

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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.

The 2011 TAC of pollock in the West Yakutat District of the GOA is 2,339 metric tons (mt) as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2011 TAC of pollock in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,319 mt, and is setting aside the remaining 20 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### 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 closure of pollock in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 3, 2011.

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: March 4, 2011.

**Margo Schulze-Haugen,**

*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. 100413185-1155-02]

RIN 0648-AY84

#### Groundfish Fisheries of the Exclusive Economic Zone Off Alaska; American Fisheries Act; Recordkeeping and Reporting

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this rule to amend the American Fisheries Act implementing regulations that previously required cooperatives participating in the directed fishery for pollock in the Bering Sea to prepare and submit preliminary annual reports to the North Pacific Fishery Management Council (Council). The Council determined that the requirement for cooperatives to submit a preliminary annual report is no longer necessary, and this action eliminates that requirement. This action does not eliminate the requirement for the cooperatives to submit a single annual report to the Council. This action promotes the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

**DATES:** Effective April 8, 2011.

**ADDRESSES:** Electronic copies of this rule, the Regulatory Impact Review (RIR), and the categorical exclusion memorandum may be obtained from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule

may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the U.S. groundfish fisheries in the Exclusive Economic Zone of the Bering Sea and Aleutian Islands Management Area under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Act. Regulations implementing the FMP appear at subpart F of 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

#### Background

In October 1998, Congress enacted the American Fisheries Act (AFA), 16 U.S.C. 1851, which “rationalized” the Bering Sea pollock fishery by identifying the vessels and processors eligible to participate in the fishery and allocating pollock among those eligible participants. The AFA allocates 10 percent of the Bering Sea pollock total allowable catch to the Western Alaska Community Development Quota (CDQ) Program. After subtracting the CDQ Program allocation, and an amount set aside for the catch of pollock in other Bering Sea fisheries, the AFA allocates the remaining available pollock quota (the “directed fishing allowance”) among the AFA inshore sector (50 percent), the AFA catcher/processor sector (40 percent), and the AFA mothership sector (10 percent).

The AFA allowed for development of pollock fishing cooperatives in the non-CDQ sectors. Thirteen cooperatives were developed under the AFA: Ten inshore catcher vessel cooperatives, two offshore catcher/processor cooperatives, and one mothership cooperative. After NMFS allocates pollock quota to each of the inshore catcher vessel cooperatives, the cooperatives further subdivide each cooperative’s pollock allocation among vessel owners in the cooperative through private contractual agreements. The cooperatives manage these allocations to optimize their harvest and to ensure that individual vessels and companies do not harvest more than their agreed upon share of pollock. The cooperatives also enforce contract

provisions and participate in a cooperative agreement to reduce salmon bycatch by the directed pollock fishery.

The regulations establishing the AFA cooperative reporting requirements were published on December 30, 2002 (67 FR 79692). These regulations required that each cooperative prepare preliminary and final annual reports describing the cooperative's harvest of pollock, prohibited species, and non-pollock groundfish, including species for which NMFS establishes annual sideboards that limit incidental catch by AFA participants. The purpose of the annual reports was "to assist the Council and NMFS in meeting the requirements of paragraph 210(a)(1) of the AFA, which requires that NMFS make such information available to the public in a manner that NMFS and the Council decide is appropriate" (67 FR 79692). Another purpose of the AFA cooperative annual report was to provide the Council information upon which it could make decisions on cooperative allocations and sideboard protection measures.

Prior to this action, all AFA cooperatives were required to submit both preliminary and final annual written reports on directed pollock fishing activity to the Council. The preliminary report was due on December 1, one month after the pollock fishery's closure on November 1, while the final report was due on April 1 of the following year. The two reports resulted from the Council's recognition that one month following the fishery's closure may not be enough time for the AFA cooperative representatives to compile all of the required information for the annual report. Requiring cooperatives to file a second report also allowed cooperatives to update catch and bycatch data after the end of the year.

In recent years, the Council has found that the preliminary AFA cooperative report is no longer necessary to develop recommendations on final groundfish specifications or on cooperative allocations and sideboard protection measures. The Council instead uses the Stock Assessment and Fishery Evaluation (SAFE) Reports provided by the Council's Bering Sea and Aleutian Islands Management Area Groundfish Plan Team, and the total allowable catch (TAC) recommendations provided at the December Council meeting to develop these recommendations. The data in the SAFE Reports are more encompassing than the data found in the preliminary AFA cooperative reports.

The SAFE Reports for the groundfish fisheries managed by the Council are compiled by the respective Plan Teams

from chapters contributed by scientists at the NMFS Alaska Fisheries Science Center and the Alaska Department of Fish and Game. These SAFE Reports include separate stock assessment and fishery evaluation sections. The stock assessment section includes recommended acceptable biological catch (ABC) levels for each stock and stock complex managed under the FMP. For purposes of determining TACs, the data provided in these reports is a sufficient substitute for that which has been provided by the preliminary reports on the pollock fishery from the cooperatives. The Council considers the ABC recommendations, together with social and economic factors, in determining TACs and other management strategies for the fisheries.

At its June 2010 meeting, the Council determined that, combined with the SAFE Report and TAC recommendations, a single annual report from each AFA cooperative, renamed the "annual AFA cooperative report," will provide sufficient information to the Council, the industry, and the public about the directed fisheries for pollock in the Bering Sea. Under this rule, the cooperatives will be required to submit one report containing the same information previously contained in two reports.

Each AFA cooperative annual report will continue to be required to provide the following information:

- How the cooperative allocated pollock, other groundfish species, and prohibited species catch among the vessels in the cooperative;
- The catch and discard of these species by area for each vessel in the cooperative;
- How the cooperative monitored fisheries in which its members participate;
- A description of any actions taken by the cooperative in response to any vessel that exceeded the allocations made to the vessel by the cooperative;
- The total weight of pollock landed outside the State of Alaska on a vessel-by-vessel basis; and
- The number of salmon taken by species and season, and list each vessel's number of appearances on the weekly dirty 20 lists for non-Chinook salmon.

This action does not result in a substantial change in the reporting requirements. Some decrease in miscellaneous costs might occur due to postage cost differences. It is also possible that the burden will decrease due to planning and writing of one report instead of two reports, one revising the other.

NMFS published the proposed rule for this action in the **Federal Register** on December 20, 2010 (75 FR 79330), with a public comment period that closed January 4, 2011. No comments were received during this comment period.

NMFS made the following change from the proposed rule to the final rule. In the final rule, NMFS changes the proposed report submittal language at § 679.61(f)(1) to maintain the regulatory language currently in use. The proposed rule stated "Annual reports must be postmarked or received by the submission deadline." This text is revised to read "Annual reports must be postmarked by the submission deadline or received by a private courier service by the submission deadline."

This change gives equal treatment to cooperatives that send the annual report via postal service and those that send the report via private courier. As compared to the proposed rule, the final rule allows a cooperative that uses a private courier service a small amount of additional time to complete and send the report; however, this change does not necessarily delay the Council's receipt of the report or its availability to the public.

#### Classification

The NMFS Assistant Administrator for Fisheries has determined that this rule is necessary for the conservation and management of the Bering Sea and Aleutian Islands groundfish fisheries and that it is consistent with the FMP, the national standards, and other provisions of the Magnuson-Stevens Act and other applicable laws.

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 will 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, and no changes have been made from the proposed rule. As a result, a regulatory flexibility analysis was not required and none was prepared.

This action will not increase recordkeeping and reporting costs.

#### Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by the Office

of Management and Budget (OMB) under OMB Control Number 0648-0401.

Public reporting burden per response is estimated to average 8 hours for an AFA preliminary annual report and 4 hours for an AFA final annual report under old requirements. This rule removes the AFA preliminary annual report and renames the AFA final annual report as the AFA cooperative annual report, which is estimated to average 8 hours per response. This rule reduces the reporting burden without imposing any new, additional reporting burden.

These estimates of public reporting burden include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (*see ADDRESSES*); e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to

respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

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

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 4, 2011.

**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 679 is amended as follows:

#### **PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

■ 1. The authority citation for 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.

■ 2. In § 679.61, revise paragraph (f) introductory text, paragraph (f)(1), and

paragraph (f)(2) introductory text to read as follows:

#### **§ 679.61 Formation and operation of fishery cooperatives.**

\* \* \* \* \*

(f) *Annual reporting requirement.* Any fishery cooperative governed by this section must submit an annual written report on fishing activity to the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501. The Council will make copies of each report available to the public upon request.

(1) *What is the submission deadline?* The cooperative must submit the annual report by April 1 of each year. Annual reports must be postmarked by the submission deadline or received by a private courier service by the submission deadline.

(2) *What information must be included?* The annual report must contain, at a minimum:

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