

then the stock is considered overfished and the Council would then need to develop a rebuilding plan capable of returning the stock to a level that allows the stock to achieve MSY on a continuing basis. In years when there is a stock assessment, if fishing mortality exceeds the MFMT, a stock is considered to be undergoing overfishing because this level of fishing mortality, if continued, would reduce the stock biomass to an overfished condition. In years in which there is no assessment, overfishing occurs if landings exceed the OFL.

Currently, the MFMT is equal to  $F_{30\%SPR}$ . Because the MSY proxy selected in Amendment 51 is the yield when fishing at  $F_{30\%SPR}$ , the Council chose to modify the MFMT to be equal to  $F_{30\%SPR}$  for consistency. Under this definition, projections from SEDAR 51 suggest overfishing ended in 2017.

The MSST needs to be equal or less than the biomass (B) capable of producing MSY or MSY proxy ( $B_{MSY}$  (or MSY proxy)). The closer the MSST value is to  $B_{MSY}$  (or MSY proxy), the more likely a stock could be declared overfished due to year-to-year fluctuations in stock biomass, resulting in an unneeded rebuilding plan. However, if MSST is set too low, then rebuilding the stock to MSY levels could result in more stringent management measures. Consistent with other reef fish stocks with a defined MSST (gag, red grouper, red snapper, vermillion snapper, gray triggerfish, greater amberjack, and hogfish), the Council selected the MSST for gray snapper as  $0.50 * B_{MSY}$  (or MSY proxy). The Council determined that because the Magnuson-Stevens Act requires ACLs and AMs to prevent overfishing, and that any overfishing be ended immediately, it is unlikely that sustained overfishing would occur and cause a stock to fall below the MSST. Under this MSST, the result of SEDAR 51 indicate that the gray snapper stock would not be overfished.

#### Optimum Yield

The Council determined that the OY should be the yield when fishing at 90 percent of  $F_{MSY}$  (or MSY proxy). This value would allow for more harvest over the long term and likely have greater social and economic benefits, although it provides less protection to the stock than other values considered (the yield when fishing at 50 and 75 percent of  $F_{MSY}$  (or MSY proxy)). However, as noted previously, the ACLs and AM control yearly harvest and are designed to prevent overfishing.

#### Overfishing Limit, Acceptable Biological Catch, Annual Catch Limit, and Annual Catch Target

The current OFL, ABC, and ACL for gray snapper were established in the Generic ACL/AM Amendment using the Council's ABC control rule for stocks that have not been assessed, but are stable over time (76 FR 82044; December 29, 2011). The OFL is equal to 2.88 million lb (1.31 million kg), which is the mean plus 2.0 standard deviations of the annual landings from 1998 through 2008. The ABC is equal to 2.42 million lb (1.1 million kg), which is the mean plus 1.0 standard deviation of the annual landings from 1998 through 2008. The ACL is equal the ABC, and the ACT is 14 percent less than the ACL at 2.08 million lb (0.9 million kg).

Amendment 51 would modify the OFL and ABC consistent with the projections from SEDAR 51 for the MSY proxy selected by the Council and the SSC recommendations. The OFLs would be 2.58 million lb (1.17 million kg) for 2020, and 2.57 million lb (1.166 million kg) for 2021 and subsequent fishing years. The ABCs would be 2.51 million lb (1.14 million kg) for 2020 and subsequent years. The Council then used its ACL/ACT control rule to determine that an 11 percent buffer between the ABCs and ACLs was appropriate to account for management uncertainty. This results in Gulf gray snapper stock ACLs that would be 2.24 million lb (1.02 million), round weight, for the 2020 fishing year. In 2021, and subsequent fishing years, the ACL would be set at 2.23 million lb (1.01 million kg), round weight.

The gray snapper ACT is not currently used for management purposes. Therefore, the Council decided not to set an ACT through Amendment 51.

#### Proposed Rule for Amendment 51

A proposed rule to implement Amendment 51 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule for Amendment 51 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

#### Consideration of Public Comments

The Council has submitted Amendment 51 for Secretarial review, approval, and implementation. Comments on Amendment 51 must be received by April 28, 2020. Comments received during the respective comment

periods, whether specifically directed to Amendment 51 or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 51.

Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 51 or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: February 25, 2020.

**Karyl K. Brewster-Geisz,**

*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. 200219-0059]**

**RIN 0648-BJ35**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Modifying Seasonal Allocations of Pollock and Pacific Cod for Trawl Catcher Vessels in the Central and Western Gulf of Alaska

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule to implement Amendment 109 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and to implement a regulatory amendment to the regulations governing pollock fishing in the Gulf of Alaska. This proposed rule will reduce operational and management inefficiencies in the Central Gulf of Alaska and Western Gulf of Alaska trawl catcher vessel pollock and Pacific cod fisheries by reducing regulatory time gaps between the pollock seasons, and changing Gulf of Alaska Pacific cod seasonal apportionments to allow greater harvest opportunities earlier in the year. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the GOA FMP, and other applicable laws. **DATES:** Submit comments on or before March 30, 2020.

**ADDRESSES:** Submit your comments, identified by docket number NOAA-NMFS-2019-0125, by either of the following methods:

- **Federal e-Rulemaking Portal.** Go to [www.regulations.gov/](http://www.regulations.gov/) #!docketDetail;D=NOAA-NMFS-2019-0125, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

**Instructions:** NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the comment period ends. All comments received are a part of the public record, and NMFS will post the comments for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the draft Environmental Assessment and the Regulatory Impact Review (collectively referred to as the “Analysis”) prepared for this proposed rule may be obtained from <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**  
Joseph Krieger, 907-586-7228 or [joseph.krieger@noaa.gov](mailto:joseph.krieger@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Authority for Action**

NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) under the GOA FMP. The North Pacific Fishery Management Council (Council) prepared, and the Secretary of Commerce (Secretary) approved, the GOA FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the GOA FMP appear at 50 CFR parts 600 and 679. The Council is authorized to prepare and recommend a fishery management plan (FMP) amendment for the conservation and management of a fishery managed under the FMP. NMFS conducts rulemaking to implement FMP amendments and regulatory amendments. FMP amendments and regulations developed by the Council

may be implemented by NMFS only after approval by the Secretary.

The Council recommended Amendment 109 to the GOA FMP (Amendment 109) and a regulatory amendment for pollock fisheries in the Gulf of Alaska (GOA). This proposed rule would implement Amendment 109 by changing CGOA and WGOA Pacific cod seasonal apportionments to increase the trawl catcher vessel (CV) sector’s A season total allowable catch (TAC) while proportionally decreasing the sector’s B season TAC. This proposed rule also would implement the Council’s regulatory amendment by combining the Central Gulf of Alaska (CGOA) and Western Gulf of Alaska (WGOA) trawl CV pollock fishery A and B seasons into a single season (redesignated as the A season), and the C and D seasons into a single season (redesignated as the B season), and by changing the annual start date of the redesignated pollock B season from August 25 to September 1. The proposed changes for pollock and Pacific cod would only be applicable to the CGOA and the WGOA, which are comprised of NMFS statistical areas 610 (WGOA) and 620 and 630 (CGOA) (see Figure 3 to part 679). This preamble uses the term “management area” to refer to “statistical area” to avoid confusion with State of Alaska “statistical areas.” Also, the term “management area” is commonly used by harvesters and processors to refer to NMFS statistical areas. In recommending Amendment 109 and the regulatory amendment, the Council intends to provide participants with an opportunity to increase fishery yield, increase management flexibility, and potentially decrease prohibited species catch (PSC) in the CGOA and WGOA while not redistributing fishing opportunities between management areas or harvesting sectors.

A notice of availability (NOA) for Amendment 109 was published in the **Federal Register** on February 6, 2020, with comments invited through April 6, 2020. Comments submitted on this proposed rule by the end of the comment period (See **DATES**) will be considered by NMFS and addressed in the response to comments in the final rule. Comments submitted on this proposed rule may address Amendment 109 or this proposed rule. However, all comments addressing Amendment 109 must be received by April 6, 2020, to be considered in the approval/disapproval decision on Amendment 109. Commenters do not need to submit the same comments on both the NOA and this proposed rule. All relevant written comments received by April 6, 2020,

whether specifically directed to Amendment 109, this proposed rule, or both, will be considered by NMFS in the approval/disapproval decision for Amendment 109 and addressed in the response to comments in the final rule.

**II. Background**

This proposed rule would modify the seasonal apportionment of pollock and Pacific cod TAC in the CGOA and WGOA. The purpose of this action is to reduce operational and management inefficiencies in the CGOA and WGOA trawl CV pollock and Pacific cod fisheries by (1) reducing regulatory time gaps between the pollock fishery A and B seasons and the C and D seasons, and (2) changing seasonal Pacific cod apportionments in the GOA to allow greater harvest opportunities earlier in the year. Modifying the seasonal allocations of pollock and Pacific cod could allow the fisheries to more fully harvest the TAC of GOA pollock and Pacific cod, increase management flexibility, and potentially decrease PSC while not redistributing fishing opportunities between management areas or harvest sectors. The following sections describe (1) the affected fisheries participants and the current seasonal allocations of pollock and Pacific cod in the CGOA and WGOA, (2) the need for this action, and (3) this proposed rule.

**III. The Affected Fisheries Participants and Current Seasonal Allocations**

**A. Affected Fisheries Participants**

The trawl groundfish fisheries in the GOA include fisheries for pollock, sablefish, several rockfish species, numerous flatfish species, Pacific cod, and other groundfish. Trawl gear captures groundfish by towing a net above or along the ocean floor. This proposed rule would affect the trawl fisheries for pollock and Pacific cod in two specific areas of the GOA: (1) The CGOA regulatory area (comprised of management areas 620 and 630), and (2) the WGOA regulatory area (comprised of management area 610). These specific areas are defined at § 679.2. This proposed action would apply only to the federally permitted CVs using trawl gear to harvest pollock or Pacific cod in management areas 610, 620, and 630 of the GOA. This action would not apply to the Eastern GOA West Yakutat District (management area 640).

Regulations at § 679.4(k) require trawl vessels participating in the GOA pollock and Pacific cod fisheries to possess a License Limitation Program license (LLP). Overall, 124 CV LLPs are endorsed for GOA trawl fishing. Ninety-

seven CV LLPs are endorsed for CGOA trawl fishing and 78 CV LLPs are endorsed for WGOA trawl fishing. Fifty-one LLPs are trawl-endorsed for both areas. Table 4-1 in the Analysis shows the number of vessels that participated in the 2018 federally managed GOA pollock and Pacific cod fisheries, by season and gear type.

*B. Current Seasonal Allocations of Pollock and Pacific Cod in the CGOA and WGOA*

**GOA Pollock**

The four pollock seasons for the CGOA and WGOA (management areas 610, 620, and 630) are currently defined in regulations at § 679.23(d)(2) as follows:

A season—From 1200 hours, A.l.t., January 20 to 1200 hours, A.l.t., March 10  
 B season—From 1200 hours, A.l.t., March 10 to 1200 hours, A.l.t., May 31  
 C season—From 1200 hours, A.l.t., August 25 to 1200 hours, A.l.t., October 1  
 D season—From 1200 hours, A.l.t., October 1 to 1200 hours, A.l.t., November 1

Through the annual harvest specifications process, NMFS establishes pollock TACs for management areas 610, 620, and 630 within the CGOA and the WGOA. These TACs are established in proportion to the distribution of the pollock biomass in those areas as determined by the most recent NMFS surveys. In addition, the regulations at § 679.20(a)(5)(iv)(B) state that 25 percent of the combined pollock TAC for the CGOA and WGOA is allocated to each of the four seasons. The seasonal apportionments are then further apportioned across management areas (*i.e.*, management area 610, 620, and 630) based on estimated biomass distribution throughout the year. The most recent example of these allocations is found in the 2019/2020 annual harvest specifications for the GOA (84 FR 9416, March 14, 2019).

Over the last 15 years, the seasonal pollock biomass distribution has shifted substantially, resulting in relatively smaller seasonal apportionments in management area 610—most notably in the A and B seasons—while substantially increasing seasonal apportionments and annual TACs in management area 620 and, to a lesser degree, management area 630. In 2003, management area 610 received 25.00 percent of the A and B season apportionments, and 47.00 percent of the C and D season apportionments. In 2018, management area 610 received only 3.50 percent of the A and B season

apportionments, and 36.59 percent of the C and D season apportionments. Over the same period, management area 620 went from 56.00 percent to 72.54 percent of the A season apportionment, and from 66.00 percent to 85.39 percent of the B season apportionment. For the C and D seasons, management area 620 went from 23.00 percent to 26.59 percent of the C and D season apportionments. Seasonal biomass distributions for the WGOA and CGOA pollock regulatory areas are summarized in Table 2-1 in the Analysis. The seasonal biomass distribution aspect of annual harvest specifications is designed so that the pollock fleet is able to harvest fish where they are occurring, and not to allocate harvest opportunities to one area relative to another.

NMFS inseason managers monitor the catch of pollock and close the directed pollock fishery in each management area when they determine the seasonal apportionment will be taken. Because this process is based on many variable factors, sometimes catch exceeds the seasonal apportionment and sometimes catch is less than the seasonal apportionment.

NMFS' objective is to allow for optimal harvest while avoiding an overage of the seasonal apportionment or the annual TAC. TAC that is not harvested in one area or season that cannot be reallocated to a subsequent season is not made available for later harvest. TAC that remains at the end of the D season is not rolled over to the following calendar year.

After each management area's overages or underages are accounted for, NMFS has the ability to reallocate, or "rollover," pollock that is not harvested in one season to the subsequent season in the same or other management area(s) according to a prescribed series of steps that are predicated on the area TAC levels and seasonal apportionments established in the annual harvest specifications and are described in detail in Section 2.1.1 in the Analysis.

Regulations at § 679.20(a)(5)(iv)(B) state that unharvested pollock may be added to a subsequent seasonal allocation provided that the revised seasonal apportionment does not exceed 20 percent of the subsequent season's pollock apportionment for the management area. This provision also states that any rollover of unharvested pollock is applied first to the subsequent season in the same management area, and only then may any remaining pollock be further reallocated to other GOA management areas. The purpose of the rollover is to help fishery participants harvest as much of the TAC as possible. However,

the rollover regulations are designed to mitigate incentives for the fleet to underharvest or overharvest the seasonal pollock apportionment in a management area in order to influence the amount of pollock available in the subsequent season.

**GOA Pacific Cod**

NMFS establishes annual WGOA and CGOA Pacific cod TACs for the WGOA and CGOA and apportions these TACs across two seasons. NMFS apportions 60 percent of the annual WGOA and CGOA Pacific cod TACs to the A season, and apportions 40 percent of the annual WGOA and CGOA Pacific cod TACs to the B season. For vessels deploying trawl gear, the A season occurs from January 20 through June 10, and the B season occurs from September 1 through November 1.

Since the implementation of Amendment 83 to the GOA FMP in 2012 (76 FR 74670, December 1, 2011), NMFS, after subtracting a set-aside for the jig gear sector, also allocates the annual WGOA and CGOA Pacific cod TACs among five sectors in the WGOA and six sectors in the CGOA. Each sector's allocation is apportioned between the A and B seasons in each area, and the ratio for each sector's seasonal apportionment is not required to be a 60:40 percent ratio. However, for all gear (trawl and non-trawl) and operational-type (CV and catcher/processors (C/Ps)) sectors, the total of A season sector apportionments in each area equals 60 percent of the annual Pacific cod TAC, and the total of B season sector apportionments in each area equals 40 percent of the annual Pacific cod TAC.

Regulations at Section 679.20(a)(12)(i) and Tables 2-2 and 2-3 in the Analysis show the seasonal percentage allocations for each sector. These tables illustrate that no sector, in isolation, experiences a 60:40 percent seasonal TAC split. For example, the CGOA trawl CV sector is currently allocated 21.1 percent of the annual CGOA Pacific cod TAC in the A season and 20.5 percent of the annual CGOA Pacific cod TAC in the B season. Those two figures are at a 51:49 percent ratio to each other. The WGOA trawl CV sector is allocated 27.7 percent of the annual WGOA Pacific cod TAC in the A season TAC and 10.7 percent of the annual WGOA Pacific cod TAC in the B season, which results in a 72:28 percent seasonal ratio. The WGOA trawl CVs receive a relatively greater proportion of their annual Pacific cod TAC allocation in the A season, as they do not target Pacific cod in the fall (B season). The sectors that receive a small percentage of the annual

TAC tend to be those that encounter Pacific cod as incidental catch that must be retained (as an Improved Retention/Improved Utilization Program (IR/IU) species) but do not conduct directed fishing for Pacific cod.

Regulations at § 679.20(a)(12)(ii) describe the reallocation of sector allocations “if [ . . . NMFS] determines that a sector will be unable to harvest the entire amount of Pacific cod allocated to [a] sector.” NMFS publishes these reallocations as inseason actions in the **Federal Register** and posts them on the NMFS Alaska Region website as Information Bulletins. Regulations at § 679.20(a)(12)(ii) also state that NMFS should take into account “the capability of a sector [ . . . ] to harvest the remaining Pacific cod TAC.” There are no set dates upon which reallocations should occur; NMFS relies on its management expertise, as well as communication with the fleets about their expected levels of activity or encounter rates of Pacific cod. In practice, NMFS reallocates Pacific cod that it projects will go unharvested by a sector. The regulations provide a hierarchy that guides preference in reallocations if there are competing needs for additional TAC. The regulations at § 679.20(a)(12)(ii)(B) state that NMFS should consider reallocation to CV sectors first, then reallocation to the combined CV and C/P pot sector, and then to any of the other C/P sectors (trawl and hook-and-line). NMFS provides a record of inseason Pacific cod TAC reallocations on its website. Since 2012, almost all inseason reallocations of Pacific cod have occurred during the B season, and most reallocations flowed from the trawl CV sector; no reallocations have been made to the trawl CV sector.

#### IV. Need for This Action

This proposed rule addresses concerns that arose from a series of discussion papers that were presented to the Council in 2017, 2018, and 2019. The discussion papers examined the amount of uncaught Pacific cod TAC in all gear sectors during the WGOA and CGOA B season, options for changing WGOA and CGOA pollock and Pacific cod seasonal allocations with the goal of improving efficiency in fishery management, and whether delaying the start of the WGOA and CGOA pollock C season from August 25 to September 1 might provide operational benefits to vessels and processors that also engage in salmon fisheries or groundfish fisheries outside of the GOA.

For the pollock fishery, status quo management can result in time gaps between the A and B seasons and

between the C and D seasons. The time gaps vary in length depending on the pace of fishing and TAC utilization during the A and C seasons. Table 4–8 in Section 4.5.1.2 of the Analysis shows instances where fisheries were closed for up to 80 percent of a season when the pollock TAC was taken quickly. In other cases, NMFS has closed directed fishing for pollock toward the very end of one season, and before another season has started, resulting in closures that lasted as little as one day. For example, NMFS has closed the pollock C season during the final four days of the season in management areas 610 and 630 on five occasions from 2012 through 2017.

The Council and NMFS acknowledge that these time gaps between seasons create operational inefficiencies and increase costs compared to a continuous fishery. For harvesters, operational inefficiencies could include fuel costs to transit back and forth to fishing grounds, lost labor productivity (*i.e.*, more days to earn the same income), missed windows of good weather, inability to fish during periods of high catch per unit effort (CPUE), or inability to fish during periods of high pollock roe content (and higher value product) that can occur between the A and B seasons. Processors also experience reduced productivity if labor and equipment are idled. A long time gap between seasons could also erode the real-time knowledge of the fishing grounds that skippers develop over the course of a continuous season. That knowledge is often key to achieving higher CPUE and minimizing bycatch of non-target species and PSC. Section 4.6.1.1.1 of the Analysis describes these inefficiencies in greater detail. Harvesters acknowledge that “pulse” fishing can limit the ability of the fleet to avoid fishing during periods of higher bycatch of species such as Chinook salmon and halibut and can limit the ability of the fleet to fish during periods of lower bycatch. In contrast, combining seasons and reducing time gaps could give the fleet more flexibility to avoid fishing in times of expected high Chinook salmon PSC rates by providing a lower risk of running out of time to fully harvest a seasonal TAC. Section 3.3 of the Analysis describes bycatch rates in the pollock and Pacific cod fisheries and the factors that can result in higher, or lower, bycatch of various species.

In recommending regulatory changes for the WGOA and CGOA pollock fishery, the Council also sought to address a concern about the amount of pollock TAC that may go unharvested in a season because of existing restrictions on TAC rollover. As described above,

regulations at § 679.20(a)(5)(iv)(B) state that unharvested pollock in one season may be added to a subsequent seasonal allocation provided that the revised seasonal apportionment does not exceed 20 percent of the subsequent season’s pollock apportionment for the management area (see Section 2.1.1 in the Analysis for more detail on rollover allocation procedures). The rollover limits are intended to prevent the concentration of annual fishing activity in a given time and space so that it does not adversely affect Steller sea lions (see Section 3.4 in the Analysis for more detail on effects to Steller sea lions). Because only a low percentage of a seasonal apportionment can be rolled over to the following season, the cap on rollovers can result in unharvested TAC that cannot be caught in the subsequent season. Because the 20 percent rollover cap must be “filled” for the next season in the area where an underharvest occurred before additional TAC may be allocated to other areas, rollover between areas is less frequent but not uncommon. In cases of severely underharvested seasonal apportionments, rollover caps can result in a situation where all areas receive the maximum possible apportionment for the following season, but an amount still remains that cannot be reallocated and is thus not available to be fished. The Council determined, and NMFS agrees, that combining the A/B and C/D pollock seasons better addresses the purpose and need for the proposed action than increasing the amount of pollock that can be rolled over to subsequent seasons.

As described in Section 2.2 of the Analysis, options considered under Alternative 2 included increasing the amount of unharvested pollock that may be reallocated from one season to the following season from 20 percent (status quo) to either 25 percent (sub-option 1) or 30 percent (sub-option 2). The Council’s recommendation to maintain the 20 percent rollover cap was responsive to public testimony that underharvest in one season might continue into the following season, especially if the underharvest is due to poor fishing conditions in the underharvested area. As such, a higher rollover cap might increase the possibility of leaving fish stranded because TAC cannot be rolled over to other areas. This is further explained in Section 4.6.3 of the Analysis.

In addition, this proposed rule would delay the start of the redesignated pollock B season from August 25 to September 1 to provide operational benefits to vessels and processors that also engage in salmon fisheries or

groundfish fisheries outside of the GOA. A later pollock start date would minimize the potential for the redesignated pollock B season to overlap the end of salmon harvest and reduce the operational challenges that can occur with harvesters and processors that participate in both of these fisheries. Section 4.6.2.1 of the Analysis describes the operational inefficiencies and costs for harvesters and processors that can occur when processors cannot process peak capacities of pollock and salmon at the same time, resulting in limited deliveries of one species or the other.

To address concerns related to management inefficiencies in the GOA pollock fishery, the Council recommended, and NMFS proposes, regulations that would (1) combine the A and B season into a single season (redesignated as the A season), combine the C and D season into a single season (redesignated as the B season), and allocate pollock among the redesignated A season and redesignated B season at 50 percent to the A season and 50 percent to the B season, applicable to management areas 610, 620, and 630; and (2) change the start date of the redesignated B pollock season in the GOA from August 25 to September 1, resulting in a redesignated B season that runs from September 1 to November 1.

In recent years, trawl CVs in the GOA Pacific cod fishery only conduct directed fishing for B season Pacific cod in the CGOA. The WGOA trawl CV sector receives 10.7 percent of the total annual WGOA Pacific cod TAC in the B season (see Table 2–2 in the Analysis), but it goes largely unharvested by trawl vessels except as incidental catch during the C and D seasons in the pollock trawl fishery. In the CGOA, where the trawl CV fishery is prosecuted, harvest of Pacific cod in the B season lags A season harvest by a significant margin in percentage terms. Table 3–4 in the Analysis shows that harvest of CGOA B season Pacific cod TAC was typically below 50 percent and began to fall precipitously in the years leading up to the 2018 reduction in ABC. While industry participants have reported that fish size and flesh quality can be better in the fall B season than in the late-winter A season due to the length of time removed from spawning activity, GOA Pacific cod do not tend to aggregate in the fall in a manner that lends itself to efficient harvest with trawl gear. As a result, a significant portion of the GOA Pacific cod B season TAC is left unharvested by trawl CVs, while the A season TAC is more fully prosecuted by trawl CVs.

The Council acknowledged the changes that have occurred in the B season Pacific cod fishery, resulting in unharvested Pacific TAC. To address this concern, the Council recommended Amendment 109 for Pacific cod fisheries in the GOA. Proposed regulations to implement Amendment 109 would increase trawl CV allocations of Pacific cod TAC in the CGOA and WGOA during the A season while proportionally decreasing trawl CV allocations of Pacific cod TAC in the CGOA and WGOA during the B season. Specifically, 25.29364 percent of the annual CGOA Pacific cod TAC would be allocated to the trawl CV sector during the A season and 16.29047 percent would be allocated to the B season. Additionally, 31.54 percent of the annual WGOA Pacific cod TAC would be allocated to the trawl CV sector during the A season and 6.86 percent would be allocated to the B season.

Options considered under Alternative 3 explored shifting Pacific cod TAC from the B season to the A season in 5 percent increments relative to status quo. For example, the CGOA trawl CV sector is currently allocated 21.14 percent of the total CGOA A season TAC and 20.45 percent of the total CGOA B season TAC. Those two figures are at a 51:49 percent ratio to each other. Option 1 sought a 5 percent change in relation to the status quo ratio or, in other words, a 56:44 percent ratio. Option 2 results in a 61:39 percent ratio for CGOA trawl CVs, and Option 3 would have resulted in a 66:34 percent ratio. The same method applied to the WGOA trawl CV sector (see Section 2.3 in the Analysis for more detail).

The Council's recommendation of Alternative 3 Option 2 strikes a balance between responding to the purpose and need and considering effects to marine mammals. The Pacific cod seasons were initially established to mitigate concerns surrounding prey availability for Steller sea lions. While the Council concluded that shifting a small amount of TAC from the B season to the A season meets its purpose and need for action, the Council stated that a precautionary approach is prudent given the potential effects on Steller sea lions (See Section 3.4.2 of the Analysis).

In adopting its preferred alternatives, the Council considered effects of the proposed action on Steller sea lions. For the CGOA and WGOA pollock trawl fishery, Section 4.6.2 of the Analysis explains that various factors affect pollock harvest patterns, including but not limited to fish aggregation and quality (roe content), market availability, encounter rates with PSC-limited species, high and low TAC years

for pollock, economic opportunities in—or trade-offs with—other fisheries, and other individual vessel business decisions. These factors can be difficult to predict with accuracy, with respect to this action, at this time. Additionally, many constraints that dictate the timing and pace of the pollock fishery would remain, even if seasons were combined and the fleet had more available TAC at any given moment with which to optimize its fishing. Those constraints would be expected to prevent harvest patterns from changing in a significantly different manner under the proposed rule than seen in the past.

Finally, changing the start of the combined C/D season from August 25 to September 1 would not change anticipated effects to the pollock stock (as noted in Section 3.2.3 of the Analysis), and therefore does not change anticipated impacts to prey availability for Steller sea lions.

For the Pacific cod fishery in the CGOA and WGOA, the overall proposed change in seasonal allocation across all sectors combined is a modest 4 percent from the B season to the A season. This modest shift in seasonal allocation is not expected to result in an increase in vessel participation, nor a change in the spatial distribution of the fishing vessels (as noted in Section 4.6.4. of the Analysis).

For the reasons outlined above, the Council and NMFS do not expect the implementation of Amendment 109 to result in discernable spatial harvest concentration or a decrease in temporal dispersion of harvest which would significantly affect prey availability for Steller sea lions.

In recommending Amendment 109, the Council has chosen a portion of each action alternative for each of the GOA CV pollock and Pacific cod fisheries. This blended action will provide the greatest improvements to operational and management efficiency of all the alternatives while not re-distributing allocations of pollock or Pacific cod between management areas or among participants, which is a stated objective in the purpose and need for this action.

## V. This Proposed Rule

### CGOA and WGOA Pollock Fishery

This proposed rule would revise § 679.20(a)(5)(iv)(B) to combine the GOA Western and Central regulatory areas' pollock A and B seasons into a single season (redesignated as the A season) and combine C and D seasons into a single season (redesignated as the B season). This proposed rule also would apportion 50 percent of the CGOA and WGOA pollock TAC to the

redesignated A season and 50 percent to the redesignated B season. These proposed changes do not affect the relative amount of CGOA and WGOA pollock TAC apportioned to each season because current regulations specify that the TAC be evenly apportioned among each GOA pollock season.

This proposed rule would revise § 679.23(d)(2) to change the dates of the redesignated A season as January 20 through May 31 and the dates of the redesignated B season as September 1 through November 1. This proposed revision effectively leaves the duration of the redesignated A season unchanged from the duration of the current A and B seasons, but shortens the duration of the redesignated B season (September 1 to November 1) from the duration of the current C and D seasons (August 25 to November 1).

#### GOA Pacific Cod Fishery

This proposed rule would revise § 679.20(a)(12)(i) to specify the new seasonal apportionments of Pacific cod TAC for the CV trawl sectors in the CGOA and the WGOA. Although the overall ratio of A and B seasonal apportionments of Pacific cod for the trawl CV sector would be changed, this proposed rule would not affect the seasonal apportionments of Pacific cod to any of the other sectors. The seasonal apportionment of Pacific cod will remain unchanged for all other sectors in the CGOA and the WGOA.

This proposed rule would also revise the tables at § 679.20(a)(12)(i)(A) and (B) to change the seasonal allowance of Pacific cod for trawl CVs in the WGOA and the CGOA. For both the CGOA and the WGOA, the A season allowance would increase by approximately 4 percent while the B season allowance would decrease by approximately 4 percent.

#### VI. Classification

Pursuant to §§ 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Council's regulatory amendment for GOA pollock, Amendment 109 to the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

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

This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

#### Regulatory Impact Review (RIR)

An RIR was prepared to assess the costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). NMFS is recommending Amendment 109 and the regulatory revisions in this proposed rule based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed below.

#### Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

This proposed rule would directly regulate the owners and operators of certain trawl CVs that target GOA pollock and Pacific cod. Under the Regulatory Flexibility Act (RFA), businesses classified as primarily engaged in commercial fishing are considered small entities if they have combined annual gross receipts not in excess of \$11.0 million for all affiliated operations worldwide, regardless of the type of fishing operation—*i.e.*, finfish or shellfish (81 FR 4469; January 26, 2016).

In 2017, the most recent year for which ex-vessel revenue data are available, 68 CVs participated in GOA pollock or Pacific cod trawl fisheries. Of those, 32 are classified as small entities based on individual vessel revenue. The remaining 36 vessels would be considered small entities based only on their individual vessel revenue. However, analysis of directly regulated entity revenue to determine entity size as measured against the commercial fishing threshold of \$11.0 million must also consider ownership affiliations and other contractual affiliations of the entities, worldwide. Of these 36 participating vessels, 16 are affiliated with other vessels and their operating entities via affiliations with Central GOA Rockfish Program cooperatives. Additionally, the remaining 20 vessel operations are affiliated via American Fisheries Act cooperatives. Thus these 36 operating entities are not considered small entities for RFA purposes. There are also 43 inactive licenses that lack any recent associated revenue history and the owners of these licenses are considered potentially directly regulated small entities.

The general purpose of this action, as identified in the RIR, is to enhance the

operational and management efficiency of the GOA pollock and Pacific cod trawl fisheries with the goal of improving efficiency in fishery management and prosecution while providing additional value from the fishery by allowing participants to focus effort when target groundfish species are available and of high product quality. The RIR determined that this action would provide harvesters and processors that prosecute GOA pollock with flexibility to maximize yield by fishing when the resource is most available and productive (*e.g.*, aggregation or roe content). The flexibility provided by this action might also allow harvesters to minimize PSC in certain cases. Essentially, this action provides an additional “tool” for participants to optimize their participation to the extent possible. With regard to directly regulated small entities operating in the GOA pollock and Pacific cod trawl fisheries, this action is a beneficial action. The proposed action will not impose any adverse economic impacts on any directly regulated small entities. This proposed action, therefore, is not expected to have a significant economic impact on a substantial number of directly regulated small entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

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

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 20, 2020.

**Samuel D. Rauch III,**

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

For reasons set out in the preamble, 50 CFR part 679 is proposed to be 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.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

- 2. In § 679.20, revise paragraphs (a)(5)(iv)(B), (a)(12)(i) introductory text, (a)(12)(i)(A)(3), and (a)(12)(i)(B)(4) to read as follows:

#### § 679.20 General Limitations.

\* \* \* \* \*

(a) \* \* \*  
(5) \* \* \*  
(iv) \* \* \*

(B) *GOA Western and Central Regulatory Areas seasonal apportionments.* Each apportionment established under paragraph (a)(5)(iv)(A) of this section will be divided into two seasonal apportionments corresponding to the two fishing seasons specified in § 679.23(d)(2) as follows: A Season, 50 percent; and B Season, 50 percent. Within any fishing year, underharvest or overharvest of a seasonal apportionment may be added to or subtracted from remaining seasonal apportionments in a manner to be determined by the Regional Administrator, provided that any revised seasonal apportionment

does not exceed 20 percent of the seasonal TAC apportionment for the statistical area. The reapportionment of underharvest will be applied to the subsequent season within the same statistical area up to the 20 percent limit specified in this paragraph. Any underharvest remaining beyond the 20 percent limit may be further apportioned to the subsequent season in the other statistical areas, in proportion to estimated biomass and in an amount no more than 20 percent of the seasonal TAC apportionment for the statistical area.

\* \* \* \* \*

(12) \* \* \*

(i) *Seasonal allowances by sector.* The Western and Central GOA Pacific cod TACs will be seasonally apportioned to each sector such that 63.84 percent of the Western GOA TAC is apportioned to the A season and 36.16 percent of the Western GOA TAC is apportioned to the B season, and 64.16 percent of the Central GOA TAC is apportioned to the A season and 35.84 percent of the Central GOA TAC is apportioned to the B season, as specified in § 679.23(d)(3).

(A) \* \* \*

Sector	Gear type	Operation type	Seasonal allowances	
			A season (in percent)	B season (in percent)
*	*	*	*	*
(3) .....	Trawl .....	Catcher vessel .....	31.54	6.86

(B) \* \* \*

Sector	Gear type	Operation type	Length overall in feet	Seasonal allowances	
				A season (in percent)	B season (in percent)
*	*	*	*	*	*
(4) .....	Trawl .....	Catcher vessel .....	Any .....	25.29364	16.29047

\* \* \* \* \*

■ 3. In § 679.23, revise paragraph (d)(2) to read as follows:

**§ 679.23 Seasons.**

\* \* \* \* \*

(d) \* \* \*

(2) *Directed fishing for pollock.* Subject to other provisions of this part,

directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., May 31; and

(ii) *B season.* From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

\* \* \* \* \*

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