

(F) Specifications of the fishing gear(s) used from January 1, 1988, through February 9, 1992, and, if necessary, the fishing gear(s) used from February 10, 1992, through December 11, 1994;

(G) Specification of the vessel as either a catcher vessel or a catcher/processor vessel;

(H) If applicable, transfer authorization if a permit request is based on the transfer of moratorium qualification pursuant to paragraph (c)(9) of this section; and

(I) Signature of the person who is the owner of the vessel or the person who is responsible for representing the vessel owner.

(iii) An application for a moratorium permit received after December 31, 1998, will be denied unless it is based on a moratorium qualification for which a moratorium permit was issued on or before December 31, 1998.

(7) *Moratorium qualification*—(i) *Qualification by landings.* A vessel has moratorium qualification if:

(A) The vessel is an original qualifying vessel based on a legal landing of moratorium species between January 1, 1988, and February 9, 1992;

(B) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(C) The vessel's moratorium qualification has not been transferred; and

(D) A moratorium permit for the vessel's moratorium qualification has been issued based on an application submitted on or before December 31, 1998.

(ii) *Qualification by transfer.* A vessel has moratorium qualification if:

(A) The vessel receives a valid moratorium qualification by a transfer approved by the Regional Administrator under paragraph (c)(9) of this section;

(B) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(C) The moratorium qualification received by transfer has not been subsequently transferred; and

(D) A moratorium permit for the vessel's moratorium qualification has been issued based on an application submitted on or before December 31, 1998.

(iii) *Expiration of moratorium qualification.* A vessel's moratorium qualification will expire on December 31, 1998, unless a moratorium permit has been applied for on or before December 31, 1998, and subsequently issued based on that moratorium qualification.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 981021263-9019-02; I.D. 090898D]

RIN: 0648-AK12

#### Fisheries of the Exclusive Economic Zone Off Alaska; Inshore-Offshore Allocations of Pollock and Pacific Cod Total Allowable Catch; Inshore-Offshore Allocation of 1999 Interim Groundfish Specifications

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 51 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 51 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). This action is necessary to implement the approved portions of Amendments 51/51. The rules re-establish the catcher vessel operational area (CVOA) in the Bering Sea and the allocations of total allowable catches (TACs) of pollock and Pacific cod in the GOA between inshore and offshore components of the fisheries through 2001. Accordingly, the 1999 interim groundfish specifications are revised to reflect these allocations. This action is intended to promote the goals and objectives of the FMPs.

**DATES:** Effective January 20, 1999.

**ADDRESSES:** Copies of the Environmental Assessment, Regulatory Impact Review and Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action are available from the Alaska Region, NMFS, P.O. Box 21688, Juneau, AK 99802, Attn: Lori J. Gravel, or by calling the Alaska Region, NMFS, at 907-586-7228.

**FOR FURTHER INFORMATION CONTACT:** Jay Ginter, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries off Alaska under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Federal regulations appearing at 50 CFR parts 600 and 679, respectively contain general regulations governing U.S. fisheries and implement the FMPs.

## Background

The TACs for pollock in the BSAI and for pollock and Pacific cod in the GOA have been allocated between inshore and offshore components of the groundfish fisheries since 1992. The Council repeatedly has recommended inshore-offshore allocations of limited duration to allow for periodic review of the performance of these management measures relative to the fishery conservation and management problems they are designed to resolve. The original inshore-offshore allocations were effective from 1992 through 1995. Amendments 38 and 40 to the BSAI and GOA FMPs, respectively, reestablished inshore-offshore allocations that expired at the end of 1998.

At its meeting in June 1998, the Council took final action to adopt Amendments 51/51 to the FMPs. By proposing these FMP amendments, the Council intended to change the inshore-offshore allocations in the BSAI but to continue the existing allocations in the GOA. Some other changes in the inshore-offshore regime also were proposed as part of these amendments. The Council transmitted Amendments 51/51 to NMFS on September 4, 1998, and NMFS published a notice of availability (NOA) of the amendments and supporting analyses on September 16, 1998 (63 FR 49540). The public comment period on the NOA ended on November 16, 1998. NMFS published proposed implementing rules for Amendments 51/51 on October 29, 1998, (63 FR 57996). The comment period on the proposed rules ended on December 14, 1998. Additional background information appears in the NOA and proposed rule notices.

On October 21, 1998, the President signed the American Fisheries Act (AFA) into law (Pub. L. 105-277). The AFA, among other things, allocated the BSAI pollock TACs differently than the Council had recommended. The Council held a special meeting November 10-13, 1998, in part to discuss the effects of AFA on its inshore-offshore proposal and other management programs. In light of the AFA, the Council recommended specific changes to its Amendment 51/51 proposal. Under the Magnuson-Stevens Act (section 304), NMFS has authority only to approve, disapprove, or partially approve an FMP or amendment; NMFS cannot change a proposed FMP or FMP amendment once it has been submitted for review, even if requested to do so by the Council that submitted it. NMFS must base a decision to approve, disapprove, or partially approve an FMP or FMP amendment on inconsistencies between

the disapproved parts and the Magnuson-Stevens Act or other applicable law. On December 15, 1998, the Alaska Regional Administrator, NMFS, (RA) partially approved BSAI Amendment 51, fully approved GOA Amendment 51, and notified the Council of this decision. The RA's decision not to approve parts of BSAI Amendment 51 is consistent with the Council's intent for achieving consistency with the AFA as expressed at its meeting in November 1998.

### **Elements of Amendments 51/51 Approved and Disapproved**

#### *BSAI Amendment 51*

As adopted by the Council in June 1998, this amendment contemplated four changes to the current inshore-offshore allocation regime. These changes are discussed below with reasons for approval or disapproval of each change.

1. Pollock allocation—disapproved. This part of the amendment would have changed the proportional allocation of the BSAI pollock TACs, after subtraction of the reserves. The inshore allocation would have increased from its current 35 percent to 39 percent; the offshore allocation would have reciprocally decreased from its current 65 percent to 61 percent. Because Amendment 45 to the BSAI FMP removed the 7.5 percent Community Development Quota (CDQ) program allocation from the inshore-offshore allocations, Amendment 51 did not include a CDQ allocation.

NMFS disapproved the amendment's pollock allocation because it was inconsistent with AFA section 206. This section of the AFA specifically mandates an allocation of 10 percent of the pollock TAC to a directed fishing allowance for the CDQ program plus an additional allocation of pollock for incidental catches in all non-pollock fisheries. Of the remaining pollock TAC, the law stipulates the following allocations: 50 percent to the inshore component, 40 percent to the offshore component (catcher/processors), 10 percent to the offshore component (motherships).

The allocations specified by the AFA will be implemented in 1999 through the annual groundfish specification process. Proposed and interim specifications were published, respectively, on December 30, 1998 (63 FR 71867), and January 4, 1999 (64 FR 50).

2. Small vessel set aside—Disapproved. This part of the amendment would have set aside a portion of the inshore component

pollock allocation for use by catcher vessels less than 125 ft (38.1 m) length overall immediately before the pollock B season, starting about August 25. The amount reserved in the set aside would have been equal to 2.5 percent of the BSAI pollock TACs, after subtraction of reserves.

NMFS disapproved this part of Amendment 51 because it was inconsistent with several sections of the AFA and National Standard 7 of the Magnuson-Stevens Act which requires that conservation and management measures shall where practicable minimize cost and avoid unnecessary duplication. Section 206 of the AFA specifically mandates allocations among CDQ and inshore and offshore components of the BSAI pollock fishery. The proposed set aside conflicts with these AFA-specified allocations because it would have been based on the TAC; not simply a sub-allocation of the inshore component allocation. Further, sections 208(a) and 210(b) of the AFA appear to provide the market erosion protections for small vessels that the TAC set aside was designed to provide. Section 208(a) establishes increased restrictions on entry into the inshore catcher vessel fishery, and section 210(b) allows inshore catcher vessels to form an exclusive cooperative. Moreover, the AFA provides the entire inshore component with a substantially increased allocation of the pollock TAC (about 30 percent) relative to its allocation from 1992 through 1998. The small vessels that operate in the inshore component likely will benefit to some degree from this increased allocation. Therefore, in light of the AFA, the proposed small vessel set aside provisions would duplicate existing provisions and impose unnecessary regulatory costs on the pollock fisheries.

3. Catcher vessel operational area (CVOA)—Partially Approved. This part of Amendment 51 will continue the CVOA specified in the existing regulations with respect to the geographic area and its effectiveness during the B season (50 CFR 679.22(a)(5)). Amendment 51, however, would have changed the existing CVOA rules by excluding from the CVOA all catcher vessels that deliver pollock to the offshore component. This would have prevented catcher vessels from conducting directed fishing in the CVOA for pollock for delivery to motherships or catcher/processors (the offshore component) during the B season. Under the current CVOA regulation, all catcher vessels, regardless of whether they deliver to inshore or offshore components, may fish in the CVOA.

The NMFS has approved all of the proposed amendment text pertaining to the CVOA with the exception of the phrases that would have excluded from the CVOA catcher vessels catching pollock for processing by the offshore component. The reason for selectively disapproving such text is its inconsistency with national standard 7. The Council intended the disapproved text to establish parity between the motherships and the catcher/processor vessels within the offshore component. Motherships have been allowed to operate within the CVOA, receiving and processing pollock harvested by catcher vessels. Catcher/processor vessels are not allowed to harvest pollock in the CVOA during the B season. In recommending the CVOA portion of Amendment 51, the Council attempted to create parity between motherships and catcher/processor vessels. As stated in the preamble to the proposed rule (63 FR 58000–58001), the Council noted that the proportion of catch taken by mothership operations increased at the expense of catcher/processors during the period 1991–96, and that motherships may have had a competitive advantage over catcher/processors. The AFA, however, specifies separate allocations of the pollock TACs for the mothership and catcher/processor sectors, thereby achieving the parity intended by the Council. Hence, the exclusion of catcher vessels from the CVOA that deliver to the offshore component was an unnecessary duplication of an AFA provision. As such, it was inconsistent with national standard 7.

Disapproval of the offshore catcher vessel text does not prevent the implementation of the CVOA provision. In fact, it makes the approved CVOA more closely resemble the CVOA provision in effect during 1996–98. In addition, at its meeting in November 1998, the Council indicated its desire to remove this more restrictive provision from its Amendment 51 proposal and return to the previous CVOA rule.

Although the approved CVOA provisions are effectively the same as they were from 1996–98, further restrictions on fishing in the CVOA will be implemented in 1999 to mitigate the effects of pollock fishing on Steller sea lions and their critical habitat, within which much of the CVOA lies. These restrictions will have the effect of dispersing the pollock fishery in time and area and will be made by separate regulatory action.

4. Duration—Disapproved. As proposed, the pollock allocations in Amendment 51 would have been effective for the 3-year period, January

1, 1999, through December 31, 2001. This period is inconsistent with the effective period of the inshore-offshore allocations specified in the AFA of January 1, 1999, through December 31, 2004 (sec. 206 and 213). No duration limit was specified in the proposed amendment text for the CVOA provision. Hence, this provision will continue in effect until changed by action of the Council and NMFS.

#### *GOA Amendment 51*

As adopted by the Council in June 1998, this amendment reestablishes, without change, the current inshore-offshore allocation regime in the GOA through December 31, 2001. These provisions are discussed below with reasons for approval of each change.

1. *Pollock allocation—Approved.* This part of the amendment will maintain the current allocation of the pollock TACs of 100 percent to the inshore component. This allocation is consistent with the Magnuson-Stevens Act and other applicable law.

2. *Pacific cod allocation—Approved.* This part of the amendment will maintain the current allocation of the Pacific cod TACs of 90 percent to the inshore component and 10 percent to the offshore component. These provisions are consistent with the Magnuson-Stevens Act and other applicable law.

3. *Duration—Approved.* The effective period for the allocations in Amendment 51 is extended for another 3 years, from January 1, 1999, through December 31, 2001. Section 213 of the AFA does not apply to the GOA allocations proposed by the Council. Therefore, the proposed duration of the amendment is not inconsistent with AFA, the Magnuson-Stevens Act or other applicable law.

#### **Changes From the Proposed Rule**

As indicated above, the AFA substantially changed the statutory climate in which the Council was acting when it adopted Amendments 51/51 in June 1998. The proposed implementing rule for Amendments 51/51, published on October 29, 1998 (63 FR 57996), represented the amendments as the Council had submitted them and discussed anticipated AFA provisions in the preamble. Hence, differences between the proposed rule and this final rule are due to the partial approval of the amendments, as discussed earlier above, and result principally from the effect of the AFA. A detailed discussion of these differences follows.

1. *Definitions.* The terms "inshore component" and "offshore component" are changed to reflect the AFA meaning

of these terms in the BSAI as distinct from their meaning in the GOA and to prescribe different duration dates in the BSAI and the GOA. The AFA's definition of "inshore component" for pollock fishing in the BSAI does not include vessels that process pollock or GOA Pacific cod in a single geographic location in Alaska State waters. Rather the AFA considers such vessels to be "shoreside processors" (AFA sec. 208(f)(1)(A)). For the GOA pollock fishery, however, the "inshore component" definition remains as proposed. Also, the duration of the AFA provisions continues through December 31, 2004 (AFA sec. 213(a)), whereas the duration of the GOA inshore-offshore provisions, as recommended by the Council and approved, continue through December 31, 2001. This final rule clarifies these differences between the AFA and approved inshore-offshore provisions for the GOA by prescribing 4 separate definitions for the BSAI and GOA inshore and offshore components.

2. *Prohibitions.* The inshore-offshore prohibitions paragraph (§ 679.7(a)(7)) is expanded to accommodate the differences between the inshore and offshore component definitions in the BSAI and the GOA, respectively, as explained above. The final rule prohibitions are substantially the same as those in the proposed rule, however, in that they prohibit the operation of a vessel in more than one category of the inshore component or in the inshore and offshore component during the same fishing year.

3. *Allocations specified.* The specific allocations of the pollock TACs in the BSAI in § 679.20(a)(6)(i) are changed for consistency with the AFA. This final rule references section 206(b) of the AFA as governing these allocations instead of explicitly specifying the AFA inshore and offshore allocations. These allocations will be made effective for 1999 through the annual specifications notices required under § 679.20(c). Likewise, § 679.20(b)(1)(iv) is allowed to expire because non-specific reserve amounts of pollock are superceded by the AFA. The Council may submit another FMP amendment during 1999 to formally integrate the AFA provisions into the FMP for the Groundfish Fishery of the BSAI.

With respect to the GOA allocations, no substantive changes are made in this final rule. Minor changes were made, however, in light of the new defined terms for inshore and offshore components. Similar editorial changes are made in the final rule paragraphs (b)(2) and (c)(4) of § 679.20 to differentiate the duration dates and inshore and offshore component terms

defined for the BSAI and GOA, respectively.

The proposed BSAI pollock TAC "set-aside" for vessels less than 125 ft (38.1 m) LOA, is not included in the final rule because NMFS has disapproved this part of Amendment 51 (see above).

4. *Area closures.* The proposed duration date for the CVOA is omitted in this final rule because the approved BSAI Amendment 51 text does not explicitly state an expiration date for the CVOA. In addition, the proposed exclusion of "vessels catching pollock for processing by the offshore component" from the CVOA (in proposed § 679.22(a)(5)(ii)) is removed from this final rule because this part of the Amendment 51 CVOA proposal was disapproved. In effect, the approved CVOA provision as implemented by this rule is the same as the CVOA provision in effect during 1996 through 1998.

5. *Seasons.* The effective duration date is changed for the restrictions that apply to the offshore component in the BSAI (at § 679.23(e)(2)(ii)). This change is made to achieve consistency with the AFA. In addition, the proposed season beginning date for vessels less than 125 ft (38.1 m) LOA fishing for the pollock "set-aside" is not included in this final rule because this part of Amendment 51 was disapproved. This provision was proposed at § 679.23(e)(2)(iii) which is removed from this final rule. As a result, proposed § 679.23(e)(2)(iv), the B season fair start provision, is redesignated as § 679.23(e)(2)(iii) and edited to remove reference to the "set-aside" season provision.

NMFS anticipates that the restrictions on season start dates for the offshore component in the BSAI set forth at § 679.23(e)(2)(ii) and (iii) will be subject to change under subsequent rulemaking to implement Steller sea lion mitigation measures.

#### **Response to Comments**

The public comment period on Amendments 51/51 ended on November 16, 1998, as announced in the NOA published September 16, 1998 (63 FR 49540). The comment period on the proposed rules to implement the amendments ended on December 14, 1998, as announced in the proposed rule published on October 29, 1998 (63 FR 57996). All comments received on the amendments and the proposed rule are summarized and responded to below. A total of 71 letters of comment were received. Of the total, 65 letters essentially made the same comment and are summarized under Comment 1. One letter responded with no comment and one letter asked for an extension of the comment period which was denied.

*Comment 1.* The existing allocation of 35 percent inshore and 65 percent offshore has worked well since 1992. Both sectors of the pollock processing industry have been able to prosper under this allocation. Moving more pollock from the offshore to the inshore sector will hurt employment in the offshore sector. Comment writers were fearful of the negative economic effects on their families and their communities of allocating pollock TAC away from the offshore vessels and supported maintaining the 35/65 split of the pollock TACs for inshore-offshore allocation.

*Response.* NMFS appreciates the economic significance of the pollock fishing and processing industry. Passage of the AFA, however, removed the pollock allocation decision from the Council's and NMFS's authority, and NMFS is not making the BSAI reallocations in this final rule. NMFS expects to implement the APA-mandated allocations through the final specifications and other proposed and final rules. NMFS will analyze the economic impacts of such allocations at the time of those rulemakings.

*Comment 2.* The small vessel set-aside adversely restricts access to a certain portion of the Bering Sea pollock resource based on the size of catcher vessels. The analyses do not support a decision to approve the set-aside, especially in light of the AFA. The root cause of the market erosion experienced by smaller vessels is not adequately identified. The small vessel set-aside will increase the amount of pollock caught without observers aboard because vessels under 125 ft (38.1 m) LOA have less observer coverage than larger vessels. Increased catches by smaller vessels will increase operating inefficiencies and safety problems.

*Response.* The partial approval of BSAI Amendment 51 did not include the proposed small vessel set-aside provision. NMFS determined that this provision was unnecessary in light of the AFA. The Council also reached this conclusion at its meeting in November 1998 (see Comment 5).

*Comment 3.* Concern was expressed about the proposal to prohibit catcher vessels that deliver pollock to the offshore sector from operating in the CVOA. Moving the catcher vessels that deliver to motherships out of the CVOA during the B season may pose an increased safety risk. Accident records of the U.S. Coast Guard for the last 5 years indicate more vessels under 124 ft (37.8 m) were lost outside of the CVOA than were lost inside the CVOA.

*Response.* NMFS did not approve the offshore catcher vessel prohibition part of the CVOA proposal (see above).

*Comment 4.* Council discussion of the issue of prohibiting catcher vessels from the CVOA if they deliver to motherships centered on the contention that catcher/processors were disadvantaged by the motherships ability to operate in the CVOA. This contention is wrong because catcher/processors are allowed to operate in the CVOA if they operate in the same manner as motherships (i.e. do not catch pollock but only receive pollock from catcher vessels). Mothership operations have no competitive advantage over catcher/processor inside the CVOA. Catcher/processors normally choose to fish outside of the CVOA for economic, not regulatory, reasons. With the passage of the AFA, the Council's proposal regarding offshore catcher vessels in the CVOA becomes moot because it fixes the allocation of pollock between motherships and catcher/processors.

*Response.* NMFS agrees and did not approve the offshore catcher vessel prohibition part of the CVOA proposal (see above).

*Comment 5.* The Council commented on its BSAI Amendment 51 proposal in light of the AFA and based on Council discussions at its special meeting in November 1998. The Council recommended substituting the pollock allocation percentages and duration provisions of the AFA for those proposed in BSAI Amendment 51. The Council also recommended that the TAC set-aside for small vessels and the exclusion of offshore catcher vessels from the CVOA be found unnecessary given the explicit allocations under the AFA that increase the inshore component's share of the TAC and allow the inshore component to form cooperative agreements under the AFA. Although originally submitted as a non-severable FMP amendment proposal, the passage of the AFA represents a unique situation which requires partial disapproval of the Council's earlier recommendations.

*Response.* NMFS agrees and has disapproved the proposed provisions for a small vessel set-aside and the exclusion of offshore catcher vessels from the CVOA. The Magnuson-Stevens Act does not allow NMFS to substitute new provisions for those recommended by a Regional Council. The Act allows only the approval, disapproval, or partial approval of the Council's recommended provisions. The AFA-mandated allocations of the pollock TACs, however, will be implemented in 1999 through the annual specification process. A letter from NMFS indicating

the approved and disapproved portions of Amendments 51/51 was sent to the Council on December 15, 1998.

#### Interim Specifications

Regulations at § 679.20(c)(1) require annual publication of proposed specifications of catch limits in the BSAI and GOA groundfish fisheries for the next fishing year. The 1999 proposed specifications for the BSAI and the GOA were published on December 30, 1998 (63 FR 71867 and 71876, respectively). Interim specifications (§ 679.20(c)(2)) provide for groundfish fisheries that start in early January each year and remain in effect until superceded by publication of the final specifications. Interim specifications for the BSAI and GOA groundfish fisheries were published on January 4, 1999 (64 FR 50 and 46, respectively). The AFA authorizes the interim specification of inshore and offshore amounts for the BSAI pollock fisheries. This final rule makes effective the interim allocations of inshore and offshore amounts for the GOA pollock and Pacific cod fisheries.

#### Classification

This action has been determined to be not significant under E.O. 12866, based on the EA/RIR/FRFA prepared for this action (see ADDRESSES).

The Council prepared an IRFA on the proposed rule to implement amendments 51/51. However, as explained above, NMFS has disapproved substantial portions of the proposed amendments and is consequently implementing only a portion of the provisions described in the proposed rule. NMFS has prepared an FRFA that considers only those aspects of the proposed rule that are now being implemented.

This final rule would apply to about 1,508 vessels that participated in the GOA groundfish fisheries in 1996, an unknown number of which are small entities. The number is unknown because the data source for this number, i.e., permit records, does not have any data regarding whether the vessel is a small entity. The proportion of these vessels that participate in the inshore sector versus the offshore sector is unknown. However, NMFS believes that most of these vessels are likely inshore small entities because there is virtually no offshore fishery in the GOA; 100 percent of the pollock fishery is allocated to the inshore component, and ninety percent of the Pacific cod fishery is also allocated to the inshore component. The portion of the rule implementing the CVOA would apply only to the independent catcher vessels

that participate in the BSAI pollock fishery. The FRFA estimates those vessels to consist of about 50 independent catcher vessels all of which are small entities.

The final rule imposes no new reporting, record keeping, or other compliance requirements. A description of the need for this action, as well as summaries of and responses to public comments, appear in this preamble, above. The comment most relevant to the IRFA was Comment one. Although the allocations mandated by the AFA may have even more pronounced economic impacts than the proposed rule may have had, those impacts are no longer associated with this rule. NMFS expects to implement these AFA allocations through the final specifications or other proposed and final rules. NMFS will analyze the economic impacts of those allocations for these future rule makings.

The approved portions of the amendments (the CVOA and the GOA allocations) would benefit the inshore component to the detriment of the offshore component. Because most of the small entities affected by this final rule participate in the inshore component, while the offshore component consists mainly of large entities, the main impacts of this final rule are likely to be beneficial to small entities. The allocations in the GOA maintain the status quo, but the CVOA allocations in the BSAI exclude the catcher processors, which has the effect of conveying benefits to small entities. Because NMFS expects actions to be beneficial to small entities, NMFS has taken no steps to minimize the significant economic impacts on small entities.

Pursuant to section 7 of the Endangered Species Act, NMFS initiated consultation on the effects of proposed Amendments 51/51 and the BSAI and GOA pollock fisheries on listed and candidate species, including the Steller sea lion and designated critical habitat. The biological opinion prepared for this consultation, dated December 3, 1998, and revised December 16, 1998, concludes that the BSAI and GOA pollock fisheries jeopardize the continued existence of Steller sea lions and adversely modify their designated critical habitat. The biological opinion contains reasonable and prudent alternatives (RPAs) to mitigate the adverse impacts of the pollock fisheries on Steller sea lions. Specific measures to implement the RPAs were discussed by the Council at its meeting in December 1998 and will be implemented by NMFS through emergency rulemaking before the start

of the BSAI and GOA pollock fisheries in 1999. The effects of Steller sea lion mitigation measures on the pollock allocations created under the AFA and GOA Amendment 51 are uncertain.

This rule contains no new collection-of-information requirements subject to the Paperwork Reduction Act.

The Assistant Administrator for Fisheries, NOAA, finds there is good cause under the authority contained in 5 U.S.C. 553(d) to waive the 30-day delay in effective date because the immediate effectiveness of this rule is required to prevent the offshore component in the GOA from exceeding its statutory allocations of pollock and Pacific cod when directed fisheries for these species open in January 1999.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: January 19, 1999.

**Rolland A. Schmitt**,  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the 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:** 773 *et seq.*, 16 U.S.C. 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definitions of "Inshore component" and "Offshore component" are removed and the definitions of "Inshore component in the BSAI", "Inshore component in the GOA", "Offshore component in the BSAI", and "Offshore component in the GOA" are added, in alphabetical order, to read as follows:

#### § 679.2 Definitions.

\* \* \* \* \*

*Inshore component in the BSAI* (applicable through December 31, 2004) means the following categories that process groundfish harvested in the BSAI:

(1) Shoreside processors, including those eligible under section 208(f) of the American Fisheries Act; and

(2) Vessels less than 125 ft (38.1 m) LOA that process less than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod.

*Inshore component in the GOA* (applicable through December 31, 2001) means the following three categories of the U.S. groundfish fishery that process

groundfish harvested in the BSAI or GOA:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) LOA that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod; and

(3) Vessels that process pollock or Pacific cod, harvested in a directed fishery for those species, at a single geographic location in Alaska State waters during a fishing year.

\* \* \* \* \*

*Offshore component in the BSAI* (applicable through December 31, 2004) means all vessels not included in the definition of "inshore component in the BSAI" that process groundfish in the BSAI.

*Offshore component in the GOA* (applicable through December 31, 2001) means all vessels not included in the definition of "inshore component in the GOA" that process groundfish in the BSAI or GOA.

\* \* \* \* \*

3. In § 679.7, paragraph (a)(7) is revised to read as follows:

#### § 679.7 Prohibitions.

\* \* \* \* \*

(a) \* \* \*

(7) *Inshore-offshore*—(i) (*Applicable through December 31, 2004*). Operate any vessel in the BSAI in more than one of the two categories included in the definition of "inshore component in the BSAI," in § 679.2, during any fishing year.

(ii) (*Applicable through December 31, 2004*). Operate any vessel in the BSAI under both the "inshore component in the BSAI" and the "offshore component in the BSAI" definitions in § 679.2 during the same fishing year.

(iii) (*Applicable through December 31, 2001*). Operate any vessel in the BSAI under both the "inshore component in the GOA" and the "offshore component in the BSAI" or under both the "offshore component in the GOA" and the "inshore component in the BSAI" definitions in § 679.2 during the same fishing year.

(iv) (*Applicable through December 31, 2001*). Operate any vessel in the GOA in more than one of the three categories included in the definition of "inshore component in the GOA," in § 679.2, during any fishing year.

(v) (*Applicable through December 31, 2001*). Operate any vessel in the GOA under both the "inshore component in the GOA" and the "offshore component in the GOA" definitions in § 679.2 during the same fishing year.

(vi) (*Applicable through December 31, 2001*). Operate any vessel in the GOA

under both the "inshore component in the GOA" and the "offshore component in the BSAI" or under both the "offshore component in the GOA" and the "inshore component in the BSAI" definitions in § 679.2 during the same fishing year.

(vii) (Applicable through December 31, 2001). Operate any vessel that processes pollock or Pacific cod, harvested in a directed fishery for those species, at a single location in Alaska State waters under the "inshore component in the BSAI" and the "inshore component in the GOA" definitions in § 679.2 during the same fishing year.

\* \* \* \* \*

4. In § 679.20, paragraphs (a)(6), (b)(2), and (c)(4) are revised to read as follows:

§ 679.20 General limitations.

\* \* \* \* \*

(a) \* \* \*

(6) Inshore-offshore apportionments—(i) BSAI pollock (applicable through December 31, 2004). The apportionment of pollock in each BSAI subarea or district and season between the inshore component in the BSAI and the offshore component in the BSAI will be the same as that specified in section 206(b) of the American Fisheries Act.

(ii) GOA pollock (applicable through December 31, 2001). The apportionment of pollock in all GOA regulatory areas and for each season allowance described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(iii) GOA Pacific cod (applicable through December 31, 2001). The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component in the GOA and 10 percent to vessels catching Pacific cod for processing by the offshore component in the GOA.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) Pollock inshore-offshore reapportionment (applicable through December 31, 2001). Any amounts of the GOA reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(ii) of this section.

(ii) Pacific cod inshore-offshore reapportionment (applicable through December 31, 2001). Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by this paragraph (b) must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(iii) of the section.

\* \* \* \* \*

(c) \* \* \*

(4) Inshore-offshore allocations—(i) BSAI pollock (applicable through December 31, 2004). The proposed, interim, and final specifications will specify the allocation of pollock for processing by the inshore component in the BSAI and the offshore component in the BSAI, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

(ii) GOA pollock and Pacific cod (applicable through December 31, 2001). The proposed, interim, and final specifications will specify the allocation of GOA pollock and GOA Pacific cod for processing by the inshore component in the GOA and the offshore component in the GOA, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

\* \* \* \* \*

5. In § 679.22, paragraph (a)(5) is revised to read as follows:

§ 679.22 Closures.

(a) \* \* \*

(5) Catcher Vessel Operational Area (CVOA). The CVOA is defined as that part of the BSAI that is south of 56°00' N. lat. and between 163°00' W. long. and 167°30' W. long. (Figure 2 to part 679).

(i) Effective time period. The CVOA is established annually during the B season, defined at § 679.23(e)(2)(I)(B), from September 1 until the date that NMFS closes the B season allocation for the inshore component in the BSAI to directed fishing.

(ii) Offshore component in the BSAI restrictions. A catcher/processor vessel in the offshore component is prohibited from conducting directed fishing for pollock in the CVOA unless it is operating under a CDP approved by NMFS.

(iii) Fisheries other than pollock. A vessel that harvests or processes groundfish in directed fisheries for species other than pollock may operate within the CVOA consistent with the other provisions of this part.

\* \* \* \* \*

6. In § 679.23, paragraph (e)(2) is revised to read as follows:

§ 679.23 Seasons.

\* \* \* \* \*

(e) \* \* \*

(2) Directed fishing for pollock. (i) Subject to other provisions of this part, and except as provided in paragraphs (e)(2)(ii) and (e)(2)(iii) of this section, directed fishing for pollock is authorized only during the following two seasons:

(A) A season. From 0001 hours A.l.t. January 1 through 1200 hours A.l.t. April 15.

(B) B season. From 1200 hours A.l.t. September 1 through 1200 hours A.l.t. November 1.

(ii) Offshore component in the BSAI restrictions (applicable through December 31, 2004)—(A) Offshore A season. Subject to other provisions of this part, directed fishing by the offshore component in the BSAI, or by vessels catching pollock for processing by the offshore component in the BSAI, is authorized from 1200 hours A.l.t. January 26 through 1200 A.l.t. April 15.

(B) Offshore A season "fair start" requirement. Directed fishing for pollock by the offshore component in the BSAI, or by vessels catching pollock for processing by the offshore component in the BSAI, is prohibited through 1200 hours A.l.t., February 5, for any vessel that is used to fish in a non-CDQ fishery for groundfish in the BSAI or GOA, or for king or Tanner crab in the BSAI prior to 1200 hours, A.l.t., January 26 of the same year.

(iii) B season "fair start" requirement. Directed fishing for pollock is prohibited from 1200 hours, A.l.t., September 1, through 1200 hours, A.l.t., September 8, for any vessel that is used to fish for groundfish with trawl gear in a non-CDQ fishery in the BSAI or GOA between 1200 hours, A.l.t., August 25, and 1200 hours, A.l.t., September 1.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

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Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod and pollock in the Gulf of Alaska

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