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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No.: 191202-0096]**

**RIN 0648-BJ42**

**Control Date for Catcher/Processors using Pot Gear in the in the Bering Sea and Aleutian Islands Pacific Cod Fishery**

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

**ACTION:** Advance notice of proposed rulemaking (ANPR); control date.

**SUMMARY:** At the request of the North Pacific Fishery Management Council (Council), this notice announces a control date of *[INSERT DATE OF PUBLICATION OF IN THE FEDERAL REGISTER]*, that may be used as a reference date for a future management action to limit future access to the Bering Sea and Aleutian Islands (BSAI) Pacific cod pot catcher/processor sector. This notice is intended to promote awareness of possible rulemaking and provide notice to the public that any participation in the BSAI Pacific cod pot catcher/processor sector after the control date may not ensure continued access to this fishery under a future management action. This notice is also intended to discourage speculative entry into this fishery while the Council considers whether and how access to the fishery may be further limited under a future management action.

**DATES:** [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], shall be known as the control date for the BSAI Pacific cod pot catcher/processor sector fishery and may be used as a reference date for participation in a future management action that is consistent with the Council's objectives and applicable Federal laws.

**FOR FURTHER INFORMATION CONTACT:** Kurt Iverson: 907-586-7228 or *Kurt.Iverson@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries in the U.S. exclusive economic zone (EEZ) of the BSAI under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The Council prepared, and NMFS approved, the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

This advance notice of proposed rulemaking would apply to owners and operators of catcher/processor vessels that participate in Federal groundfish fisheries with pot gear in the BSAI. The BSAI is defined at § 679.2 and shown in Figure 1 to 50 CFR part 679.

The Council and NMFS annually establish overfishing limits and annual total allowable catch limits for groundfish species to sustainably manage the groundfish fisheries in the BSAI. To achieve these objectives, NMFS requires vessel operators participating in BSAI Pacific cod fisheries to comply with various regulatory restrictions, such as fishery closures and limits on participation and effort, to maintain catch within specified total allowable catch limits.

The Council and NMFS have long sought to control fishing effort in the North Pacific Ocean to ensure that fisheries are conservatively managed and do not exceed established biological thresholds. One of the measures used by the Council and NMFS is the license limitation program (LLP), which limits access to the federally managed groundfish, crab, and scallop fisheries in the BSAI and the Gulf of Alaska. For groundfish, the LLP requires that persons hold and assign a license to each vessel that is used to fish in federally managed fisheries, with some limited exemptions. The preamble to the final rule implementing the groundfish LLP provides a more detailed explanation of the rationale for specific provisions in the LLP (October 1, 1998; 63 FR 52642).

A vessel participating in groundfish fisheries in Federal waters in the BSAI or GOA is required to have an LLP license with the applicable area, gear, and operation type endorsements, and a sufficient maximum length overall (MLOA) In 2019, there were a total of eight LLP licenses with a BS Pacific cod pot catcher/processor (C/P) endorsement. Of those eight LLP licenses, five LLP licenses also had an AI Pacific cod pot C/P endorsement, three LLP licenses also had a BS Pacific cod HAL C/P endorsement, and three LLP licenses also had an AI Pacific cod HAL C/P endorsement.

In October 2019, the Council reviewed a discussion paper and received public testimony from participants in the BSAI Pacific cod pot C/P sector. These participants indicated that a new vessel entered the fishery in recent years and this new entry may negatively impact the ability of historical fishery participants to maintain groundfish harvests and processing in the BSAI.

After considering this public testimony, the Council stated its intent to evaluate

methods for further limiting access to the BSAI Pacific cod pot catcher/processor sector in a future management action. To dampen the effect of speculative entry into this sector during this deliberative period, the Council announced a control date. This date corresponds to the date of publication of this advance notice of proposed rulemaking after the end of the 2019 fishing season and prior to the start of the 2020 fishing season.

The control date may be used as a reference date for a future management action to further limit access to the BSAI Pacific cod pot catcher/processor sector. The Council clarified that the control date would not obligate the Council to use this control date in any future management action. Further, the control date would not obligate the Council to take any action or prevent the Council from selecting another control date. Accordingly, this notice is intended to promote awareness that the Council may develop a future management action to achieve its objectives for the BSAI Pacific cod pot catcher/processor sector fishery; to provide notice to the public that any current or future access to the Pacific cod pot catcher/processor fishery may be affected or restricted; and to discourage speculative participation and behavior in the fisheries while the Council considers whether to initiate a management action to further limit access to this fishery. Any measures the Council considers may require changes to the FMP. Such measures may be adopted in a future amendment to the FMP, which would include opportunity for further public participation and comment.

NMFS encourages public participation in the Council's consideration of a management action to further limit access to BSAI Pacific cod fishery. Please consult the Council's web site at <http://www.npfmc.org/> for information on public participation in the

Council's decision-making process. The Council is scheduled to receive an initial review draft Analysis at its meeting scheduled for March 30, 2020 through April 7, 2020.

This notification and control date do not impose any legal obligations, requirements, or expectations.

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

Dated: December 2, 2019.

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