

final rule make clear that all vessel permits obtained using Federal grant awards be used in a manner consistent with all fishery management plan provisions governing those permits, and that the permits should not be subject to additional constraints without Council consideration.

Response: NMFS intends for any fishing operations conducted by a vessel using access rights (e.g., DAS, ACE) associated with a Federal permit obtained using a Federal grant award to be consistent with applicable fishery management plan provisions and to fully comply with all applicable fishing regulations. However, NMFS reserves the right to establish more restrictive criteria for the operations of any permit banks established using Federal grant awards.

Comment 6: A commenter opposed the use of Federal funds to establish permit banks.

Response: While NMFS acknowledges that some stakeholders may have concerns regarding the use of Federal funds to establish permit banks, this action does not, in itself, create or authorize the use of Federal funds in this manner. This action is wholly constrained to establishing an effective enforcement mechanism such that NOAA, should it at some future time provide a Federal grant award to a state, or other party, for the purpose of obtaining one or more fishing vessels, and the associated Federal permits, retains some level of oversight and control over how the fishing rights associated with the permits are used, beyond the duration of the Federal grant award.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator determined that this final rule is consistent with the Fishery Management Plans (FMPs) of the NE Region, other provisions of the Magnuson-Stevens Act, and other applicable law, and is necessary to discharge the general responsibility to carry out said FMPs.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding

this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 22, 2009.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.4, add paragraph (n) to read as follows:

§ 648.4 Vessel permits.

* * * * *

(n) *Federal grant awards.* The Regional Administrator may suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, issued pursuant to this section, including the rights thereto, held by a person, corporation, non-profit organization, or government entity if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding or agreement, are violated by the grant recipient.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344-9056-02]

RIN 0648-XT52

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2010 Gulf of Alaska Pollock and Pacific Cod Total Allowable Catch Amounts

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) amounts for

the Gulf of Alaska (GOA) pollock and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the GOA pollock and Pacific cod TACs are the appropriate amounts based on the best available scientific information for pollock and Pacific cod in the GOA. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 GOA 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-XT52, 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. Comments 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: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA 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 final 2009 and 2010 harvest specifications for groundfish in the GOA (74 FR 7333, February 17, 2009) set the 2010 pollock TAC at 74,330 metric tons (mt) and the 2010 Pacific cod TAC at 60,102 mt in the GOA. In December 2009, the Council recommended a 2010 pollock TAC of 84,745 mt for the GOA, which is more than the 74,330 mt established by the final 2009 and 2010 GOA harvest specifications. The Council also recommended a 2010 Pacific cod TAC of 59,563 mt for the GOA, which is less than the 60,102 mt established by the final 2009 and 2010 harvest specifications for groundfish in

the GOA. The Council's recommended TACs are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2009, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock and Pacific cod are a principal prey species for Steller sea lions in the GOA. The seasonal apportionment of pollock and 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)(5)(iv) specify how the pollock TAC will be apportioned. The regulations at § 679.20(a)(6)(ii) and

§ 679.20(a)(12)(i) 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 GOA pollock and Pacific cod TACs are incorrectly specified. Consequently, pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2010 GOA pollock TAC to 84,745 mt and the 2010 GOA Pacific cod TAC to 59,563 mt.

Pursuant to § 679.20(a)(5)(iv), Table 6 of the final 2009 and 2010 harvest specifications for groundfish in the GOA (74 FR 7333, February 17, 2009) is revised for the 2010 pollock TACs in the Western, Central, and Eastern GOA consistent with this adjustment.

TABLE 6—FINAL 2010 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA; PERCENTAGE SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

(Values are rounded to the nearest metric ton)

| Season | Shumagin (Area 610) | | Chirikof (Area 620) | | Kodiak (Area 630) | | Total ¹ |
|-------------------|---------------------|--------|---------------------|--------|-------------------|--------|--------------------|
| A (Jan 20–Mar 10) | 5,551 | 30.22% | 8,414 | 45.81% | 4,403 | 23.97% | 18,368 |
| B (Mar 10–May 31) | 5,551 | 30.22% | 9,926 | 54.04% | 2,891 | 15.74% | 18,367 |
| C (Aug 25–Oct 1) | 7,576 | 41.25% | 4,877 | 26.55% | 5,912 | 32.19% | 18,367 |
| D (Oct 1–Nov 1) | 7,576 | 41.25% | 4,877 | 26.55% | 5,912 | 32.19% | 18,367 |
| Annual Total | 26,256 | | 28,095 | | 19,118 | | 73,469 |

¹ The West Yakutat and Southeast Outside District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table. Note: As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

Pursuant to § 679.20(a)(6)(ii) and § 679.20(a)(12)(i), Table 8 of the final 2009 and 2010 harvest specifications for

groundfish in the GOA (74 FR 7333, February 17, 2009) is revised for the 2010 Pacific cod TACs in the Western,

Central, and Eastern GOA consistent with this adjustment.

TABLE 8—FINAL 2010 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

(values are rounded to the nearest metric ton)

| Regulatory area | Season | TAC | Component allocation | |
|-----------------|----------------|--------|----------------------|----------------|
| | | | Inshore (90%) | Offshore (10%) |
| Western | Annual | 20,764 | 18,688 | 2,076 |
| | A season (60%) | 12,458 | 11,213 | 1,246 |
| | B season (40%) | 8,306 | 7,475 | 831 |
| Central | Annual | 36,782 | 33,104 | 3,678 |
| | A season (60%) | 22,069 | 19,862 | 2,207 |
| | B season (40%) | 14,713 | 13,242 | 1,471 |
| Eastern | Annual | 2,017 | 1,815 | 202 |
| | Total | 59,563 | 53,607 | 5,956 |

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 21, 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 22, 2009.

Alan D. Risenhoover,

*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-XT40

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2010 Bering Sea Pollock 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 pollock fishery. This action is necessary because NMFS has determined this TAC is incorrectly specified. This action will ensure the Bering Sea pollock TAC does not exceed the appropriate amount based on the best available scientific information for pollock in the Bering Sea subarea. 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-XT40, 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.