

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

[Docket No. 0910131363–0087–02]

RIN 0648–XA121

**Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2011 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 2011 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 is 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. **DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 5, 2011, until the effective date of the final 2011 and 2012 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.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 20, 2011.

**ADDRESSES:** Send comments to James W. Balsiger, Administrator, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–XA121, 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:** Steve Whitney, 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 2011 pollock TAC in the Bering Sea subarea was set at 1,110,000 metric tons (mt) by the final 2010 and 2011 harvest specification for groundfish in

the BSAI (75 FR 11778, March 12, 2010).

In December 2010, the Council recommended a 2011 pollock TAC of 1,252,000 mt for the Bering Sea subarea. This amount is more than the 1,110,000 mt established by the final 2010 and 2011 harvest specification for groundfish in the BSAI (75 FR 11778, March 12, 2010). The TAC recommended by the Council is based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2010, which NMFS has determined is the best available scientific information for this fishery.

Regulations at § 679.20(a)(5)(i)(B) apportion the pollock TAC allocated to the Bering Sea directed pollock fisheries seasonally to distribute catch over time because pollock is a principal prey species for Steller sea lions listed as endangered under the Endangered Species Act. The first seasonal apportionment can be harvested quickly, and must reflect the TAC based on the best available scientific information to provide the opportunity to harvest available TAC in a manner consistent with the established Steller sea lion protection measures.

In accordance with § 679.25(a)(2)(i)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2010 SAFE report for this fishery, the current Bering Sea pollock TAC is incorrectly specified. Consequently, the Regional Administrator is adjusting the 2011 pollock TAC to 1,252,000 mt in the Bering Sea subarea.

Pursuant to § 679.20(a)(5), Table 3 of the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010), as adjusted by a reallocation of a portion of the 2010 incidental catch allowance (75 FR 54792, September 9, 2010), is revised for the 2011 pollock TACs consistent with this adjustment.

TABLE 3—FINAL 2010 AND 2011 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) <sup>1</sup>

[Amounts are in metric tons]

Area and sector	2010 Allocations	2010 A season <sup>1</sup>		2010 B season <sup>1</sup>	2011 Allocations	2011 A season <sup>1</sup>		2011 B season <sup>1</sup>
		A season DFA	SCA harvest limit <sup>2</sup>	B season DFA		A season DFA	SCA harvest limit <sup>2</sup>	B season DFA
Bering Sea subarea	813,000	n/a	n/a	n/a	1,252,000	n/a	n/a	n/a
CDQ DFA .....	81,300	32,520	22,764	48,780	125,200	50,080	35,056	75,120
ICA <sup>1</sup> .....	24,768	n/a	n/a	n/a	33,804	n/a	n/a	n/a
AFA Inshore .....	353,466	140,486	98,340	212,980	546,498	218,599	153,019	327,899
AFA Catcher/Proc- essors <sup>3</sup> .....	282,773	112,389	78,672	170,384	437,198	174,879	122,416	262,319
Catch by C/Ps .....	258,737	102,836	n/a	155,901	400,037	160,015	n/a	240,022
Catch by CVs <sup>3</sup> .....	24,036	9,553	n/a	14,483	37,162	14,865	n/a	22,297

TABLE 3—FINAL 2010 AND 2011 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) <sup>1</sup>—Continued

[Amounts are in metric tons]

Area and sector	2010 Allocations	2010 A season <sup>1</sup>		2010 B season <sup>1</sup>	2011 Allocations	2011 A season <sup>1</sup>		2011 B season <sup>1</sup>
		A season DFA	SCA harvest limit <sup>2</sup>			A season DFA	SCA harvest limit <sup>2</sup>	
Unlisted C/P Limit <sup>4</sup> ..	1,414	562	n/a	852	2,186	874	n/a	1,312
AFA Motherships .....	70,693	28,097	19,668	42,596	109,300	43,720	30,604	65,580
Excessive Harvesting Limit <sup>5</sup> .....	123,714	n/a	n/a	n/a	191,274	n/a	n/a	n/a
Excessive Proc- essing Limit <sup>6</sup> .....	212,080	n/a	n/a	n/a	327,899	n/a	n/a	n/a
Total Bering Sea DFA .....	706,932	280,973	196,681	425,959	1,092,996	437,198	306,039	655,798
Aleutian Islands sub- area <sup>1</sup> .....	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
Bogoslof District ICA <sup>7</sup> .....	50	n/a	n/a	n/a	150	n/a	n/a	n/a

<sup>1</sup> Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (3 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</sup> Pursuant to § 679.20(a)(5)(i)(A)(7), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

<sup>7</sup> The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

## 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 require the Bering Sea pollock harvests to be lower than 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 15, 2010, 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 20, 2011.

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 29, 2010.

**Emily H. Menashes,**

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

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[Docket No. 0910131363-0087-02]

**RIN 0648-XA120**

### Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2011 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 2011 total allowable catch (TAC) amount for the Bering Sea and Aleutian Islands (BSAI) Pacific cod fishery. This action is necessary because NMFS has