

30, 2003, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001) NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with hook-and-line gear and run-around gillnets (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B)(2), from the date that 75 percent of the southern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel for vessels using hook-and-line gear in the southern Florida west coast subzone will be reached on March 4, 2003. Accordingly, a 500-lb (227-kg) trip limit applies to vessels in the commercial hook-and-line fishery for king mackerel in or from the EEZ in the

southern Florida west coast subzone effective 12:01 a.m., local time, March 5, 2003. The 500-lb (227-kg) trip limit will remain in effect until the fishery closes or until the end of the current fishing year (June 30, 2003), whichever occurs first.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade County, FL boundary). The Florida west coast subzone is further divided into northern and southern subzones. The southern subzone is that part of the Florida west coast subzone that, from November 1 through March 31, extends south and west from 25°20.4' N. lat. to 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. and 25°48' N. lat. (a line directly west from the Monroe/Collier County, FL boundary), i.e., the area off Collier County.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to reduce the trip limit constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, there is a need to implement these measures in a timely fashion to prevent an overrun of the commercial quota of Gulf group king mackerel, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be impractical and contradictory to the Magnuson-Stevens Act, the FMP, and the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.44(a)(2)(iii) and is exempt from review under Executive Order 12866.

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

Dated: March 3, 2003.

John H. Dunnigan,

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. 03114012-3046-02; I.D. 121902F]

RIN 0648-AQ46

Fisheries of the Exclusive Economic Zone Off Alaska; Seasonal Area Closure to Trawl, Pot, and Hook-and-Line Fishing in Waters off Cape Sarichef

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to seasonally close a portion of the waters located near Cape Sarichef in the Bering Sea subarea to directed fishing for groundfish by vessels using trawl, pot, or hook-and-line gear. This action is necessary to support NMFS research on the effect of fishing on the localized abundance of Pacific cod. It is intended to further the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Effective March 15, 2003.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall, or by calling the Alaska Region, NMFS, at (907) 586-7228.

FOR FURTHER INFORMATION CONTACT: Melanie Brown at (907) 586-7228, or melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the groundfish fisheries of the BSAI appear at 50 CFR parts 600 and 679.

In October 2002, the Council adopted a proposed regulatory amendment to implement a seasonal closure to directed fishing for groundfish by vessels using trawl, pot, or hook-and-line gear in a portion of the waters off

Cape Sarichef in the Bering Sea subarea. The purpose of this action is to support a NMFS research project investigating the effect of commercial fishing on Pacific cod abundance in localized areas. This study is an integral part of a NMFS comprehensive research program designed to evaluate effects of fishing on the foraging behavior of Steller sea lions. The western distinct population segment (DPS) of Steller sea lions is listed as endangered under the Endangered Species Act and is likely to be adversely affected by the Atka mackerel, pollock, and Pacific cod fisheries. Steller sea lion protection measures are currently implemented to ensure that the pollock, Atka mackerel, and Pacific cod fisheries are not likely to jeopardize the continued existence of or adversely modify or destroy critical habitat for the western DPS of Steller sea lions (68 FR 204, January 2, 2003).

Currently, the information available to evaluate alternative methods for protecting Steller sea lions and their critical habitat is very limited. Improved information could enhance the effectiveness and efficiency of existing protection measures. NMFS and other management agencies and organizations have undertaken numerous research initiatives to learn more about Steller sea lions and interactions with their environment, including fishery related effects potentially associated with the ongoing decline of the western DPS of Steller sea lions.

The goal of the study is to evaluate the effects of commercial trawl fishing on Pacific cod and to test a localized depletion hypothesis. This hypothesis states that the commercial fisheries by depleting the local Steller sea lion prey may adversely affect the critical habitat of Steller sea lions. This study is designed as a comparison between sites within the area subject to intensive seasonal trawling and control sites within a nearby zone where trawling is prohibited and requires that experimental pot gear be deployed before and after the period of intense trawl fishing for Pacific cod. NMFS will deploy pot fishing gear in the restriction area during March 15 through March 31, a time period that historically includes a less intense rate of fishing during the winter trawl fishery for Pacific cod. This time period would reduce the risk of trawl gear disturbing the experimental pot gear. Pot loss or displacement would lead to economic losses to NMFS and would reduce the quality of the information gathered in the study. The commercial pot and hook-and-line gear closures are necessary to ensure that observed fishing effects are due to trawl fishing and not to additional fishing

effort by hook-and-line and pot vessels moving into the area due to the trawl closure. A concern also exists that pot and hook-and-line vessels would enter areas historically fished by trawl gear. A complete description of the study is available in the EA/RIR/IRFA for this action (see **ADDRESSES**).

This final rule imposes a seasonal ban on all directed groundfish fishing by vessels using trawl, pot, or hook-and-line gear in waters located outside the existing 10-nm no-trawl area around Cape Sarichef and inside the boundary of the following coordinates joined in order by straight lines:

54°30' N lat., 165°14' W long.;
54°35' N lat., 165°26' W long.;
54°48' N lat., 165°04' W long.;
54°44' N lat., 164°56' W long.; and,
54°30' N lat., 165°14' W long.

Cape Sarichef is located at coordinates 164°56.8' W long. and 54°34.30' N lat. See Figure 21 in the regulatory language below.

This fishing restriction will be in effect annually during the period of March 15 through March 31 in the years 2003 through 2006. The Council will review the experimental results after March 2003 to decide whether any changes to the rule are needed in 2004 through 2006.

The proposed rule for this action was published in the **Federal Register** on January 23, 2003 (68 FR 3225). No comments were received during the 15-day public review and comment period, and no changes are made from the proposed rule in the final rule.

Classification

NMFS has determined that the seasonal adjustments of fishery closure this rule implements is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

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

Nothing in this action results in any changes in reporting or recordkeeping requirements.

Species listed under the Endangered Species Act (ESA) are present in the action area. According to an informal consultation completed on November 25, 2002, no listed species are likely to be adversely affected by this action.

The analysis for this action did not reveal any existing Federal rules that duplicate, overlap, or conflict with this action.

An IRFA was prepared prior to publication of the proposed rule. The proposed rule was published in the **Federal Register** on January 23, 2003 (68 FR 3225), and included a summary of the IRFA. The public comment period

ended on February 7, 2003. No comments were received on the IRFA. The entities that will be regulated by this action are the catcher vessels and catcher processors that would have fished in the treatment area in the second half of March, and that will not be able to do so from 2003 through 2006. These include vessels using trawl, hook-and-line, and pot gear. The numbers of small and large entities active in Alaskan statistical area 655430 in the second half of March for each year from 1998 through 2001 ranged between 21 in 2000 and 57 in 1998. This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities.

NMFS considered three alternatives to the proposed action. The status quo would not have accomplished the objectives of this action. A second alternative would have restricted trawling activities during the same period in an "arc" shaped treatment area that overlaps the treatment area in the preferred alternative. However, because of some differences in shape, the area in this alternative restricts trawling activity more than is necessary to increase the experimental results. Closing the area to trawling, but allowing an influx of hook-and-line and pot gear, may confound the experimental results and may lead to gear conflicts when the treatment area is reopened to trawling in early April. These negative impacts are mitigated by the preferred alternative which adjusts the area of the arc to avoid certain areas of particular concern to fishermen and prevents new entry by other gear users. A third alternative would have used the same treatment area as the second alternative, but would have restricted hook-and-line and pot activity as well as trawl activity. However, because of some differences in shape, the area in this alternative restricts trawling activity more than is necessary to increase the experimental results. This negative impact is mitigated by the preferred alternative which adjusts the area of the arc to avoid areas of particular concern to fishermen.

This action must be effective by March 15, 2003, to facilitate NMFS' experiments to evaluate the effects of commercial trawl fishing on Pacific cod and to help determine whether commercial fisheries adversely affect the critical habitat of Steller sea lions by depleting the local Steller sea lion prey. The 16-day closure is necessary to ensure the quality of the information gathered, to prevent losses to NMFS from gear interactions, and to minimize disruption to trawl fishermen who have historically used this area. NMFS

selected the time period from March 15 – 31 for this experiment because it is historically a period of reduced fishing activity between the two periods of intense trawling activity. This time period also is expected to minimize gear conflicts. NMFS worked with the affected industry at the October 2002 Council meeting to tailor the closed area to minimize disruptions to fishing activity while accomplishing the goals of the experiment. Delaying this action for 30 days would unnecessarily jeopardize the experiment by preventing the collection of data during this 16–day trawling period. Accordingly, the need to publish this measure in a timely manner constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30–day delay in effective date.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: February 28, 2003.
William T. Hogarth,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.
For the reasons discussed 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 50 CFR part 679 continues to read as follows:
- Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105 277; Sec. 3027, Pub. L. 106 31, 113 Stat. 57.
2. In § 679.22, paragraph (a)(11) is revised to read as follows:

§679.22 Closures.
* * * * *
(a) * * *
(11) *Cape Sarichef Research Restriction Area (applicable through*

March 31, 2006)(i) *Description of Cape Sarichef Research Restriction Area.* The Cape Sarichef Research Restriction Area is all waters located outside of the 10 nm no trawl area around Cape Sarichef, as described in Tables 4 and 5 to this part, and inside the boundary of the following coordinates joined in order by straight lines (Figure 21 to part 679):
54°30' N lat., 165°14' W long.;
54°35' N lat., 165°26' W long.;
54°48' N lat., 165°04' W long.;
54°44' N lat., 164°56' W long.; and,
54°30' N lat., 165°14' W long.
(ii) Closure. The Cape Sarichef Research Restriction Area is closed from March 15 through March 31 to directed fishing for groundfish by vessels named on a Federal Fisheries Permit issued under § 679.4(b) and using trawl, pot, or hook-and-line gear.
* * * * *
3. Figure 21 to part 679 is added to read as follows:
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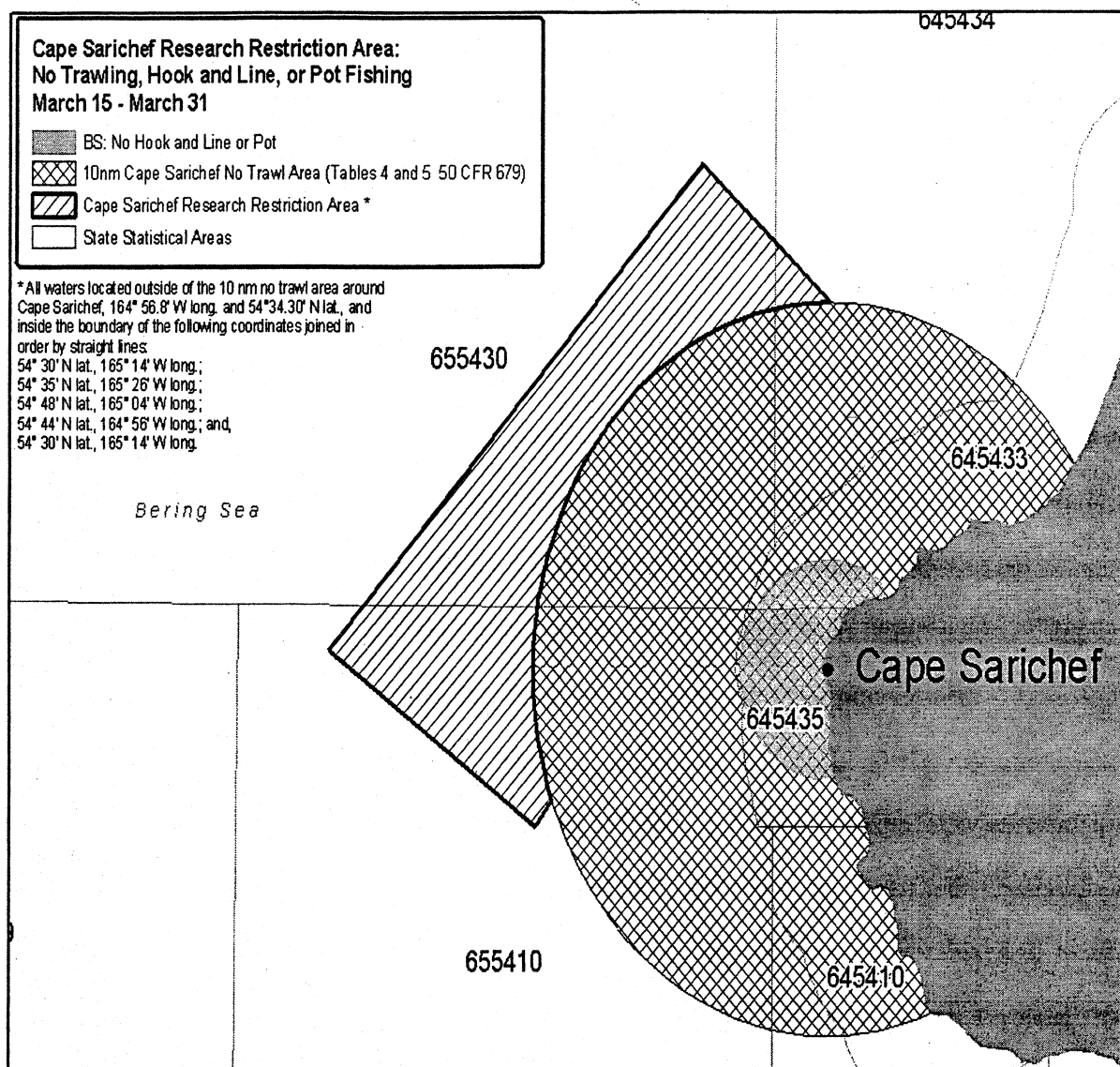


Figure 21 Cape Sarichef Research Restriction Area (Applicable through March 31, 2006)