

and to allow the catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI to harvest their Pacific cod allocation, NMFS is terminating the previous closure and is reopening 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 reopening is effective 1200 hrs, Alaska local time (A.l.t.), August 15, 2006, through 2400 hrs, A.l.t., December 31, 2006.

#### 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 July 25, 2006.

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 § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: July 31, 2006.

**Alan D. Risenhoover,**

*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. 060216045-6045-01; I.D.073106A]

#### 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 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 2006 A and B season total allowable catch (TAC) of Pacific cod to be harvested.

**DATES:** Effective August 3, 2006, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 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 2006 A and B season allowance of the Pacific cod TAC specified for vessels using jig gear in the BSAI totals 389 metric tons (mt) for the period 1200 hrs, A.l.t., April 30, 2006, through 1200 hrs, A.l.t., August 31, 2006. This amount is established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006); the adjustment of the Pacific cod TACs in the BSAI on March 14, 2006 (71 FR 13777, March 17, 2006), and reallocations on March 24, 2006 (71 FR 14825, March 24, 2006) and May 1, 2006 (71 FR 25508, May 1, 2006). See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(A).

The Acting Administrator, Alaska Region, NMFS, has determined that jig

vessels will not be able to harvest 296 mt of the A and B season apportionment of Pacific cod allocated to those vessels under § 679.20(a)(7)(i)(A) and § 679.20(a)(7)(iii)(A)(3). Therefore, in accordance with § 679.20(a)(7)(ii)(C)(1), NMFS apportions 296 mt of Pacific cod from the A and 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 (71 FR 10894, March 3, 2006) are revised as follows: 93 mt to the B season apportionment for vessels using jig gear and 3,232 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. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and 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 July 25, 2006.

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: July 31, 2006.

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 679 and 680

[Docket No. 060424108-6204-02; I.D. 040706A]

RIN 0648-AT43

#### Fisheries of the Exclusive Economic Zone Off Alaska; Cost Recovery Program for North Pacific Halibut, Sablefish, and Bering Sea and Aleutian Islands Crab Individual Fishing Quota Programs

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to amend the Individual Fishing Quota (IFQ) Cost Recovery Program for the Halibut and Sablefish IFQ and the Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Programs. This action modifies the procedure NMFS uses to publish notification of adjustment of the IFQ fee percentage for the IFQ Cost Recovery Program in the Halibut and Sablefish IFQ and the Crab Rationalization Programs. This action is necessary to provide timely and efficient notice of fee obligations while ensuring consistency with all applicable statutes. This action is intended to improve the fee collection methods required for all Alaska IFQ programs under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and is necessary to promote the objectives of the Magnuson-Stevens Act with respect to the IFQ fisheries managed by NMFS in the Alaska Region.

**DATES:** Effective on September 5, 2006.

**ADDRESSES:** Copies of the Categorical Exclusion (CE), regulatory impact review (RIR), and regulatory flexibility certification prepared for this action are available from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Walsh, or from NMFS, Alaska Region, 709 West 9th Street, Room 453, Juneau, AK 99801, or by calling the Sustainable Fisheries

Division, Alaska Region, NMFS, at 907-586-7228.

**FOR FURTHER INFORMATION CONTACT:**

Bubba Cook, 907-586-7425 or [bubba.cook@noaa.gov](mailto:bubba.cook@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

#### Halibut and Sablefish IFQ Cost Recovery

On March 20, 2000, NMFS published regulations (65 FR 14919) implementing the IFQ Cost Recovery Program for IFQ landings of halibut and sablefish (set forth at 50 CFR 679.45). Under the regulations, an IFQ permit holder incurs a cost recovery fee liability for every pound of IFQ halibut and IFQ sablefish that is landed under his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee liability for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder also is responsible for submitting a fee liability payment to NMFS on or before the due date of January 31, following the year in which the IFQ landings were made. For each permit, the dollar amount of the fee due is determined by multiplying the annual IFQ fee percentage (3 percent or less) by the ex-vessel value of each IFQ landing. If the permit holder has more than one permit, the total amounts of each permit are added.

Section 304(d)(2)(B) of the Magnuson-Stevens Act sets a maximum fee of 3 percent of the ex-vessel value of fish harvested under an IFQ program. Current regulations allow NMFS to reduce the fee percentage if actual management and enforcement costs are recoverable through a lesser percentage. NMFS will not know the actual annual costs of IFQ-related management and enforcement until after the end of each Federal fiscal year (September 30). If the management and enforcement costs total less than the 3 percent fee, NMFS will reduce the fee percentage for the new Federal fiscal year. Fishermen will not know at the time they sell their IFQ fish exactly what fee percentage will be applied to their IFQ landings made from February (season opening) through September (Federal fiscal year-end). Therefore, NMFS encourages IFQ permit holders to set aside the full 3 percent throughout the fishing year so a lump sum payment may be made by January 31 of the following calendar year. Early payments are allowed but do not relieve a permit holder of associated reporting requirements.

#### Crab Rationalization Cost Recovery

In 2005, section 313(j) of the Magnuson-Stevens Act provided supplementary authority to section

304(d)(2)(A) and additional detail for cost recovery provisions specific to the Crab Rationalization Program. As a quota program, the Crab Rationalization Program must follow the statutory provisions set forth by section 304(d) and section 313(j) of the Magnuson-Stevens Act.

Section 313(j) requires the Secretary to approve a cost recovery program for the Crab Rationalization Program, conducted in accordance with the existing Halibut and Sablefish IFQ cost recovery program. Similar to the Halibut and Sablefish IFQ cost recovery program, the Crab Rationalization cost recovery program allows for the collection of actual management and enforcement costs up to 3 percent of ex-vessel gross revenues and a loan program using 25 percent of the fees collected.

Section 313(j) includes specific cost recovery requirements to accommodate the crab processing industry and to address problems experienced under the Halibut and Sablefish IFQ cost recovery program. This section provides NMFS the authority to collect 133 percent of the actual costs of management and enforcement. By collecting 133 percent, 25 percent of that amount can be set aside for the IFQ loan program, authorized by section 303(d)(4), and the remaining 75 percent more fully reimburses the management and enforcement costs of the program. Additionally, section 313(j) requires cost recovery fees to be paid in equal shares by the harvesting and processing sectors. Catcher/Processors, a combination of both sectors, pay the full fee percentage.

NMFS developed the Crab Rationalization cost recovery program to conform with statutory requirements and to partially compensate the agency for the unique added costs of management and enforcement of the Crab Rationalization Program. Key provisions of the Crab Rationalization cost recovery program include (1) a new definition and application of "fee liability"; (2) the establishment of a Registered Crab Receiver (RCR) permit system to streamline management and reporting; (3) the establishment of a "crab fishing year" for biological and administrative purposes; and (4) a new administrative process that requires the collection and submission of fees by RCRs rather than requiring separate billings to each person that receives a crab allocation (crab allocation holder). The crab allocations include IFQ, Crew IFQ, Individual Processing Quota (IPQ), Community Development Quota (CDQ), and the Adak community allocation.