

from practicing before it, where such action would be appropriate and penalizing the party represented would not be in the interest of justice.

### Subpart K—Judicial Review of Board Orders

#### § 821.64 Judicial review.

(a) *General.* Judicial review of a final order of the Board may be sought as provided in 49 U.S.C. 1153 and 46110 by the filing of a petition for review with the appropriate United States Court of Appeals within 60 days of the date of entry (*i.e.*, service date) of the Board's order. Under the applicable statutes, any party may appeal the Board's decision. The Board is not a party in interest in such appellate proceedings and, accordingly, does not typically participate in the judicial review of its decisions. In matters appealed by the Administrator, the other parties should anticipate the need to make their own defense.

(b) *Stay pending judicial review.* No request for a stay pending judicial review will be entertained if it is received by the Board after the effective date of the Board's order (*see* § 821.50(b)). If a stay action is to be timely, any request must be filed sufficiently in advance of the effective date of the Board's order to allow for a reply and Board review.

Dated: April 18, 2003.

**Ellen G. Engleman,**  
*Chairman.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021122286-3036-02; I.D. 042203A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Prohibition of retention; closure.

**SUMMARY:** NMFS is prohibiting retention of Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of Pacific cod in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the 2003 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in this area has been achieved.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 24, 2003, until 2400 hrs, A.l.t., December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 amount of the 2003 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Western

Regulatory Area of the GOA was established as 1,545 metric tons by the Final 2003 Harvest Specifications of Groundfish for the GOA (68 FR 9907, March 3, 2003).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the amount of the 2003 TAC apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of Pacific cod caught by vessels catching Pacific Cod for processing by the offshore component of the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

#### 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 contrary to the public interest. This requirement is contrary to the public interest as it would delay the prohibition of retention of Pacific cod by vessel catching Pacific cod for processing by the offshore component, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

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 23, 2003.

**Richard W. Surdi,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 03-10555 Filed 4-24-03; 3:15 pm]

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