

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.

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 Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 pollock TAC in the Bering Sea subarea was set at 1,230,000 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 pollock TAC of 813,000 mt for the Bering Sea subarea. This amount is less than the 1,230,000 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 pollock fishery and are listed as endangered under the Endangered Species Act (ESA). Pollock is a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock 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)(i)(A) specify how the pollock 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 Bering Sea pollock TAC is incorrectly specified. Consequently, the Regional Administrator is adjusting the 2010 pollock TAC to 813,000 mt in the Bering Sea subarea.

Pursuant to § 679.20(a)(5), Table 3 of the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009) is revised for the 2010 pollock TACs consistent with this adjustment.

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

[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
Bering Sea subarea	815,000	n/a	n/a	n/a	813,000	n/a	n/a	n/a
CDQ DFA	81,500	32,600	22,820	48,900	81,300	32,520	22,764	48,780
ICA ¹	29,340	n/a	n/a	n/a	29,268	n/a	n/a	n/a
AFA Inshore	352,080	140,832	98,582	211,248	351,216	140,486	98,340	210,730
AFA Catcher/Processors ³	281,664	112,666	78,866	168,998	280,973	112,389	78,672	168,584
Catch by C/Ps	257,723	103,089	n/a	154,634	257,090	102,836		154,254
Catch by CVs ³	23,941	9,577	n/a	14,365	23,883	9,553		14,330
Unlisted C/P Limit ⁴	1,408	563	n/a	845	1,405	562		843
AFA Motherships	70,416	28,166	19,716	42,250	70,243	28,097	19,668	42,146
Excessive Harvesting Limit ⁵	123,228	n/a	n/a	n/a	122,926	n/a	n/a	n/a
Excessive Processing Limit	211,248	n/a	n/a	n/a	210,730	n/a	n/a	n/a
Total Bering Sea DFA	704,160	281,664	197,165	422,495	702,432	280,973	196,681	421,459
Aleutian Islands subarea ¹	19,000	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140	1,900	760	n/a	1,140
ICA	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation	15,500	15,500	n/a	0	15,500	15,500	n/a	0

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.

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