

appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 Pacific cod TAC in the BSAI is 170,720 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007). Pursuant to § 679.20(a)(7)(i), the allocations of the Pacific cod TAC are 240 mt to catcher vessels using hook-and-line gear, 64,030 mt to catcher processor vessels using hook-and-line gear, 2,641 mt to catcher processor vessels using pot gear, 12,006 mt to catcher vessels using pot gear, 37,110 mt to catcher processors using trawl gear, and 37,110 mt to catcher vessels using trawl gear. The allocation to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear is 2,853 mt and to vessels using jig gear is 1,426 mt after two reallocations (72 FR 10428, March 8, 2007 and 72 FR 18595, April 13, 2007).

As of September 5, 2007, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that catcher vessels using trawl gear will not be able to harvest 3,000 mt of the allocation under § 679.20(a)(7)(i)(B). Therefore, in accordance with § 679.20(a)(7)(ii)(C)(2), NMFS apportions 2,850 mt of Pacific cod from catcher vessels using trawl gear to catcher processor vessels using hook-and-line gear, 27 mt of Pacific cod to catcher processor vessels using pot gear, and 123 mt of Pacific cod to catcher vessels using pot gear.

The Regional Administrator has also determined that vessels using jig gear will not harvest 1,300 mt of their Pacific cod allocation by the end of the year. Therefore, in accordance with § 679.20(a)(7)(ii)(C)(1), NMFS is reallocating 75 mt of Pacific cod to catcher vessels less than 60 feet (18.3 m) length overall (LOA) using hook-and-line or pot gear. The Regional Administrator has determined that catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear will not be able to harvest the remaining amount of the available reallocation. Therefore, in accordance with § 679.20(a)(7)(ii)(B), NMFS is reallocating the unused amount of 1,225 mt of Pacific cod allocated to vessels using jig gear to catcher processor vessels using hook-and-line gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) and adjustments (72 FR 10428, March 8, 2007 and 72 FR 18595, April 13, 2007) are revised as follows: 126 mt to vessels using jig gear, 68,105 mt to catcher processor vessels using hook-and-line

gear, 12,129 mt to catcher vessels using pot gear, 2,668 mt to catcher processor vessels using pot gear, 34,110 mt to catcher vessels using trawl gear, and 2,928 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

#### 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 a 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 delay the reallocation of projected unused amounts of Pacific cod in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 5, 2007.

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.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: September 11, 2007.

**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. 070213033-7033-01]

RIN 0648-XC54

### Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amounts of the 2007 pollock incidental catch allowance (ICA) to the directed fisheries in the Bering Sea subarea. This action is necessary to provide opportunity for harvest of the 2007 total allowable catch (TAC) of pollock, 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 September 13, 2007, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands Management Area (BSAI) according to the FMP prepared by the North Pacific Fishery Management 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.

In the Bering Sea subarea, the portion of the 2007 pollock TAC allocated to the ICA is 35,129 mt as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007).

As of September 6, 2007, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that the ICA has been set too high: 2,000 mt of the 2007 pollock ICA in the Bering Sea subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(i)(A)(1), NMFS reallocates 2,000 mt of the 2007 pollock ICA to the directed fisheries in the Bering Sea subarea.

As a result, in accordance with § 679.20(a)(5)(i)(A)(3), (4), and (5), the 2007 harvest specifications for pollock in the Bering Sea subarea included in the harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) are revised as follows: 33,129 to the pollock ICA, 366,841 to B season AFA catcher vessels harvesting pollock for processing by AFA inshore processors, 293,473 mt to B season AFA catcher processors and AFA catcher vessels delivering pollock to catcher processors, and 73,368 mt to B season AFA catcher vessels harvesting pollock for processing by AFA motherhips.

Furthermore, pursuant to § 679.20(a)(5)(i), Table 3 of the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451,

March 2, 2007) is revised for 2007 pollock allocations consistent with this reallocation. This reallocation results in

adjustments to the 2007 pollock ICA and directed fisheries in the Bering Sea

subarea established at § 679.20(a)(5)(i)(A).

TABLE 3.—2007 AND 2008 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                               | 2007<br>Allocations | 2007 A season <sup>1</sup> |                                      | 2007 B<br>season <sup>1</sup> | 2008<br>Allocations | 2008 A season <sup>1</sup> |                                      | 2008 B<br>season <sup>1</sup> |
|-----------------------------------------------|---------------------|----------------------------|--------------------------------------|-------------------------------|---------------------|----------------------------|--------------------------------------|-------------------------------|
|                                               |                     | A season<br>DFA            | SCA<br>harvest<br>limit <sup>2</sup> | B season<br>DFA               |                     | A season<br>DFA            | SCA<br>harvest<br>limit <sup>2</sup> | B season<br>DFA               |
|                                               |                     |                            |                                      |                               |                     |                            |                                      |                               |
| Bering Sea subarea .....                      | 1,394,000           | n/a                        | n/a                                  | n/a                           | 1,318,000           | n/a                        | n/a                                  | n/a                           |
| CDQ DFA .....                                 | 139,400             | 55,760                     | 39,032                               | 83,640                        | 131,800             | 52,720                     | 36,904                               | 79,080                        |
| ICA .....                                     | 33,129              | n/a                        | n/a                                  | n/a                           | 33,214              | n/a                        | n/a                                  | n/a                           |
| AFA Inshore .....                             | 609,736             | 243,894                    | 107,726                              | 366,841                       | 576,493             | 230,597                    | 161,418                              | 345,896                       |
| AFA Catcher/Processors <sup>3</sup> .....     | 487,788             | 195,115                    | 136,581                              | 293,473                       | 461,195             | 184,478                    | 129,134                              | 276,717                       |
| Catch by C/Ps .....                           | 446,326             | 178,531                    | n/a                                  | 267,796                       | 421,993             | 168,797                    | n/a                                  | 253,196                       |
| Catch by CVs <sup>3</sup> .....               | 41,462              | 16,585                     | n/a                                  | 24,877                        | 39,202              | 15,681                     | n/a                                  | 23,521                        |
| Unlisted C/P Limit <sup>4</sup> .....         | 2,439               | 976                        | n/a                                  | 1,463                         | 2,306               | 922                        | n/a                                  | 1,384                         |
| AFA Mothership .....                          | 121,947             | 48,779                     | 34,145                               | 73,368                        | 115,299             | 46,119                     | 32,284                               | 69,179                        |
| Excessive Harvesting Limit <sup>5</sup> ..... | 213,407             | n/a                        | n/a                                  | n/a                           | 201,773             | n/a                        | n/a                                  | n/a                           |
| Excessive Processing Limit <sup>6</sup> ..... | 365,841             | n/a                        | n/a                                  | n/a                           | 345,896             | n/a                        | n/a                                  | n/a                           |
| Total Bering Sea DFA .....                    | 1,358,871           | 543,548                    | 380,484                              | 817,322                       | 1,284,787           | 513,914                    | 359,740                              | 770,872                       |
| Aleutian Islands subarea <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> .....      | 10                  | n/a                        | n/a                                  | n/a                           | 10                  | 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 – 3.35 percent, is allocated as a DFA as follows: inshore component – 50 percent, catcher/processor component – 40 percent, and mothership component – 10 percent. In the Bering Sea subarea, the A season, January 20–June 10, is allocated 40 percent of the DFA and the B season, June 10–November 1, is allocated 60 percent of the DFA. 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 – 1,800 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 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is 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 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 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

delay the reallocation of pollock in the Bering Sea subarea. Since the pollock fishery is currently open, it is important to immediately inform the industry as to the final Bering Sea subarea pollock allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased B season pollock allocations while value is optimum.

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.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: September 11, 2007.

**Alan D. Risenhoover,**  
Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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