

September 18 through November 30), the preferred and no-action scup alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the proposed closed seasons of March 1 through September 17, and December 1 through December 31. The analysis concluded that the measures would affect 1.2 percent of party/charter vessel trips in the NE.

For the non-preferred Scup Alternative 2 (a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and September 18 through September 30), impacted trips are defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the periods of March 1 through September 17, and October 1 through December 31. The analysis concluded that the measures would affect 2 percent of party/charter vessel trips in the NE.

For the non-preferred Scup Alternative 3 (a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and September 3 through November 30), impacted trips are defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the period March 1 through September 2, and December 1 through December 31. The analysis concluded that the measures in this alternative would affect 0.9 percent of party/charter vessel trips in the NE.

Impacts of Black Sea Bass Alternatives

The proposed action for black sea bass would limit coastwide landings to 3.99 million lb (1,810 mt). For the Black Sea Bass Alternative 1 (a 12-inch (30.5-cm) minimum size, a 25-fish possession limit, and an open season of January 1 through December 31), the preferred and no-action alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect 0.1 percent of party/charter vessel trips in the NE.

For the non-preferred Black Sea Bass Alternative 2 (an 11.5-inch (29.2-cm) minimum size, a 25-fish possession

limit, and an open season of January 1 through December 31), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 11.5 inches (29.2 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect less than 0.1 percent of party/charter vessel trips in the NE.

For the non-preferred Black Sea Bass Alternative 3 (a 12.5-inch (31.8-cm) minimum size, a 25-fish possession limit, and an open season of January 1 through December 31), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 12.5 inches (31.8 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect 0.2 percent of party/charter trips in the NE.

Combined Impacts of Summer Flounder, Scup, and Black Sea Bass Alternatives

Since the management measures under Summer Flounder Alternative 1 (i.e., conservation equivalency) have yet to be adopted, the effort effects of this alternative could not be analyzed in conjunction with the alternatives proposed for scup and black sea bass. The percent of total party/charter vessel trips in the NE that were estimated to be affected by the other alternatives ranged from a low of 1.9 percent for the combination of measures proposed under Summer Flounder Alternative 2, Scup Alternative 3, and Black Sea Bass Alternative 2; to a high of 7 percent for the precautionary default measures for summer flounder (considered in Summer Flounder Alternative 1) combined with the measures proposed under Scup Alternative 2 and Black Sea Bass Alternative 3.

Potential revenue losses in 2006 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. All 18 potential combinations of management alternatives for summer flounder, scup, and black sea bass are predicted to affect party/charter vessel revenues to some extent in all of the NE coastal states. Although potential losses were estimated for party/charter vessels operating out of ME and NH, these results are suppressed for confidentiality purposes. Average party/charter losses for federally permitted vessels operating in the remaining states are estimated to vary considerably across the 18 combinations of

alternatives. For instance, in NY, average losses are predicted to range from \$1,582 per vessel under the combined effects of Summer Flounder Alternative 2, Scup Alternative 3, and Black Sea Bass Alternative 2, to \$6,924 per vessel under the combined effects of the summer flounder precautionary default (considered in Summer Flounder Alternative 1), Scup Alternative 2, and Black Sea Bass Alternative 3, assuming a 25-percent reduction in effort, as described above.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Dated: March 22, 2006.

James W. Balsiger,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060307059-6059-01; I.D. 030106B]

RIN 0648-AU15

Fisheries of the Exclusive Economic Zone Off Alaska; Seasonal Closure of Chiniak Gully in the Gulf of Alaska to Trawl Fishing

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to close the Chiniak Gully region on the east side of Kodiak Island in the Gulf of Alaska (GOA) to all commercial trawl fishing and testing of trawl gear from August 1 to a date no later than September 20 from 2006 through 2010. NMFS plans to conduct controlled experiments on the effects of commercial fishing on pollock distribution and abundance, as part of a comprehensive investigation of Steller sea lion (SSL) and commercial fishery interactions. This action is needed to support the proposed experimental design by prohibiting commercial trawl fishing in the control site of Chiniak Gully. The proposed research could improve information on pollock movements and on the potential impacts of commercial pollock harvests

on prey availability to SSLs. This action is intended to improve information used to evaluate fishery management actions to protect SSLs and their designated critical habitat.

DATES: Comments on this proposed rule must be received by April 26, 2006.

ADDRESSES: Send written comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Records Officer. Comments may be submitted by:

- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK.
- E-mail: 0648-au15-Chiniak-Gully@noaa.gov. Include in the subject line the following document identifier: Chiniak Gully RIN 0648-AU15. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: www.regulations.gov. Follow the instructions at that site for submitting comments.
- Fax: 907-586-7557.
- Mail: P.O. Box 21668, Juneau, AK 99802-1668.

Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for this action are available from NMFS at the above address or from the NMFS Alaska Region website at www.fakr.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907-586-7228 or becky.carls@noaa.gov.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone of the GOA are managed by NMFS under the Fishery Management Plan (FMP) for Groundfish of the GOA. The FMP was prepared by the North Pacific Fishery Management Council (Council) under 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 FMP appear at 50 CFR parts 600 and 679.

Background and Need for Action

NMFS proposes to conduct a controlled experiment to improve the information available to evaluate management actions to protect SSLs and their designated critical habitat. The proposed action would close the control site of Chiniak Gully to commercial trawling, including the testing of trawl gear, between August 1 and a date no later than September 20 from 2006 through 2010. To minimize impacts on the fishing industry, the area would be open to trawl fishing when the Regional Administrator determines that the

experiment would not be conducted that year or that the experiment has been concluded prior to September 20. The experiment is likely to be conducted only in three of the years from 2006 through 2010.

Pollock is an important prey species for SSLs. Pollock also is one of the most abundant groundfish species in the GOA and supports the largest fishery in waters off the coast of Alaska. This action is needed to facilitate research conducted by NMFS to determine whether commercial trawl fishing results in localized depletion or disturbance of walleye pollock. The research is part of a comprehensive investigation of sea lion and commercial fishery interactions. The goal of the experiment is to identify and quantify the effects of commercial trawl fishing on the availability of pollock to SSLs within a finite area. Information obtained from the experiment may result in a better understanding of fisheries impacts on pollock as SSL prey and may assist in the evaluation of current fishery management measures to protect SSLs and their critical habitat.

The experiment would be conducted on the east side of Kodiak Island in the Chiniak and Barnabus gullies. These gullies were chosen because they are adjacent, they have similar topographical features, and commercial pollock fisheries occur in both gullies. Barnabus Gully would serve as a treatment site where trawl fishing would be allowed, and Chiniak Gully would serve as a control site where trawl fishing would be prohibited.

The fishery interaction experiment would occur from August to mid-September. This period was chosen because post-weaning SSL juveniles (one-year-olds) are considered vulnerable to nutritional stress in late summer due to their high caloric needs and their inexperience at capturing prey. Also, fishery management regulations specify an August opening for the area's commercial pollock fishery, which would coincide with the experiment.

This experimental design allows analysts to differentiate responses due to fishing from responses due to natural variability because Chiniak Gully and Barnabus Gully are reasonably similar and geographically proximate. Without a control provided by a Chiniak Gully closure, changes in pollock abundance, depth, or school characteristics from fishing or natural causes could not be determined. Thus, the proposed closure is essential to the success of the experiment.

NMFS conducted pollock fishery interaction experiments in Chiniak

Gully in 2001, 2002, and 2004. These experiments were accompanied by regulatory closures. The closures were established by emergency interim rules in 2001 (66 FR 37167, July 17, 2001) and in 2002 (67 FR 956, January 8, 2002); and in a final rule published in 2003 (68 FR 204, January 2, 2003). The closure established by the final rule expired on December 31, 2004.

Results from 2002 were not used because commercial removals from Barnabus Gully were negligible (about 300 mt). Sufficient commercial removals (2,000 to 3,000 mt) occurred in 2001 and 2004, but the results are equivocal. Results from 2001 do not suggest a significant link between fishing activities and changes in pollock distribution and biomass. Results from 2004, however, do suggest a link between fishing activities and pollock biomass.

More field work is needed to reach a conclusion about the effects of commercial trawl fishing on pollock distribution and abundance. Multiple years of study are necessary to determine why similar commercial removals resulted in an effect in some years but not in others.

The portion of the Kodiak Trawl Gear Test Area that lies within the proposed Chiniak Gully Research Area also would be closed during the experimental period. This closure is necessary to eliminate as many anthropogenic effects on pollock as possible at the control site. Fishermen may test their trawl gear in other nearby locations during the closure period.

Proposed Changes to Regulations

In § 679.22, NMFS proposes to revise paragraph (b)(6) to describe the area of the proposed closure, to identify the vessels subject to the proposed closure, to identify the activities that would be prohibited, and to specify the dates of the proposed closure. The procedure for rescinding the proposed closure when the relevant research activities have been completed for a particular year or will not be conducted that year also would be included in § 679.22(b)(6). A map showing the Chiniak Gully Research Area in relation to the Kodiak Trawl Gear Test Area also would be added as Figure 22 to part 679.

Classification

NMFS has determined that the proposed rule is consistent with the FMP and determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared an initial regulatory flexibility analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, the reasons why it is being considered, a statement of the objectives of, and the legal basis for, this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**). The experiment itself is not expected to have effects on small entities or the fishery beyond those caused by the closure.

The regulated entities are the commercial fishing entities that operate vessels with the capability or potential capability to trawl that may participate in the GOA trawl groundfish fisheries. Any of these vessels may trawl for groundfish in the Chiniak Gully area. In a more precise sense, however, the regulated entities are the fishing entities that are likely to fish in Chiniak Gully in the absence of the proposed action. This group may be approximated by the number of vessels that reported fishing in this area during August and September in recent years.

In 2005, 93 vessels trawled for groundfish in the GOA. Of these, 77 were catcher vessels, and 16 were catcher/processors. All of the catcher vessels are estimated to be small, as defined by the Small Business Administration (total annual gross receipts under \$4.0 million), while three of the catcher/processors are assumed to be small. Fewer vessels reported fishing within Chiniak Gully than in the entire GOA. From 1999 through 2005, 49 unique vessels fished at least once in at least one of the three Alaska Department of Fish and Game groundfish/shellfish statistical areas (stat areas) that include the proposed Chiniak Gully closure, during August 1 through September 20. In 2005, 16 vessels fished in at least one of the three stat areas during this time period. The count of 49 vessels may serve as an alternative estimate of the number of small entities that may be directly regulated by this action.

This action is expected to have a small adverse impact on the cash flow or profitability of these 49 trawl vessels. From 1999 through 2005, during the proposed closure period of August 1 through September 20, average revenues from fishing in the three stat areas that include Chiniak Gully were about 2.7 percent of the average annual fishing revenues of about \$14.8 million for these 49 vessels. The percent of

revenues from the Chiniak Gully area overstates the impact of the proposed action because fishing operations in Chiniak Gully have the ability to fish in other areas around Kodiak Island during this period. Also, because the three stat areas encompass an area larger than the Chiniak Gully closure area, basing the impact on revenues from the three stat areas overestimates the potential loss of revenue caused by the proposed closure. Opening the experimental area after research is concluded for a year would further reduce the potential loss.

Anecdotal information from industry representatives suggests that fishermen displaced from the Chiniak Gully area would likely fish in other areas and be able to make up significant portions of any lost revenues. Although displacement to other areas would involve increased operating costs, particularly for fuel, costs of the action to fishermen would still remain below 2.7 percent of gross revenues. Fishermen displaced from the Chiniak Gully area may move to other fishing areas and potentially create crowding externalities in those areas. However, because the Chiniak Gully fishery is a modest part of the overall regional trawl fisheries (accounting for an average of 15.8 percent of gross GOA revenues in August and September from 1999 to 2005), the impact caused by displacement is not expected to be large. Moreover, data from previous years when Chiniak Gully was closed suggest that some effort will continue in areas near the closure.

This proposed regulation does not impose new recordkeeping or reporting requirements on the directly regulated small entities.

This proposed action does not duplicate, overlap, or conflict with other Federal rules.

The IRFA analyzed the "no action" alternative and the proposed action. An additional alternative that would exempt small entities from the proposed time and area closures was considered by NMFS, but rejected. The entities fishing in this area during August and September are all small. Exempting small entities from the closure would result in trawl fishing in the control area of Chiniak Gully. For the experiment to yield usable results, there should be no trawl fishing activity in Chiniak Gully to enable comparison with Barnabus Gully, where trawl fishing will occur. A small entity exemption would undermine the intent of the action to allow a controlled experiment to assess the effects of trawl fishing on the availability of prey for SSLs, and would, thus, not meet the objectives of this action.

Alternative 1, no regulatory change, would have no direct impact on small entities. However, it would make it impossible for NMFS to conduct a controlled experiment off Kodiak Island. Therefore, NMFS would be prevented from obtaining information that may be used to further evaluate management actions to protect SSLs and their designated critical habitat. Because of this, Alternative 1 would not meet the objectives of this action.

As part of the IRFA analysis, consultation with two fishing industry groups representing about 80% of the small entity vessels that trawled for groundfish in Chiniak Gully during the proposed closure period, indicated that impacts on small entities would be minimized by including a provision to relieve the trawl restrictions when the experiment is concluded for a particular year rather than continuing the closure automatically until September 20. This provision was included in Alternative 2, the proposed action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 21, 2006.

James W. Balsiger,

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

For the 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 part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

2. In § 679.22, revise paragraph (b)(6) to read as follows:

§ 679.22 Closures.

* * * * *

(b) * * *

(6) *Chiniak Gully Research Area* (applicable through December 31, 2010).

(i) *Description of Chiniak Gully Research Area.* The Chiniak Gully Research Area, as shown in Figure 22 to this part, is defined as the waters bounded by straight lines connecting the coordinates in the order listed: 57° 48.60 N lat., 152° 22.20 W long.; 57° 48.60 N lat., 151° 51.00 W long.; 57° 13.20 N lat., 150° 38.40 W long.; 56° 58.80 N lat., 151° 16.20 W long.; 57° 37.20 N lat., 152° 09.60 W long.; and hence counterclockwise along the

shoreline of Kodiak Island to 57° 48.60 N lat., 152° 22.20 W long.

(ii) *Closure.* (A) No vessel named on a Federal fisheries permit issued pursuant to (679.4(b)) shall deploy trawl gear for purposes of either fishing, or of testing gear under (679.24(d)(2)), within the Chiniak Gully Research Area at any

time from August 1 through September 20.

(B) If the Regional Administrator makes a determination that the relevant research activities have been completed for a particular year or will not be conducted that year, the Regional Administrator shall publish notification in the **Federal Register** rescinding the

Chiniak Gully Research Area trawl closure, described in paragraph (b)(6)(i) of this section, for that year.

3. In part 679, add Figure 22 to Part 679—Chiniak Gully Research Area (applicable through December 31, 2010) to read as follows:

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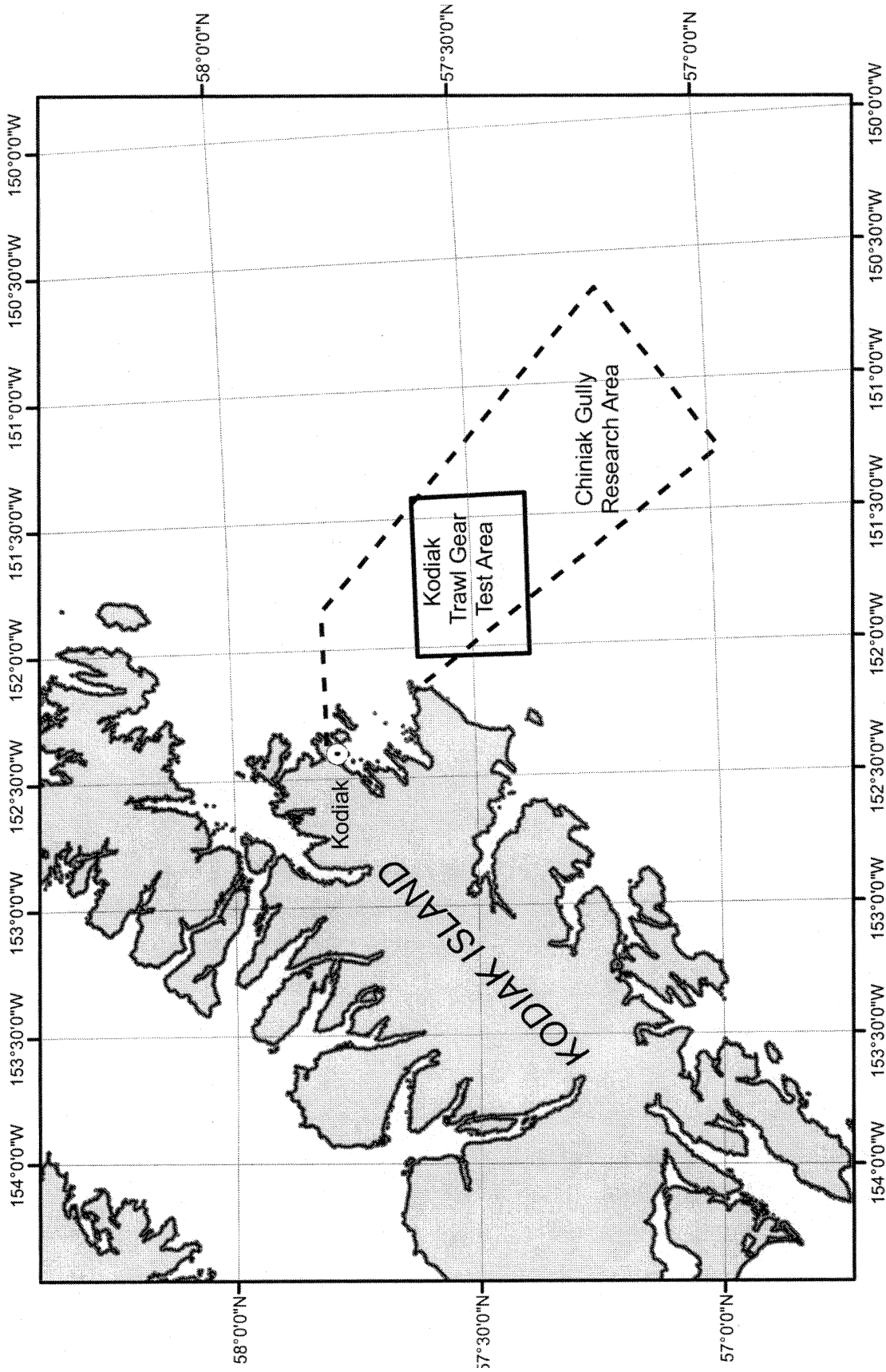


Figure 22 to Part 679 -- Chiniak Gully Research Area (applicable through December 31, 2010)