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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332-5039-02; I.D. 080405C]

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.

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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 2005 B season total allowable catch  
(TAC) of Pacific cod to be harvested.

DATES: Effective August 5, 2005, through 2400 hrs, Alaska local time  
(A.l.t.), December 31, 2005.

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 2005 B season allowance of the Pacific cod TAC specified for  
vessels using jig gear in the BSAI is 762 metric tons (mt) as  
established by the 2005 and 2006 final harvest specifications for  
groundfish in the BSAI (70 FR 8979, February 24, 2005), for the period  
1200 hrs, A.l.t., April 30, 2005, through 1200 hrs, A.l.t., August 31,  
2005. See Sec. 679.20(c)(3)(iii), (c)(5), and (a)(7)(i)(A). The 2005  
Pacific cod TAC specified for catcher vessels less than 60 feet (18.3  
m) LOA using pot or hook-and-line gear in the BSAI is 2,854 mt as  
established by the 2005 and 2006 final harvest specifications for  
groundfish in the BSAI (70 FR 8979, February 24, 2005), the

reallocation on April 13, 2005 (70 FR 19708, April 14, 2005) and the reallocation on May 17, 2005 (70 FR 28486, May 18, 2005).

The Administrator, Alaska Region, NMFS, has determined that jig vessels will not be able to harvest 500 mt of the B season apportionment of Pacific cod allocated to those vessels under Sec. 679.20(a)(7)(i)(A) and (a)(7)(iii)(A)(3). Therefore, in accordance with Sec. 679.20(a)(7)(ii)(C)(1), NMFS apportions 500 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 (70 FR 8979, February 24, 2005) are revised as follows: 262 mt to the B season apportionment for vessels using jig gear and 3,354 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. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 1, 2005.

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

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

Dated: August 4, 2005.

Alan D. Risenhoover,  
Acting Director, Office of Sustainable Fisheries, National Marine  
Fisheries Service.

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