

within this emergency rule meets the fishing mortality objectives of the FMP and satisfies section 120(a) of the Reauthorized Magnuson-Stevens Act.

Until this rule is effective, states and commercial fishermen are held to the quotas published on December 14, 2006. As a result of the Reauthorized Magnuson-Stevens Act, the quotas published on December 14, 2006, are rendered unnecessarily restrictive and are substantially less than the quotas available under the increased TAL. If effectiveness of the rule is delayed, state quotas and subsequent management measures designed to attain the quotas derived from the lower TAL would be inconsistent with the increased TAL available from the revised rebuilding period. Waiver of the notice-and-comment rulemaking period will serve the public by allowing states to implement commercial quotas and management measures afforded under the increased TAL in a timely fashion for the 2007 fisheries that began on January 1, 2007. States in the southern reaches of the Northeast Region have very active commercial fisheries that begin in January of each year while more northern states have need of establishing their annual management measures early within the new year so that fishery participants may plan first quarter fishing activities. The time required by NMFS to conduct notice-and-comment rulemaking for this emergency rule would require states to establish management measures for up to several months based on the lower TAL in place as of January 1, 2007. State management measures would likely require more restrictive possession and trip limits that increase the potential for discards and the likelihood that TALs may be attained and fisheries to be closed before additional quota is made available by this emergency rule.

In addition, state agencies are currently developing and preparing conservation equivalency proposals for the 2007 recreational fishery to be submitted to the Atlantic States Marine Fisheries Commission during their January 29, 2007, meeting. Recreational fisheries do not begin in earnest until spring and NMFS anticipates publishing a final rule for 2007 recreational measures in March 2007. A delay of this emergency rule by notice-and-comment rulemaking would require states to craft conservation equivalency measures that meet the objectives of the lower TAL. Such measures would be inconsistent with the objectives of the increased TAL and would be unnecessarily more restrictive, requiring further revision after this rule becomes effective. Additional rulemaking would be

required to implement less restrictive measures that meet the objectives of the higher TAL.

NMFS did not initiate the emergency action earlier because provision of the Reauthorized Magnuson-Stevens Act that allows an extension of the summer founder rebuilding period and the subsequent increase in 2007 TAL was not signed into law by the President until January 12, 2007. The revised TAL is within the range of quota alternatives considered and analyzed by the Council, and discussed in the proposed rule that published on October 27, 2006, with a 21-day comment period. NMFS intends to provide a 30-day post-promulgation comment period following the implementation of this emergency rule.

Waiver of this delay will allow state promulgated commercial management measures to be applied within days of the start of the 2007 fishing season and for recreational management measures to be proposed to meet the objectives contained within the higher TAL. These state measures will be consistent with the publicly and Congressionally expected increase in TAL resulting from the extended rebuilding time frame authorized in section 120(a) of the Reauthorized Magnuson-Stevens Act.

For the same reasons, the Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C 553(d)(3) to make this rule effective immediately, thereby waiving the 30-day delayed effective date required by 5 U.S.C. 553(d).

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

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 USC 553 or any other law.

Dated: January 17, 2007.

**Samuel D. Rauch III,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 060216045-6045-01; I.D. 011107F]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2007 total allowable catch (TAC) of pollock for Statistical Area 610 in the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 22, 2007, through 1200 hrs, A.l.t., March 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2007 TAC of pollock in Statistical Area 610 of the GOA is 3,352 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2007 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,337 mt, and is setting aside the remaining 15 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

After the effective date of this closure the maximum retainable amounts at

§§ 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is

impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 11, 2007.

The AA also finds good cause to waive the 30 day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon

the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: January 12, 2007.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

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