

rule to require advanced air bags (Docket No. NHTSA-00-7013). The rule amended Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*, to require that future air bags be designed so that, compared to current air bags, they create less risk of serious air bag-induced injuries, particularly for small women and young children, and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology.

One means of compliance with part of the advanced air bag regulation is to turn off the passenger air bag by means of a weight sensor and/or some other method of detecting the presence of children. To test the ability of those means to detect the presence of children, the rule specifies that child test dummies be placed in child restraint systems (CRSs) or seats that are in turn placed on the passenger seats. Optionally, for infants in rear facing CRSs, compliance can also be achieved by placing a dummy representing a 12-month-old child in a CRS and assuring that the air bag deploys in a benign

manner. Appendix A of FMVSS No. 208 provides a list of CRSs to be used for these compliance tests. The list published with the May 12, 2000 final rule contained 1 car bed, 11 rear-facing seats, 7 convertible seats, and 4 booster seats for a total of 23.

On December 18, 2001, a new FMVSS No. 208 Final Rule was published in response to petitions for reconsideration to the May 12, 2000, Final Rule. A new Appendix A was published as part of this new rule. All seats that were known to be out of production were removed from the list. Replacement seats were added to the list. The number of rear-facing CRSs was reduced by one and the total number of CRSs in Appendix A became 22.

On November 19, 2003, the agency published a document that responded, in part, to petitions for reconsideration to the December 18, 2001, FMVSS No. 208 Final Rule. It addressed detailed dummy and seat positioning issues and other test procedure clarifications presented in the petitions for reconsideration. It also began to deal with issues associated with child restraints specified in Appendix A of

FMVSS No. 208. The agency also addressed the methodology for regular updates to Appendix A.

II. The Petition

The Evenflo Company, Inc., petitioned NHTSA to remove specific Evenflo CRS models from Appendix A of FMVSS No. 208 and change the model number designation of another model. There are currently six Evenflo products in Appendix A. One of these products is a booster seat, which Evenflo is not requesting to have removed from the list. On August 30, 2002, Evenflo discontinued production of all CRSs that were not LATCH compliant in accordance with the requirements of S5.9 of FMVSS No. 213. In its petition, Evenflo recommended replacement seats for the five for which removal was requested. The out-of-production seats and the suggested LATCH compliant seats are shown in Table 1. The third column in Table 1 indicates the similarity, noted by Evenflo, between the out-of-production seats and the suggested replacement seats.

TABLE 1

Out-of-production	LATCH seats	Similarity noted by Evenflo
Rear Facing Infant		
204 First Choice	381 Tot Taxi	Base not removable.
282 On My Way Position Right V	386 Port About 5	Equivalent in size.
212 Discovery Adjust Right	316 Discovery	Same seat with LATCH.
Convertible Seats		
425 Horizon V	379 Tribute	Equivalent in size.
254 Medallion	359 Triumph 5	Equivalent in size and 5 pt. Harness.

III. Discussion and Analysis

Evenflo requested that five out-of-production CRSs that it manufactures be removed from Appendix A and replaced. The On My Way Position Right V has already been removed from the list, so four now remain. Evenflo is not unique among the CRS manufacturers represented in Appendix A. The agency understands that since all CRSs except car beds and booster seats must now be LATCH compliant, many of the CRSs in Appendix A are no longer in production in a non-LATCH form. In response to petitions for reconsideration of the December 18, 2001, FMVSS No. 208 Final Rule, we published a notice addressing the issue of how to update Appendix A. The notice addressed the concerns expressed in Evenflo's petition. Therefore, we are

denying the Evenflo petition because it is redundant.

Authority: 49 U.S.C. 30162; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8

Issued on: December 8, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307-3037-02; I.D. 120503A]

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

SUMMARY: NMFS is rescinding a previous action that reallocated Pacific

cod among gear types and is reallocating the currently projected unused amount of Pacific cod from vessels using trawl and jig gear to catcher/processor vessels using hook-and-line gear and vessels using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). These actions are necessary to allow the 2003 total allowable catch (TAC) of Pacific cod to be harvested in accordance with regulations at 50 CFR part 679.

DATES: Effective December 8, 2003, until 2400 hours, A.l.t., December 31, 2003.

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 50 CFR part 679.

Effective November 26, 2003, NMFS reallocated the projected unused amount of Pacific cod from vessels using trawl and jig gear to vessels using hook-and-line gear in the BSAI (68 FR 67379, December 2, 2003). As of December 2, 2003, based on revised catch amounts, NMFS has determined that catcher vessels using trawl gear have already harvested all but 1,671 mt originally apportioned to them by the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003). This reduces the projected unused amount available to catcher/processor vessels using hook-and-line gear by 4,113 metric tons (mt) and to vessels using pot gear by 216 mt. Therefore, NMFS is rescinding the previous action and reallocating the projected unused amount of Pacific cod as follows.

The 2003 BSAI Pacific cod TAC was established by the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003) as 191,938 metric tons. Pursuant to § 679.20(a)(7)(i)(A), 3,839 mt was allocated to vessels using jig gear, 97,388 mt to vessels using hook-and-line or pot gear as a directed fishing allowance, and 90,211 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 80 percent to catcher/processor vessels using hook-and-line gear; 0.3 percent to catcher vessels using hook-and-line gear; 18.3 percent to vessels using pot gear; and 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)).

As of December 2, 2003, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that trawl catcher/processors will not be able to harvest 11,500 mt and trawl catcher vessels will not be able to harvest 1,671 mt of Pacific cod allocated to those vessels under 679.20(a)(7)(i)(B). Therefore, in accordance with § 679.20(a)(7)(ii), NMFS apportions 13,171 mt of Pacific cod from trawl gear to catcher/processor vessels using hook-and-line gear and vessels using pot gear.

The Regional Administrator has determined that vessels using jig gear will not harvest 3,600 mt of their Pacific cod allocation by the end of the year. Therefore, in accordance with § 679.20(a)(7)(ii), NMFS is reallocating the unused amount of 3,600 mt of Pacific cod allocated to vessels using jig gear to catcher/processor vessels using hook-and-line gear and vessels using pot gear.

In accordance with § 679.20(a)(7)(i)(C)(2), the combined reallocation of unused Pacific cod from jig gear and trawl gear, 16,771 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 included in the harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003) are revised as follows: 239 mt to vessels using jig gear, 93,843 mt to catcher processor vessels using hook-and-line gear, 18,661 mt to vessels using pot gear, 33,605 mt to trawl catcher/processors, and 43,434 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, (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 implementation of these measures in a timely fashion in order to allow full

utilization of the Pacific cod 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 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: December 8, 2003.

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. 021212307-3037-02; I.D. 120403C]

Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Vessels Using Pot Gear in the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific cod allocated to vessels using pot gear in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 9, 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 BSAI 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