

TABLE 3—FINAL 2009 AND 2010 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)¹—Continued

[Amounts are in metric tons]

Area and sector	2009 Allocations	2009 A season ¹		2009 B season ¹	2010 Allocations	2010 A season ¹		2010 B season ¹
		A season DFA	SCA harvest limit ²	B season DFA		A season DFA	SCA harvest limit ²	B season DFA
Bogoslof District ICA	50	n/a	n/a	n/a	10	n/a	n/a	n/a

¹ Pursuant to (§ 679.20(a)(5)(i)(A)), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (4 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

² In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

³ Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

⁴ Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

⁵ Pursuant to § 679.20(a)(5)(i)(A)(6), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

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 allow for harvests that exceed the appropriate allocations for pollock based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 14, 2009, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

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.

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 13, 2010.

This action is required by § 679.22 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: December 18, 2009.

Emily Menashes,

Acting 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. 0810141351-9087-02]

RIN 0648-XT41

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2010 Bering Sea and Aleutian Islands Pacific Cod Total Allowable Catch Amount

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2010 total allowable catch (TAC) amount for the Bering Sea and Aleutian Islands (BSAI) Pacific cod fishery. This action is necessary because NMFS has determined this TAC is incorrectly specified. This action will ensure the BSAI Pacific cod TAC does not exceed the appropriate amount based on the best available scientific information for Pacific cod in the BSAI. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and

Aleutian Islands Management Area (FMP).

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 29, 2009, until the effective date of the final 2010 and 2011 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 13, 2010.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XT41, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Mail: P.O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586-7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comment will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the FMP prepared by the North Pacific Fishery Management Council (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 2010 Pacific cod TAC in the BSAI was set at 193,030 metric tons (mt) by

the final 2009 and 2010 harvest specification for groundfish in the BSAI (74 FR 7359, February 17, 2009).

In December 2009, the Council recommended a 2010 Pacific cod TAC of 168,780 mt for the BSAI. This amount is less than the 193,030 mt established by the final 2009 and 2010 harvest specification for groundfish in the BSAI (74 FR 7359, February 17, 2009). The TAC recommended by the Council is based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2009, which NMFS has determined is the best available scientific information for this fishery.

Steller sea lions occur in the same location as the Pacific cod fishery and are listed as endangered under the Endangered Species Act (ESA). Pacific cod is a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of Pacific cod harvest is necessary to ensure the

groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(7)(i)(B) specify how the Pacific cod TAC shall be apportioned.

In accordance with § 679.25(a)(2)(i)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2009 SAFE report for this fishery, the current BSAI Pacific cod TAC is incorrectly specified. Consequently, the Regional Administrator is adjusting the 2010 Pacific cod TAC to 168,780 mt in the Bering Sea subarea.

Pursuant to § 679.20(a)(7), Table 5b of the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009) is revised for the 2010 Pacific cod TACs consistent with this adjustment.

TABLE 5BB FINAL 2010 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2010 share of gear sector total	2010 share of sector total	2010 seasonal apportionment	
				Dates	Amount
Total TAC	100	168,780	n/a	n/a	n/a
CDQ	10.7	18,059	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	91,638	n/a	n/a	n/a
Hook-and-line/pot ICA ¹	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	91,138	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	73,000	Jan 1–Jun 10 Jun 10–Dec 31	37,230 35,770
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	300	Jan 1–Jun 10 Jun 10–Dec 31	153 147
Pot catcher/processor	1.5	n/a	2,248	Jan 1–Jun 10 Sept 1–Dec 31	1,147 1,102
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	12,591	Jan 1–Jun 10 Sept 1–Dec 31	6,422 6,170
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2	n/a	2,998	n/a	n/a
Trawl catcher vessel	22.1	33,309	n/a	Jan 20–Apr 1 Apr 1–Jun 10 Jun 10–Nov 1	24,649 3,664 4,996
AFA trawl catcher/processor	2.3	3,467	n/a	Jan 20–Apr 1 Apr 1–Jun 10 Jun 10–Nov 1	2,600 867 0
Amendment 80	13.4	20,197	n/a	Jan 20–Apr 1 Apr 1–Jun 10 Jun 10–Nov 1	15,844 5281 0
Amendment 80 limited access	n/a	n/a	3,319	Jan 20–Apr 1 Apr 1–Jun 10 Jun 10–Nov 1	2,489 830 0

TABLE 5bB FINAL 2010 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—
Continued

[Amounts are in metric tons]

Gear sector	Percent	2010 share of gear sector total	2010 share of sector total	2010 seasonal apportionment	
				Dates	Amount
Amendment 80 cooperatives	n/a	n/a	16,878	Jan 20–Apr 1	12,659
				Apr 1– Jun 10	4,220
				Jun 10–Nov 1	0
Jig	1.4	2.110	n/a	Jan 1–Apr 30	1,266
				Apr 30–Aug 31	422
				Aug 31–Dec 31	422

¹ The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2010 based on anticipated incidental catch in these fisheries.

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

allow for harvests that exceed the appropriate allocations for Pacific cod based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 14, 2009, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

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.

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This action is required by § 679.22 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: December 18, 2009.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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