

superseding the limit established by inseason action #9. The open period landing and possession limit of 60 Chinook salmon per vessel, imposed by inseason action #9, was increased to 75 Chinook salmon per vessel. No change was made to the open period limit of 50 coho per vessel. Inseason action #11 also modified the commercial fishery openings north of Cape Falcon that were scheduled Saturday through Tuesday, beginning July 31, 2010; openings will instead be Friday through Tuesday, beginning July 30, 2010. This action was taken because salmon catch rates had been lower than expected due to poor weather conditions that had limited fishery participation. There was concern that if the landing and possession limit for Chinook salmon was not increased there would be lost opportunity to utilize available salmon quota. On July 29, 2010, the states recommended this action and the RA concurred; inseason action #11 took effect on July 30, 2010. Modification of quota and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2010 Ocean Salmon Fisheries and previous inseason actions.

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (75 FR 24482, May 5, 2010), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and

660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, thus allowing fishers access to the available fish at the time the fish were available while ensuring that quotas are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon Fishery Management Plan and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: September 3, 2010.

**Carrie Selberg,**

*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. 0910131363-0087-02]

RIN 0648-XY84

#### 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 2010 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 2010 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 3, 2010, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 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 2010 pollock TAC allocated to the ICA is 29,268 mt as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

As of September 2, 2010, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that the ICA has been set too high: 4,500 mt of the 2010 pollock ICA in the Bering Sea subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(i)(A)(1), NMFS reallocates 4,500 mt of the 2010 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 2010 harvest specifications for pollock in the Bering Sea subarea included in the final harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010) are revised as follows: 24,768 mt to the pollock ICA, 212,980 mt to B season AFA catcher vessels harvesting pollock for processing by AFA inshore processors, 170,384 mt to B season AFA catcher/processors and AFA catcher vessels delivering pollock to catcher/processors, and 42,596 mt to B season AFA catcher vessels harvesting pollock for processing by AFA motherships. This will enhance the socioeconomic well-being of harvesters dependent upon Pacific cod in this area. The Regional Administrator considered the following factors in reaching this decision: (1) The current catch of Pacific cod by the applicable BSAI sectors and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in the sectors participating in this fishery.

Furthermore, pursuant to § 679.20(a)(5)(i), Table 3 of the final 2010 and 2011 final harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010) is

revised for 2010 pollock allocations consistent with this reallocation. This

reallocation results in adjustments to the 2010 pollock ICA and directed

fisheries in the Bering Sea subarea established at § 679.20(a)(5)(i)(A).

**TABLE 3—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	1,110,000	n/a	n/a	n/a
CDQ DFA .....	81,300	32,520	22,764	48,780	111,000	44,400	31,080	66,600
ICA <sup>1</sup> .....	24,768	n/a	n/a	n/a	39,960	n/a	n/a	n/a
AFA Inshore .....	353,466	140,486	98,340	212,980	479,520	191,808	134,266	287,712
AFA Catcher/Processors <sup>3</sup> .....	282,773	112,389	78,672	170,384	383,616	153,446	107,412	230,170
Catch by C/Ps .....	258,737	102,836	n/a	155,901	351,009	140,403	n/a	210,605
Catch by CVs <sup>3</sup> .....	24,036	9,553	n/a	14,483	32,607	13,043	n/a	19,564
Unlisted C/P Limit <sup>4</sup> .....	1,414	562	n/a	852	1,918	767	n/a	1,151
AFA Motherships .....	70,693	28,097	19,668	42,596	95,904	38,362	26,853	57,542
Excessive Harvesting .....	123,714	n/a	n/a	n/a	167,832	n/a	n/a	n/a
Limit <sup>5</sup>								
Excessive Processing Limit <sup>6</sup> .....	212,080	n/a	n/a	n/a	287,712	n/a	n/a	n/a
Total Bering Sea DFA .....	706,932	280,973	196,681	425,959	959,040	383,616	268,531	575,424
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> .....	50	n/a	n/a	n/a	50	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 3, 2010.

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

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