

Classification*National Environmental Policy Act*

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F. 2d825 (6th Cir. 1981), We have concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA). (See NOAA Administrative Order 216-6.)

Executive Order 12866, Regulatory Flexibility Act and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this rule is exempt from review under Executive Order 12866. This proposed rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Federalism

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, this proposed rule will be given to the relevant state agencies in each state in which the species is believed to occur, who will be invited to comment. We have conferred with the State of Washington in the course of assessing the status of Southern Resident killer whales, and considered, among other things, state and local conservation measures. Washington has listed killer whales under the Washington Administrative Code 232-12-014 and is coordinating with us to develop a State recovery plan. As the process continues, we intend to continue engaging in informal and formal contacts with Washington, and other affected local or regional entities, giving careful consideration to all written and oral comments received. We also intend to consult with appropriate elected officials in the establishment of a final rule.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, exports, imports, transportation.

Dated: December 15, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is proposed to be amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531-1543 and 16 U.S.C. 1361 *et seq.*

2. In § 223.102, paragraph (c), add the following to the List of Threatened Marine and Anadromous Species, in alphabetical order under MARINE MAMMALS:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(c) Marine Mammals.

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Killer whale (*Orcinus orca*), Southern Resident population (DPS), which consists of whales from J, K and L pods.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 041126332-4332-01; I.D. 112204A]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2005 and 2006 Proposed Harvest Specifications for Groundfish; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule to implement 2005 and 2006 harvest specifications and prohibited species catch (PSC) allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This document corrects errors in Table 8 to the proposed specifications.

DATES: Comments must be received by January 7, 2005.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional

Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

- Mail to P.O. Box 21668, Juneau, AK 99802;

- Hand Delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, AK;

- E-mail to

2005AKgroundfish.tacspeccs@noaa.gov and include in the subject line of the e-mail comments the document identifier: 2005 Proposed Specifications. E-mail comments, with or without attachments, are limited to 5 megabytes;

- FAX to 907-586-7557; or

- Webform at the Federal

eRulemaking Portal:

www.regulations.gov. Follow the instructions at that site for submitting comments.

Copies of the draft Environmental Assessment/Initial Regulatory Flexibility Analysis (EA/IRFA) prepared for this action are available from NMFS at the addresses above or from the Alaska Region website at www.fakr.noaa.gov. Copies of the final 2003 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2003, are available from the North Pacific Fishery Management Council (Council), West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809), or from its website at www.fakr.noaa.gov/npfmc.

FOR FURTHER INFORMATION CONTACT:

Mary Furuness, 907-586-7228, or e-mail at mary.furuness@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS proposed 2005 and 2006 harvest specifications and PSC allowances for the groundfish fishery of the BSAI on December 8, 2004 (69 FR 70974). That rule lists proposed pollock allocations to the seven inshore catcher vessel pollock cooperatives. Allocations in the proposed rule reflect cooperative applications for 2005 that are due to NMFS by December 1 of each year. All of the changes based on these applications were not reflected in the proposed Table 8. This document corrects the proposed rule by reflecting accurately all of the applications received for the 2005 year.

Correction

As published, proposed rule FR Doc. 04-26952, December 8, 2004 (69 FR 70974) contains an error and needs to be corrected. The corrected table adds member vessel PACIFIC CHALLENGER to the Peter Pad Fleet Cooperative and corrects data in columns 2, 3, 4, and 5 for the Westward Fleet Cooperative. The corrected table reads as follows:

TABLE 8 (CORRECTED)—2005 AND 2006 PROPOSED BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

[Amounts are in metric tons]

Cooperative name and member vessels	Sum of member vessel's official catch histories ¹ (mt)	Percentage of inshore sector allocation	2005 Annual co-op allocation (mt)	2006 Annual co-op allocation (mt)
<i>Akutan Catcher Vessel Association</i> ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, MARK I, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER	245,922	28.130%	180,110	180,055
<i>Arctic Enterprise Association</i> BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER	36,807	4.210%	26,957	26,948
<i>Northern Victor Fleet Cooperative</i> ANITA J, COLLIER BROTHERS, COMMODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL	73,656	8.425%	53,945	53,929
<i>Peter Pan Fleet Cooperative</i> AJ, AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PACIFIC CHALLENGER, PROVIDIAN, TOPAZ, WALTER N	23,850	2.728%	17,467	17,462
<i>Unalaska Cooperative</i> ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,737	12.209%	78,173	78,149
<i>UniSea Fleet Cooperative</i> ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, MAR-GUN, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE, STARWARD	213,521	24.424%	156,380	156,333
<i>Westward Fleet Cooperative</i> ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, VIKING, WESTWARD I	173,744	19.874%	127,248	127,209
Open access AFA vessels	0	0%	0	0
Total inshore allocation	874,238	100%	640,280	640,085

¹According to regulations at § 679.62(e)(1), the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

All other information previously published remains the same.

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

Dated: December 16, 2004.

William T. Hogarth,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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