the 2012 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS reallocates 500 mt of Pacific cod from catcher vessels using trawl gear to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2012 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012) and inseason adjustment (77 FR 8176, February 14, 2012) are revised as follows: 463 mt for vessels using jig gear, 30 mt for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear, 51,009 mt for vessels using trawl gear, and 8,380 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot 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 from other sectors to catcher vessels less than 60 feet (18.3 m) LOA 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 August 27, 2012.

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: August 28, 2012

Lindsay Fullenkamp,

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