

practicable, once scallop landings data for the NGOM fishery is available.

(c) *VMS requirements.* Except scallop vessels issued a limited access scallop permit pursuant to § 648.4(a)(2)(i) that have declared a trip under the scallop DAS program, a vessel issued a scallop permit pursuant to § 648.4(a)(2) that intends to fish for scallops in the NGOM scallop management area or fishes for, possesses, or lands scallops in or from the NGOM scallop management area, must declare a NGOM scallop management area trip and report scallop catch through the vessel's VMS unit, as required in § 648.10. If the vessel has a NGOM permit, the vessel must declare either a Federal NGOM trip or a state-waters NGOM trip. If a vessel intends to fish any part of a NGOM trip in Federal NGOM waters, it may not declare into the state water NGOM fishery.

\* \* \* \* \*

■ 16. In § 648.63, revise paragraph (b)(2)(iii) to read as follows:

**§ 648.63 General category Sectors and harvesting cooperatives.**

\* \* \* \* \*

(b) \* \* \*  
(2) \* \* \*

(iii) A sector shall not be allocated more than 20 percent of the ACL for IFQ vessels defined in § 648.53(a)(4).

\* \* \* \* \*

■ 17. In § 648.64, revise paragraph (e) to read as follows:

**§ 648.64 Yellowtail flounder sub-ACLs and AMs for the scallop fishery.**

\* \* \* \* \*

(e) *Process for implementing the AM—(1) If reliable information is available to make a mid-year determination:* On or about January 15 of each year, based upon catch and other information available to NMFS, the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded, or is projected to be exceeded, by scallop vessels prior to the end of the scallop fishing year. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this initial projection in mid-January, the Regional Administrator shall implement the AM in accordance with the APA and notify owners of limited access and LAGC scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch, overage, and projection that resulted in the closure.

(2) *If reliable information is not available to make a mid-year determination:* Once NMFS has compiled the necessary information (e.g., when the previous fishing year's observer and catch data are fully available), the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded by scallop vessels following the end of the scallop fishing year. The determination shall include the amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this information, the Regional Administrator shall implement the AM in accordance with the APA in Year 3 (e.g., an accountability measure would be implemented in fishing year 2016 for an overage that occurred in fishing year 2014) and notify owners of limited access and LAGC scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch and overage information.

\* \* \* \* \*

■ 18. In § 648.65, revise paragraph (c) to read as follows:

**§ 648.65 Windowpane flounder sub-ACL and AM for the scallop fishery.**

\* \* \* \* \*

(c) *Process for implementing the AM—(1) If reliable information is available to make a mid-year determination:* On or about January 15 of each year, based upon catch and other information available to NMFS, the Regional Administrator shall determine whether the SNE/MA windowpane flounder sub-ACL was exceeded, or is projected to be exceeded, and if an accountability measure was triggered as described in § 648.90(a)(5)(iv), by scallop vessels prior to the end of the scallop fishing year. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the SNE/MA windowpane flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this initial determination in mid-January, the Regional Administrator shall implement the AM in the following fishing year in accordance with the APA and attempt to notify owners of limited access and LAGC scallop vessels by letter identifying the length of the gear restricted area and a summary of the SNE/MA windowpane flounder catch, overage, and projection that resulted in the gear restricted area.

(2) *If reliable information is not available to make a mid-year*

*determination:* Once NMFS has compiled the necessary information (e.g., when the previous fishing year's observer and catch data are fully available), the Regional Administrator shall determine whether the SNE/MA windowpane flounder sub-ACL was exceeded and if an accountability measure was triggered as described in § 648.90(a)(5)(iv), by scallop vessels following the end of the scallop fishing year. The determination shall include the amount of the overage, specified as a percentage of the overall sub-ACL for the SNE/MA windowpane flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this information, the Regional Administrator shall implement the AM in accordance with the APA in Year 3 (e.g., an accountability measure would be implemented in fishing year 2016 for an overage that occurred in fishing year 2014) and attempt to notify owners of limited access and LAGC scallop vessels by letter identifying the length of the gear restricted area and a summary of the SNE/MA windowpane flounder catch and overage information.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 150916863-6211-02]

RIN 0648-XF012

**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 catcher vessels using trawl gear and American Fisheries Act (AFA) trawl catcher processors (C/Ps) to catcher vessels less than 60 feet (18.3 meters (m)) LOA using hook-and-line or pot gear, C/Ps using hook-and-line gear, and Amendment 80 (A80) C/Ps in the Bering Sea and Aleutian Islands (BSAI) management area. This action is necessary to allow the 2016 total allowable catch (TAC) of Pacific cod to be harvested.

**DATES:** Effective upon November 2, 2016 through 2400 hours, Alaska local time (A.l.t.), December 31, 2016.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (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 2016 Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI is 48,638 metric tons(mt) as established by the final 2016 and 2017 harvest specifications for groundfish of the BSAI (81 FR 14773; March 18, 2016) and reallocation (81 FR 69445; October 6, 2016). The Regional Administrator has determined that catcher vessels using trawl gear will not be able to harvest 2,000 mt of the remaining 2016 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9).

The 2016 Pacific cod TAC specified for AFA trawl C/Ps in the BSAI is 4,666 mt as established by the final 2016 and 2017 harvest specifications for groundfish of the BSAI (81 FR 14773; March 18, 2016) and reallocation (81 FR 61143; September 6, 2016). The Regional Administrator has determined that AFA trawl C/Ps will not be able to

harvest 850 mt of the remaining 2016 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(7).

Therefore, in accordance with § 679.20(a)(7)(iii)(A) and § 679.20(a)(7)(iii)(B), NMFS reallocates 2,850 mt of Pacific cod to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, C/Ps using hook-and-line gear, and A80 C/Ps in the Bering Sea and Aleutian Islands management area.

The harvest specifications for Pacific cod included in the final 2016 and 2017 harvest specifications for groundfish of the BSAI (81 FR 14773; March 18, 2016, 81 FR 57491; August 23, 2016, 81 FR 61143; September 6, 2016, 81 FR 69445; October 6, 2016) are revised as follows: 46,638 mt for catcher vessels using trawl gear, 3,816 mt for AFA trawl C/Ps, 10,674 for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, 109,533 for C/Ps using hook-and-line gear, and 31,397 mt for A80 C/Ps.

#### 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 from multiple sectors to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, C/Ps using hook-and-line gear, and A80 C/Ps in the Bering Sea and Aleutian Islands management area. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to 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 October 27, 2016.

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: October 28, 2016.

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

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