

(a) * * *

2. In section IV., under B. *Limited Entry Fishery*, paragraphs (3) and (5) are revised, to read as follows:

(3) *Groundfish taken with exempted trawl gear by vessels engaged in fishing for pink shrimp.*

(a)

(i) * * *

(A) * * *

(B) Starting May 1, 2001, through September 30, 2001: 200 lb (91 kg) per month.

(C) Starting October 2, 2001, taking and retaining, possessing or landing canary rockfish with exempted trawl gear by vessels engaged in fishing for pink shrimp is prohibited.

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(5) Groundfish taken with troll gear by vessels engaged in fishing for salmon north of 40°10' N lat.

Beginning October 1, the trip limits in Table 5 apply to all groundfish taken with troll gear by vessels fishing for salmon.

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Classification

These actions are authorized by the regulations implementing the FMP and the annual specifications and management measures published at 66 FR 2338 (January 11, 2001), as amended at 66 FR 10208 (February 14, 2001), at 66 FR 18409 (April 9, 2001), at 66 FR 22467 (May 4, 2001), at 66 FR 28676 (May 24, 2001), at 66 FR 35388 (July 5, 2001), and 66 FR 38162 (July 23, 2001) and are based on the most recent data available.

The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and comment on this action pursuant to 5 U.S.C. 553 (b)(3)(B), as providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the groundfish cumulative landing limit period begins on October 2, 2001, and affording additional notice and opportunity for public comment would impede the agency's responsibility under the FMP to manage groundfish fisheries to achieve OY. Increases to trip limits relieve restrictions on the public and decreases to trip limits and closures must be implemented in a timely manner to either stretch the season out as long as possible through the year or to protect overfished and depleted species. For species where cumulative landing limits have been raised, such changes would prevent a fisher from achieving the higher limit allowed during this cumulative landing limit period, thereby unnecessarily restricting

the fisher. For species where cumulative landing limits have been lowered or closed, a delay in implementing such changes would allow a fisher to achieve the pre-existing higher limits, and thus frustrate the conservation objectives of the cumulative landing limit changes, or force further reductions for the entire fleet later in the season. In short, allowing for public comment on these in-season changes and thus delaying their implementation would hinder the benefits to be obtained by making new limits effective during this cumulative landing limit period (either additional fish available to the fisher, or reduced limits to protect a species).

For these reasons, good cause also exists to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3).

These actions are taken under the authority of 50 CFR 660.323(b)(1), and are exempt from review under Executive Order 12866.

Dated: October 2, 2001.

Bruce C. Morehead,

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. 010112013-1013-01; I.D. 092501B]

Fisheries of the Exclusive Economic Zone off Alaska; 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: Reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using trawl and jig gear to vessels using hook-and-line or pot gear in the BSAI. These actions are necessary to allow the 2001 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective October 2, 2001, until 2400 hours, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management

Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands 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 at 50 CFR part 679.

The Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001) established the amount of the 2001 BSAI Pacific cod TAC as 188,000 metric tons (mt). Pursuant to § 679.20(a)(7)(i)(A), 3,478 mt was allocated to vessels using jig gear, 88,689 mt to vessels using hook-and-line or pot gear, and 81,733 mt to vessels using trawl gear. The share of the Pacific cod TAC allocated to trawl gear was further allocated 50 percent to catcher vessels and 50 percent to catcher/processor vessels (§ 679.20(a)(7)(i)(B)). The share of the Pacific cod TAC allocated to hook-and-line or pot gear was further allocated as follows: (1) 80 percent to catcher/processor vessels using hook-and-line gear; (2) 0.3 percent to catcher vessels using hook-and-line gear; (3) 18.3 percent to vessels using pot gear; and (4) 1.4 percent to catcher vessels less than 60 ft LOA that use either hook-and-line or pot gear (§ 679.20(a)(7)(i)(C)).

As of September 15, 2001, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that trawl catcher/processors will not be able to harvest 10,000 mt and trawl catcher vessels will not be able to harvest 14,000 mt of Pacific cod allocated to those vessels under § 679.20(a)(7)(i)(B). Therefore, in accordance with § 679.20(a)(7)(ii)(C), NMFS apports 24,000 mt of Pacific cod from trawl gear to vessels using hook-and-line or pot gear.

The Regional Administrator has also determined that vessels using jig gear will not harvest 3,000 mt of their Pacific cod allocation by the end of the year. Therefore, in accordance with § 679.20(a)(7)(ii)(C), NMFS is reallocating the unused amount of 3,000 mt of Pacific cod allocated to vessels using jig gear to vessels using hook-and-line or pot gear.

In accordance with § 679.20(a)(7)(ii)(C)(1), 400 mt of the combined reallocation of unused Pacific cod from trawl and jig gear is apportioned to catcher vessels using hook-and-line gear. In accordance with § 679.20(a)(7)(ii)(C)(2), the remaining combined reallocation of unused Pacific cod from trawl and jig gear, 25,600 mt,

is apportioned so that catcher/processor vessels using hook-and-line gear will receive 95 percent and vessels using pot gear will receive 5 percent of the reallocation.

The harvest specifications for Pacific cod established in the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001) are revised as follows: 478 mt to vessels using jig gear, 95,821 mt to catcher processor vessels using hook-and-line gear, 665 mt to catcher vessels using hook-and-line gear, 17,469 mt to pot gear, 30,867 mt to trawl catcher/processors, and 26,867 mt to trawl catcher vessels.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to allow the 2001 TAC of Pacific cod in the BSAI to be harvested constitutes good cause to waive the requirement to provide prior notice or opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to allow the 2001 TAC of Pacific

cod in the BSAI to be harvested constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is taken under 50 CFR 679.20 and is exempt from OMB review under Executive Order 12866.

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

Dated: September 28, 2001.

Bruce C. Morehead,

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