

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 011218304-2062-02; I. D. 121701A]

RIN 0648-AP69

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures and 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries off Alaska; Amendment and Correction

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

ACTION: Emergency interim rule; amendment, correction, and request for comments.

SUMMARY: This document amends and corrects a January 8, 2002, emergency interim rule implementing Steller sea lion protection measures and 2002 harvest specifications for the Alaska groundfish fisheries by making corrections to the preamble and regulatory text. Preamble corrections are needed to accurately describe the regulatory text and to correct typographical errors. Regulatory amendments and revisions are needed to clarify the intent of requirements and to correct cross references.

DATES: Effective May 1, 2002, except for the correction of § 679.7(a)(18), the suspension of § 679.28(f)(3)(ii), and the correction of § 679.28(f)(3)(viii), which will be effective 1200 hours A.l.t. on June 10, 2002, through July 8, 2002, and the suspension of § 679.7(f)(8), the addition of § 679.7(f)(16), the suspension of § 679.28(f)(3)(iv), the addition of § 679.28(f)(3)(ix), the suspension of § 679.50(c)(4)(vi)(B), and the addition of § 679.50(c)(4)(vi)(C), which will be effective May 1, 2002 through July 8, 2002.

Comments must be received on or before 5 p.m., A.l.t., May 31, 2002.

ADDRESSES: Comments must be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel-Durall, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Supplemental Environmental Impact Statement on Steller Sea Lion Protection Measures in

the Federal Groundfish Fisheries Off Alaska (SEIS), including the 2001 biological opinion and regulatory impact review, and the Environmental Assessment (EA) for the Total Allowable Catch for the Year 2002 Alaska Groundfish Fisheries may be obtained from the same address. The SEIS and EA are also available on the NMFS Alaska Region home page at <http://www.fakr.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

Melanie Brown, NMFS, 907-586-7228 or e-mail at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: The emergency interim rule published January 8, 2002 (67 FR 956), implements Steller sea lion protection measures and final 2002 harvest specifications for the groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI) and the Gulf of Alaska (GOA). As published, the final rule inadvertently contained errors in the preamble and regulatory text. This document corrects the preamble and amends and revises regulatory text and tables.

Corrections to the Preamble

This document corrects the preamble to clarify the definition of the harvest limit area (HLA) for the Atka mackerel platoon fisheries and to clarify the geographical extent of the Atka mackerel directed fishing restrictions in Bering Sea critical habitat areas. First, NMFS notes that the definition of the HLA at § 679.2 includes critical habitat around Tanaga Island/Bumpy Point extending west of 178° W. long., even though the site is located east of 178° W. long. The preamble is corrected to include within the HLA these waters of Tanaga Island/Bumpy Point critical habitat.

In addition, Atka mackerel directed fishing closure east of 178° W long. was erroneously described as “west” of 178° W. long. in the preamble to the emergency interim rule. This error is corrected by this action.

NMFS further notes that § 679.22 imposes Atka mackerel directed fishing restrictions in the Bering Sea critical habitat areas only for those critical habitat waters within 20 nautical miles (nm) of listed rookeries and haulouts located in the Bering Sea subarea. These corrections will make the preamble language consistent with the regulatory text at § 679.22. A large portion of the Steller Sea Lion Conservation area (SCA) also is listed as critical habitat in the Bering Sea under 50 CFR 226.202, but this was not intended by the Council or NMFS to be included in the Atka mackerel directed fishing critical habitat closures. The preamble in the

January 8, 2002, emergency interim rule did not explain that the regulation excludes the SCA waters from the Atka mackerel critical habitat closures in the Bering Sea subarea.

The language regarding the nontrawl Pacific cod fishing season is corrected and expanded to include the description of the seasons consistent with the regulatory text at § 679.23. This expanded description was erroneously omitted from the preamble.

The language describing the State of Alaska restrictions around rookeries is corrected to clarify that the State restricts only commercial fishing around these rookeries, rather than the transit of vessels.

The heading on Table 5 for the “A season” was erroneously printed above only the “A DFA (40% of annual DFA)” column heading. The “A season” column heading should also appear above the “SCA” column heading and is extended over this column by this correction.

The year in the title to Table 7 reads “2001” and is corrected to read “2002”. Footnote 2 to Table 7 has a typographical error that is also corrected with this action.

Table 9 included a footnote 7 stating that unused halibut PSC for Pacific cod vessels using nontrawl gear would be available in the following season. The Council and NMFS intend that no halibut PSC should be available from June 10 through August 15 because of high halibut bycatch rates at this time of the year. Should this emergency interim rule be extended, unused portions of halibut PSC may be available during the following season after August 15.

Table 12 did not indicate the full A season allocation in the SCA for cooperative sector vessels equal to or less than 99 ft (30.2 m) length overall (LOA). This document corrects the amounts for all cooperative sector vessels for the A season inside the SCA.

The footnote to Table 24 did not accurately describe the time period of no apportionment for Pacific halibut prohibited species catch limits. The footnote describes the time period as the “4th quarter” which is the period from September 1 through October 1. No apportionment for the shallow-water and deep-water fishery complexes is available during October 1 through December 31. This document corrects the footnote to describe the correct apportionment period.

Corrections and Amendments to the Regulatory Text in the Emergency Interim Rule

In § 679.2, the definition of the harvest limit area (HLA) is corrected to

include the sites located west of 177° 57.00' W. long. The coordinate in the definition was intended to include all of Tanaga Island/Bumpy Point. The definition, which was intended to include all of Tanaga Island/Bumpy Point, did not take into account the eastern boundary coordinate for Tanaga Island/Bumpy Point.

Section 679.7(a) is corrected to clarify the vessel monitoring system (VMS) requirement and fishing prohibition. The reference to gear types is removed because the information exists in § 679.4. The prohibition is corrected to include the operation of a vessel rather than conducting directed fishing for groundfish or IFQ halibut to ensure that all vessels endorsed for the Pacific cod, pollock, or Atka mackerel directed fisheries are subject to the prohibition, even while harvesting fish of other species such as crab, salmon, or lingcod. This also ensures that a vessel unloading fish or processing fish in port will also be required to operate its VMS. The prohibition is also made applicable in the BSAI and GOA reporting area by this correction, so that State of Alaska waters are included in the area covered by this prohibition as intended by NMFS and the Council. A vessel endorsed for the Pacific cod, Atka mackerel, or pollock fishery must operate VMS when the fishery the vessel is endorsed for is open so that NMFS is able to monitor compliance with the closures in waters, including the State of Alaska waters, around haulouts, rookeries, and foraging areas.

Section 679.7(f) is amended to clarify the prohibition against discard of Pacific cod for participants in the IFQ halibut fishery. If a vessel is registered under § 679.4 to directed fish for Pacific cod, then it is required to retain all catches of Pacific cod if the directed fishery is open, and up to the maximum retainable amount (MRA) if the directed Pacific cod fishery is closed. If a vessel used in the IFQ halibut fishery is not registered for the Pacific cod directed fishery, it is required to discard Pacific cod once the amount of Pacific cod harvested has reached the MRA specified at § 679.20. This paragraph is amended to state that vessels not registered for the Pacific cod directed fishery are not prohibited from discarding Pacific cod.

Section 679.20 (a)(7)(ii)(D) and (a)(7)(ii)(E) describe methods of reallocating unused Pacific cod trawl allocations and contain incorrect or incomplete allocation references. Paragraph (a)(7)(ii)(D) did not include a reference to paragraph (a)(7)(iii)(D) which establishes the seasonal apportionments and gear allocations

applicable to reallocation under this paragraph. Paragraph (a)(7)(ii)(E) contains an erroneous reference to Pacific cod non-trawl gear allocations, which is not applicable to trawl gear reallocations. This action corrects these reallocation paragraphs to reference only those paragraphs establishing applicable trawl allocations.

In § 679.22(a)(11)(v), an “and” instead of an “or” was erroneously used in listing the gear types subject to the regulation. The closure implemented by § 679.22(a)(11)(v) applies to vessels using any one of the gear types listed rather than all of the gear types listed. This error is corrected by revising this paragraph.

Section 679.22(b)(3)(iii) is revised to specify those vessels that are prohibited from directed fishing for Pacific cod in the Pacific cod no fishing zones. The closure applies to all vessels in these zones within the exclusive economic zone and to vessels that have been issued Federal fishery permits and are participating in the State of Alaska parallel groundfish fisheries. However, vessels with Federal fisheries permits participating in the State-managed Pacific cod fishery are not prohibited from fishing in the Pacific cod no fishing zones in the GOA. The Steller sea lion protection measures were not intended to apply to the State-managed Pacific cod fishery, and this correction clarifies the application of the Pacific cod no fishing zones.

Section 679.28(f)(3) is amended to clarify the VMS reporting and transmission confirmation requirements for vessels that will initially enter a fishery that requires VMS and for vessels that may replace a VMS. Paragraph (f)(3)(ii) is suspended starting June 10, 2002, because requirements in this paragraph are clarified and contained in § 679.28(f)(3)(viii). As part of the reasonable and prudent measures in the 2001 Biological Opinion, NMFS is required to monitor the location of vessels with Federal Fisheries permit endorsements for the Atka mackerel, pollock, and Pacific cod directed fisheries. The vessel owner is required to provide information specified in § 679.28(f)(3)(viii) by FAX and receive confirmation that the VMS transmission is being received before operating his or her vessel during an open directed fishery for which the vessel is endorsed. For vessels that are initially entering a fishery that requires VMS, the vessel owner will be required to receive confirmation of transmission 72 hours before leaving port to allow time to make repairs or to ensure that the transmission is being received before the vessel enters the fishing grounds.

Because a number of vessels with Pacific cod Federal Fishery Permit endorsements may also participate in other commercial fisheries, including crab, salmon, or lingcod, the correction includes the notification of when the vessel will begin operation, consistent with the prohibition on operation without a VMS under § 679.7(a)(18). A vessel may not operate in a BSAI or GOA reporting area until the transmission is confirmed, consistent with § 679.7(a)(18). Section 679.28(f)(3)(iv) is suspended and § 679.28(f)(3)(ix) is added to clarify that a vessel is required to stop fishing when informed only by an authorized officer that position reports are not being received, rather than being informed by NMFS staff.

Section 679.50(c)(4)(vi)(B) is amended to clarify that the observer requirement applies to motherships and catcher/processors participating in a directed CDQ fishery. The paragraph as promulgated in the January 8, 2002, emergency interim rule applies to all motherships and catcher/processors instead of to only those processor vessels participating in the CDQ program.

In Table 23 of this part, footnote 11 describing the Pacific cod trawling closures during the Atka mackerel HLA directed fishery does not accurately describe the waters where the closures apply. The 20-nm closure around Gramps Rock was intended by the Council and NMFS only for waters west of 178° W. long. The footnote is corrected by this action. Also, the table heading on the last page of Table 23 is removed as it contains no data. Only the remaining text of footnote 5 though footnote 11 should be carried over.

Corrections

In the emergency interim rule implementing Steller sea lion protection measures and final 2002 harvest specifications for the groundfish fisheries of the BSAI and the GOA, published on January 8, 2002 (67 FR 956, FR Doc. 01-32251), corrections are made as follows:

1. On page 961, column 1, in the last two lines of paragraph 3, (h) is corrected to read as follows: “... and (h) no directed fishing with trawl gear for Atka mackerel in critical habitat east of 178° W. long.”

2. On page 961, column 2, in the continuation of paragraph 4, the last two lines are corrected to read as follows: “... and (f) closure of all BS subarea critical habitat within 20 nm of rookeries and haulouts to directed fishing for Atka mackerel with trawl gear.”

3. On page 965, column 1, in the first complete paragraph, the second sentence is corrected to read as follows: "For purposes of Atka mackerel platooning and for restriction of directed fishing for Pacific cod with trawl gear during the Atka mackerel HLA directed fishery, the definition of the HLA is waters located west of 178° long, within 20 nm seaward of Steller sea lion sites listed in Table 24 of 50 CFR part 679 and located west of 177°57.00 W. long."

4. On page 965, column 1, in the second complete paragraph, the first sentence is corrected to read as follows: "Atka mackerel directed fishing is prohibited in the Seguam foraging area and critical habitat surrounding rookeries and haulouts, east of 178° W.

long. to provide maximum protection to Steller sea lions and because Atka mackerel is readily available in waters outside of critical habitat."

5. On page 965, column 3, paragraph 5, the fourth sentence is corrected to read as follows: "The B season for vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear and vessels using jig gear in the BSAI begins at 1200 hours, A.l.t., on June 10 and ends on December 31. The B season for vessels using hook-and-line, pot, or jig gear in the GOA and vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear in the BSAI begins at 1200 hours, A.l.t., on September 1 and ends on December 31."

6. On page 967, column 2, the first paragraph, the last sentence is corrected

to read as follows: "The State-managed and State parallel fisheries through emergency orders and regulations prohibit commercial fishing in waters within 3 nm of all of the rookeries listed on Table 21."

7. On page 968, column 1, under the Bering Sea Closures section, paragraph 1, the first sentence is corrected to read as follows: "1. Directed fishing for Atka mackerel by federally permitted vessels using trawl gear is prohibited in critical habitat within 20 nm of rookeries and haulouts in the Bering Sea subarea."

8. On page 974, Table 5 is corrected so that the "A season" heading appears above both the "A DFA" and the "SCA limit" columns to read as follows:

BILLING CODE 3510-22-S

TABLE 5.—ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE (DFA) TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS¹
[All amounts are in metric tons]

Area and Sector	2002 DFA	A Season ¹		B Season ^{1,2}
		A DFA (40% of Annual DFA)	SCA limit ³	B DFA (60% of Annual DFA)
Bering Sea subarea	1,485,000	594,000		891,000
CDQ	148,500	59,400	41,580	89,100
ICA ⁴	53,460	-----	-----	-----
AFA Inshore	641,520	256,608	179,626	384,912
AFA C/Ps ⁵	513,216	205,286	143,700	307,930
Catch by C/Ps	469,593	187,837	-----	281,756
Catch by CVs ⁵	43,623	17,449	-----	26,174
Restricted C/P cap ⁶	2,566	1,026	-----	1,540
AFA Motherships	128,304	51,322	35,925	76,982
Excessive shares cap ⁷	224,532	-----	-----	-----
Aleutian Islands				
ICA ⁸	900			
Bogoslof District				
ICA ⁸	90			

¹After subtraction for the CDQ reserve and the incidental catch allowance, the pollock TAC is allocated as a DFA as follows: inshore component - 50 percent, catcher/processor component - 40 percent, and mothership component - 10 percent. Under paragraph 206(a) of the AFA, the CDQ reserve for pollock is 10 percent. NMFS, under regulations at § 679.24(b)(4), prohibits nonpelagic trawl gear to engage in directed fishing for non-CDQ pollock in the BSAI. The A season, January 20 - June 10, is allocated 40 percent of the DFA and the B season, June 10 - November 1 is allocated 60 percent of the DFA.

²This emergency interim rule expires on July 8, 2002, before the B season will conclude. Therefore, the B season is not fully authorized unless the emergency interim rule is extended or superceded.

³The SCA limits harvest to 28 percent of each sectors annual DFA until April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

⁴The pollock incidental catch allowance for the BS subarea is 4 percent of the TAC after subtraction of the CDQ reserve.

⁵Subsection 210(c) of the AFA requires that not less than 8.5 percent of the directed fishing allowance allocated to listed catcher/processors (C/Ps) shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed catcher/processors.

⁶The AFA requires that vessels described in section 208(e)(21) be prohibited from exceeding a harvest amount of one-half of one percent of the directed fishing allowance allocated to vessels for processing by AFA catcher/processors.

⁷Paragraph 210(e)(1) of the AFA specifies that "No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery."

⁸Consistent with the Steller sea lion protection measures, the Aleutian Islands subarea and the Bogoslof District are closed to directed fishing for pollock. The amounts specified are for incidental catch amounts only, and are not apportioned by season or sector.

9. On pages 975 and 976, in the title to Table 7, the year "2001" is corrected to read "2002".

10. On page 976, Table 7, the last sentence in footnote 2 is corrected to read as follows: "Any unused portion of a seasonal Pacific cod allowance will be reapportioned to the next seasonal allowance."

11. On page 978, Table 9, footnote 7 is corrected to read as follows: "With the exception of the nontrawl Pacific cod directed fishery, any unused halibut PSC apportionment may be added to the following season's apportionment. Any unused halibut PSC apportioned to the nontrawl Pacific cod directed fishery during the January 1 through June 10 time period will not be available until after August 15."

12. On page 980, Table 12, in the third column of the table under the heading the A season inside SCA in the first line, "161,601" is corrected to read "154,025" and in the second line, "17,675" is corrected to read "25,250".

13. On page 992, Table 24, the footnote is corrected to read as follows: "No separate apportionment to shallow-water and deep-water fishery complexes during October 1 to December 31."

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this amendment is necessary for the conservation and management of the groundfish fisheries of the BSAI and GOA. The Regional Administrator also has determined that this amendment is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws. No relevant Federal rules exist that may duplicate, overlap, or conflict with this action.

This amendment has been determined to be not significant for purposes of Executive Order 12866.

Consistent with the National Environmental Policy Act (NEPA), NMFS prepared an EA for the total allowable catch specifications portion of the January 8, 2002, emergency interim rule. NMFS also prepared an SEIS for the Steller sea lion protection measures; a notice of availability of the draft SEIS was published in the Federal Register on August 31, 2001 (66 FR 45984). Comments were received and responded to in the final SEIS and the final document was issued November 23, 2001 (66 FR 58734). The final SEIS and EA are available from NMFS (see ADDRESSES). Based on a comparison of the effects of the other alternatives in the SEIS, NMFS determined that this action meets the requirements of the Endangered Species Act (ESA) with

regard to Steller sea lion protection. Potential adverse impacts on marine mammals resulting from fishing activities conducted under the emergency interim rule (67 FR 956, January 8, 2002) are discussed in the EA and final SEIS. The corrections and amendments in this action are within the scope of these NEPA analyses.

A formal section 7 consultation under the ESA was initiated for the emergency interim rule (67 FR 956, January 8, 2002) under the FMPs for the groundfish fisheries of the BSAI and the GOA. In a biological opinion dated October 17, 2001, NMFS determined that fishing activities conducted under the Steller sea lion protection measures implemented by the emergency interim rule (67 FR 956, January 8, 2002) are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. The determination based on biological opinions dated December 22, 1999, and December 23, 1999, was extended for 1 year from January 1, 2002, to January 1, 2003, for purposes of the harvest specifications implemented by the January 8, 2002, emergency interim rule. These amendments and corrections are consistent with the objectives for Steller sea lion protection measures implemented in 2001 under section 209(c)(6) of Pub. L. 106-554, the ESA, and other applicable laws, and will not affect listed species or critical habitat in any manner not previously evaluated in prior consultations.

By this action, NMFS is correcting the 2002 harvest specifications and Steller sea lion protection measures which have been in effect since January 1, 2002, for the BSAI and GOA. These amendments and corrections clarify to whom and where the regulations apply and eliminate inconsistencies in regulations for activities currently being conducted pursuant to emergency regulations, published on January 8, 2002, (67 FR 956). A delay in implementing these corrections and amendments would continue to impose inconsistent regulatory requirements on regulated fishermen. Additionally, if prior notice and an opportunity for public comment was afforded, the underlying rule being amended and corrected by this rule might no longer be effective and then the changes implemented by this emergency interim rule might be moot. Accordingly, good cause exists to forego public notice and comment pursuant to 5 U.S.C. 553(b)(3). For the same reasons, good cause exists to waive the delay in the effective date pursuant to 5 U.S.C. 553(d)(3). Because prior notice and opportunity for public

comment are not required for this amendment to the emergency interim rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are not applicable. Therefore, a regulatory flexibility analysis has not been prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 25, 2002.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679--FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

§ 679.2 [Corrected]

2. On page 999, in the second column, in § 679.2, in the definition for Harvest limit area, the last line, the coordinate "177.58° W. long." is corrected to read "177°57.00' W. long."

3. On page 999, beginning in the third column, in § 679.7, paragraph (a)(18) is corrected to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(18) *Pollock, Pacific cod, and Atka mackerel directed fishing and VMS* (applicable 1200 hours A.l.t., June 10, 2002, through July 8, 2002). Operate a vessel which is authorized under § 679.4 (b)(5)(v) to participate in the Atka mackerel, Pacific cod or pollock directed fisheries in any BSAI or GOA reporting areas, unless the vessel carries an operable NMFS-approved Vessel Monitoring System (VMS) transmitter and complies with the requirements in § 679.28(f).

* * * * *

4. In § 679.7, paragraph (f)(8) is suspended May 1, 2002, through July 8, 2002, and paragraph (f)(16) is added May 1, 2002, through July 8, 2002, to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) * * *

(16) (Applicable May 1, 2002, through July 8, 2002) Discard Pacific cod or

rockfish that are taken when IFQ halibut or IFQ sablefish are on board, unless:

- (i) Pacific cod or rockfish are required to be discarded under § 679.20,
- (ii) the vessel is not registered under § 679.4 for the Pacific cod directed fishery and the amount of Pacific cod harvested has reached the maximum retainable amount under § 679.20(e), or
- (iii) in waters within the State of Alaska, Pacific cod or rockfish are required to be discarded by laws of the State of Alaska.

* * * * *

5. In § 679.20, paragraphs (a)(7)(ii)(D) and (a)(7)(ii)(E) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

- (a) * * *
- (7) * * *
- (ii) * * *

(D) *Reallocation within the trawl sector* (applicable through July 8, 2002). If, during a fishing season, the Regional Administrator determines that either catcher vessels using trawl gear or catcher/processors using trawl gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocation to those vessels under paragraphs (a)(7)(i), (a)(7)(ii)(C) or (a)(7)(iii)(D) of this section, he/she may reallocate the projected unused amount of Pacific cod to vessels using trawl gear in the other trawl component through notification in the **Federal Register** before any reallocation to vessels using other gear type(s).

(E) *Unused seasonal allowance for trawl* (applicable through July 8, 2002). Any unused portion of a seasonal allowance of Pacific cod for vessels using trawl gear under paragraphs (a)(7)(ii)(D) and (a)(7)(iii)(D) of this section may be reapportioned by the Regional Administrator, through notification in the **Federal Register**, to the subsequent seasonal allocations for vessels using trawl gear.

* * * * *

6. In § 679.22, paragraphs (a)(11)(v) and (b)(3)(iii) are revised to read as follows:

§ 679.22 Closures.

- (a) * * *
- (11) * * *

(v) *Pacific cod closures*. Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-

line, or pot gear is prohibited within the Pacific cod no fishing zones around selected sites. These sites and gear types are listed on Table 23 of this part and are identifiable by "BS" in column 2.

* * * * *

- (b) * * *
- (3) * * *

(iii) *Pacific cod closures*. Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear in the federally managed Pacific cod or State of Alaska parallel groundfish fisheries, as defined in the Alaska Administrative Code (5 AAC 28.087(c), January 3, 2002), is prohibited within Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by "GOA" in column 2.

* * * * *

7. In § 679.28, paragraph (f)(3)(ii) is suspended 1200 hours A.l.t., June 10, 2002, through July 8, 2002, paragraph (f)(3)(iv) is suspended May 1, 2002, through July 8, 2002, and paragraph (f)(3)(ix) is added effective May 1, 2002, through July 8, 2002, to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

- (f) * * *
- (3) * * *

(ix) (Effective May 1, 2002, through July 8, 2002) Stop fishing immediately if informed by an authorized officer that NMFS is not receiving position reports from the VMS transmitter.

8. On page 1004, in the first column, in § 679.28, paragraph (f)(3)(viii) is corrected to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

- (f) * * *
- (3) * * *

(viii) (Applicable 1200 hours A.l.t., June 10, 2002, through July 8, 2002) Reporting and transmission confirmation requirements for vessels endorsed under § 679.4(b)(5)(v) and installing a VMS:

(A) For vessels initially entering a fishery which requires VMS:

(1) Provide to NMFS Enforcement Division by FAX the VMS transmitter(s) ID and the vessel ID on which the VMS(s) are used.

(2) At least 72 hours before leaving port, activate the VMS transmitter and

call NMFS Enforcement Division at 907-586-7225 between the hours of 0800 hours, A.l.t., and 1630 hours, A.l.t. to receive confirmation that the VMS transmissions are being received.

(B) For all other vessels endorsed under § 679.4(b)(5)(v) and installing a VMS:

(1) If the vessel is switching its VMS transmitters, provide to NMFS Enforcement Division by FAX the following information: the VMS transmitter ID, and the ID of the vessel on which the VMS will be used.

(2) Activate the VMS transmitter and call NMFS Enforcement Division at 907-586-7225 between the hours of 0800 hours, A.l.t., and 1630 hours, A.l.t. to receive confirmation that the VMS transmissions are being received.

(C) No vessel required to carry a VMS pursuant to § 679.7(a)(18) may operate in a BSAI or GOA reporting area until the vessel has received confirmation from NMFS that the VMS transmissions are being received.

* * * * *

9. In § 679.50, paragraph (c)(4)(vi)(B) is suspended effective May 1, 2002, through July 8, 2002, and paragraph (c)(4)(vi)(C) is added effective May 1, 2002, through July 8, 2002, to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2002.

* * * * *

- (c) * * *
- (4) * * *
- (vi) * * *

(C) (Effective May 1, 2002, through July 8, 2002) A mothership or catcher/processor vessel engaged in fishing with trawl gear in a directed CDQ fishery for other than pollock CDQ must carry at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

* * * * *

10. In Table 23 to CFR part 679, footnote 11 is revised. The revised page containing the amendment to Table 23, footnote 11, reads as follows:

Table 23 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pacific Cod Fisheries Restrictions

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described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W, and 55°00' N/168°11'4.75" W.

⁶Hook-and-line no fishing zones apply only to vessels greater than or equal to 60 feet LOA in waters east of 167° W long. For Bishop Point the 10 nm closure west of 167° W. long. applies to all hook and line vessels.

⁷The trawl closure between 0 nm to 10 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 3 nm is effective from September 1 through November 1.

⁸ The trawl closure between 0 nm to 15 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 20 nm is effective from September 1 through November 1.

⁹Restriction area includes only waters of the Gulf of Alaska Area.

¹⁰Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

¹¹Directed fishing for Pacific cod using trawl gear is prohibited in the harvest limit area (HLA) as defined at § 679.2 until the HLA Atka mackerel directed fishery in the A or B seasons is completed. The 20 nm closure around Gramp Rock applies only to waters west of 178° W long. After closure of the Atka mackerel HLA directed fishery, directed fishing for Pacific cod using trawl gear is prohibited in the HLA between 0 nm and 10 nm of rookeries and between 0 nm and 3 nm of haulouts.

¹² The 20 nm closure around this site is effective only in waters outside of the State of Alaska waters of Prince William Sound.

¹³ See § 679.22(a)(11)(i)(C) for exemptions for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear between Bishop Point and Emerald Island closure areas.

¹⁴Trawl closure around this site is limited to waters east of 170°0'00" W long.

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