

## J. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rules report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**Authority:** The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

### List of Subjects in 48 CFR Parts 1546 and 1552

Government procurement.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

### PARTS 1546 AND 1552—[AMENDED]

1. The authority citations for part 1546 and for part 1552 will read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

#### 1546.2 [Removed].

2. Subpart 1546.2 is removed.

#### 1552.203–70 [Amended].

3. Section 1552.203–70 is amended by removing the text "As prescribed in 1503.603" and adding in its place the text "As prescribed in 1503.670."

#### 1552.246–70 [Removed].

4. Section 1552.246–70 is removed.

#### 1552.246–71 [Removed].

5. Section 1552.246–71 is removed.

#### 1552.246.72 [Removed].

6. Section 1552.246–72 is removed.

Dated: November 30, 2000.

**Judy S. Davis,**

*Acting Director, Office of Acquisition Management.*

[FR Doc. 00–32030 Filed 12–19–00; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 001213348-0348-01; I.D. 121100A]

RIN 0648-AO44

### Fisheries of the Exclusive Economic Zone Off Alaska; Removal of Groundfish Closure

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

**ACTION:** Final rule.

**SUMMARY:** NMFS removes an existing closure to commercial groundfish fishing with trawl gear within critical habitat designated for Steller sea lions in the exclusive economic zone (EEZ) off Alaska west of 144° W. long. and closes this area to commercial fishing for Pacific cod through December 31, 2000. The removal of the existing closure is consistent with the December 5, 2000, Order of the United States District Court for the Western District of Washington. The new closure is intended to ensure that Steller sea lions are adequately protected based on conclusions in a biological opinion issued November 30, 2000.

**DATES:** Effective December 14, 2000 except that § 679.22(k) is effective December 14, 2000 through December 31, 2000.

**ADDRESSES:** Copies of the Endangered Species Act—Section 7 Consultation Biological Opinion and Incidental Take Statement on Authorization of the Bering Sea and Aleutian Islands groundfish fisheries based on the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Authorization of the Gulf of Alaska groundfish fisheries based on the Fishery Management Plan for Groundfish of the Gulf of Alaska, including the reasonable and prudent alternative (BiOp), may be obtained by contacting the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, or Room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. The 2000 BiOp is also available on the Alaska Region home page at <http://www.fakr.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** John Lepore, 907-586-7228 or [john.lepore@noaa.gov](mailto:john.lepore@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the U.S. groundfish fisheries in

the EEZ of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) under the fishery management plans (FMPs) for groundfish in the respective areas. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries appear at 50 CFR part 600.

NMFS also has statutory authority to promulgate regulations governing the groundfish fisheries under the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* The ESA requires that each Federal agency ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or to result in the destruction or adverse modification of critical habitat of such species.

On August 7, 2000, the United States District Court for the Western District of Washington issued an order that granted a motion for a partial injunction on the North Pacific groundfish fisheries. *Greenpeace v. NMFS*, No. C98–4922 (W.D. Wash.). This motion, filed by Greenpeace, American Oceans Campaign, and the Sierra Club requested injunctive relief until NMFS issues a legally adequate BiOp addressing the combined, overall effects of the North Pacific groundfish fisheries on Steller sea lions and their critical habitat pursuant to the ESA. The population of Steller sea lions west of 144° W. long. (hereafter western population) is listed under the ESA as endangered, while the population of Steller sea lions east of 144° W. long. is listed as threatened.

To comply with the Court's August 7, 2000, Order, NMFS, pursuant to the ESA, issued an interim rule prohibiting fishing for groundfish with trawl gear in Steller sea lion critical habitat (65 FR 49766, August 15, 2000). The critical habitat areas closed by the interim rule were defined in regulations codified at 50 CFR 226.202, and in Tables 1 and 2 to 50 CFR part 226.

On November 30, 2000, NMFS issued a BiOp that is comprehensive in scope and considers the fisheries and the overall management framework established by the BSAI and GOA FMPs. After analyzing the cumulative, direct and indirect effects of the groundfish fisheries authorized by the BSAI and GOA FMPs on listed species, NMFS concluded in the BiOp that the fisheries

for pollock, Pacific cod, and Atka mackerel fisheries, as currently prosecuted, jeopardize the continued existence of the western population of Steller sea lions and adversely modify their critical habitat. NMFS reached this conclusion based on information that the pollock, Pacific cod, and Atka mackerel fisheries and the Steller sea lions compete for the same species, that this competition causes reduced availability of prey for the Steller sea lions, that reduced availability of prey leads to nutritional stress, and that nutritional stress, especially of juveniles and to a lesser extent adult females, is the leading hypothesis to explain the continued decline of the western population of Steller sea lions.

On December 5, 2000, the United States District Court for the Western District of Washington issued an order dissolving the injunction issued on August 7, 2000. Based on that Order, NMFS revokes the current closure of all groundfish trawl fishing in designated critical habitat that was published on August 15, 2000 (65 FR 49766). However, because the BiOp concluded that the fisheries for Pacific cod, along with pollock and Atka mackerel, as currently prosecuted, jeopardize the continued existence of the western population of Steller sea lions and adversely modify their critical habitat, NMFS is prohibiting commercial fishing for Pacific cod in designated critical habitat through December 31, 2000. Commercial fisheries for pollock and Atka mackerel are not included in this closure because fisheries for those species already are prohibited through December 31, 2000, pursuant to other regulatory requirements.

The new closure, promulgated under the authority of section 11(f) of the ESA, prohibits all Pacific cod fishing through December 31, 2000, as the term fishing is defined at 16 U.S.C. 1802(15),

authorized pursuant to the FMPs, within Steller sea lion critical habitat listed in Tables 1 and 2 to 50 CFR part 226 in federally regulated waters west of 144° W. long. and the three special aquatic foraging areas defined as critical habitat at 50 CFR 226.202(c).

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is consistent with the Court's Order and is authorized by the ESA.

Because prior notice and opportunity for public comment are not required for this 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.*, do not apply to this action.

This final rule has been determined to be not significant under section 3(f)(1) of E.O. 12866.

The AA, under 5 U.S.C. 553(b)(B), finds that there is good cause to waive providing prior notice and an opportunity for public comment for the removal of the existing closure. This removal stems from a United States District Court Order dissolving, as of December 5, 2000, the injunction requiring the closure. Delaying this action to provide prior notice and opportunity for comment would cause unnecessary economic harm to the affected fishermen and thus would be contrary to the public interest. Because this action relieves a restriction, under 5 U.S.C. 553(d)(1), it is not subject to a delay in effective date.

The AA, under 5 U.S.C. 553(b)(B), finds there is good cause to waive providing prior notice and an opportunity for public comment for the portion of this action that implements a new closure. An immediate new closure is necessary to protect endangered Steller sea lions and it would be contrary to the public interest to delay this action to provide prior notice and

an opportunity for comment. For this same reason, the AA, under 5 U.S.C. 553(d)(3), finds there is good cause to waive the 30-day delay in the effective date otherwise required for the new closure.

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

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: December 14, 2000.

**William T. Hogarth,**

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

For reasons set forth 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; 16 U.S.C. 1540(f).

2. In § 679.22, paragraph (j) is removed, and a new paragraph (k) is added to read as follows:

#### **§ 679.22 Closures.**

\* \* \* \* \*

(k) Closure of critical habitat. (Applicable through December 31, 2000.) All Pacific cod fishing, as the term fishing is defined at 16 U.S.C. 1802(15) and authorized pursuant to the Fishery Management Plans for the Bering Sea/Aleutian Islands and the Gulf of Alaska, within Steller sea lion critical habitat within the EEZ and west of 144° W. long., as such critical habitat is defined by regulations codified at 50 CFR 226.202 and Tables 1 and 2 to 50 CFR part 226, is prohibited.

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