

a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because the Secretary has determined that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million, updated annually for inflation. In 2011, that threshold is approximately \$136 million. This rule does not mandate expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of \$136 million; therefore, no analysis is required.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

**List of Subjects in 42 CFR Part 424**

Emergency medical services, Health facilities, Health professionals, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

**PART 424—CONDITIONS FOR MEDICARE PAYMENT**

■ 1. The authority citation for part 424 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

**Subpart D—To Whom Payment Is Ordinarily Made**

**§ 424.57 [Amended]**

■ 2. Section 424.57 is amended by—

- A. Removing the definition of “Direct solicitation” in paragraph (a).
- B. Revising paragraph (c)(1)(ii).
- C. Removing paragraph (c)(1)(iii).
- D. Revising paragraphs (c)(7)(i)(A) and (c)(11).
- E. In paragraph (c)(30)(ii)(B), removing the phrase “Licensed non-physician practitioners” and adding the phrase “A physical or occupational therapist” in its place.

The additions and revisions read as follows:

**§ 424.57 Special payment rules for items furnished by DMEPOS suppliers and issuance of DMEPOS supplier billing privileges.**

- (c) \* \* \*
- (1) \* \* \*

(ii) *State licensure and regulatory requirements.* If a State requires licensure to furnish certain items or services, a DMEPOS supplier—

(A) Must be licensed to provide the item or service; and

(B) May contract with a licensed individual or other entity to provide the licensed services unless expressly prohibited by State law.

\* \* \* \* \*

- (7) \* \* \*
- (i) \* \* \*

(A)(1) Except for orthotic and prosthetic personnel described in paragraph (c)(7)(i)(A)(2) of this section, maintains a practice location that is at least 200 square feet beginning—

- (i) September 27, 2010 for a prospective DMEPOS supplier;
- (ii) The first day after termination of an expiring lease for an existing DMEPOS supplier with a lease that expires on or after September 27, 2010 and before September 27, 2013; or
- (iii) September 27, 2013, for an existing DMEPOS supplier with a lease that expires on or after September 27, 2013.

(2) Orthotic and prosthetic personnel providing custom fabricated orthotics or prosthetics in private practice do not have to meet the practice location requirements in paragraph (c)(7)(i)(A)(1) of this section if the orthotic and prosthetic personnel are—

- (i) State-licensed; or
- (ii) Practicing in a State that does not offer State licensure for orthotic and prosthetic personnel.

\* \* \* \* \*

(11) Must agree not to contact a beneficiary by telephone when supplying a Medicare-covered item unless one of the following applies:

- (i) The individual has given written permission to the supplier to contact them by telephone concerning the furnishing of a Medicare-covered item that is to be rented or purchased.

(ii) The supplier has furnished a Medicare-covered item to the individual and the supplier is contacting the individual to coordinate the delivery of the item.

(iii) If the contact concerns the furnishing of a Medicare-covered item other than a covered item already furnished to the individual, the supplier has furnished at least one covered item to the individual during the 15-month period preceding the date on which the supplier makes such contact.

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 11, 2012.

**Marilyn Tavenner,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: February 21, 2012.

**Kathleen Sebelius,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2012–5913 Filed 3–9–12; 4:15 pm]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 111213751–2012–02]

RIN 0648–XB038

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

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

**ACTION:** Temporary rule; correction.

**SUMMARY:** NMFS is correcting a temporary rule that published on February 29, 2012, reallocating the projected unused amounts of pollock directed fishing allowances from the Aleut Corporation and the Community Development Quota from the Aleutian Islands subarea to the Bering Sea subarea directed fisheries. There are errors in the table for the pollock allocation in the Aleutian Island subarea and the Bogoslof District.

**DATES:** Effective March 14, 2012 through 2400 hrs, A.l.t., December 31, 2012, and is applicable beginning February 29, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Steve Whitney, 907-586-7269.

**SUPPLEMENTARY INFORMATION:**

**Need for Correction**

NMFS published a reallocation of the projected unused amount of pollock directed fishing allowances from the Aleut Corporation and from the Community Development Quota from the Aleutian Islands subarea to the Bering Sea subarea directed fisheries, in the **Federal Register** on Wednesday, February 29, 2012 (77 FR 12214). In Table 3, titled Final 2012 and 2013 Allocations of Pollock TACS to the Directed Pollock Fisheries and to the CDQ Directed Fishing Allowances, there is an error on page 12215 in row 16 of the third column. The 2012 A season directed fishing allowance for the Aleut Corporation is incorrectly specified as “15,500” metric tons (mt), instead of the correct number of “5,000” mt. This

correction is necessary because the incorrectly specified number exceeds the Aleut Corporation’s annual 2012 directed fishing allowance of 5,000 mt of pollock.

There is also an error on page 12215, row 17, in columns two and six. The 2012 and 2013 Bogoslof District incidental catch allowances (ICAs) were incorrectly specified as “150” mt instead of the correct “500” mt. These corrections are necessary to provide sufficient ICAs.

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 correction notice makes only minor changes and does not change operating practices in the fisheries. Corrections should be made as soon as possible to

avoid confusion for participants in the fisheries.

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.

**Correction**

In rule FR Doc. 2012-4836 published on February 29, 2012, (72 FR 12214) make the following corrections:

1. On page 12215, in Table 3, row 16 (the row beginning “Aleut Corporation”), column 3, the entry “15,500” is corrected to read “5,000”.

2. Also, in row 17 (the row beginning “Bogoslof District ICA”), in columns two and six, the entry “150” is corrected to read “500”.

The following table is corrected and reprinted in its entirety:

**TABLE 3—FINAL 2012 AND 2013 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	2012 Allocations	2012 A season <sup>1</sup>		2012 B season <sup>1</sup>	2013 Allocations	2013 A season <sup>1</sup>		2013 B season <sup>1</sup>
		A season DFA	SCA harvest limit <sup>2</sup>			B season DFA	A season DFA	
Bering Sea subarea .....	1,212,400	n/a	n/a	n/a	1,201,900	n/a	n/a	n/a
CDQ DFA .....	121,900	48,760	34,132	73,140	120,190	48,076	33,653	72,114
ICA <sup>1</sup> .....	32,400	n/a	n/a	n/a	32,451	n/a	n/a	n/a
AFA Inshore .....	529,050	211,620	148,134	317,430	524,629	209,852	146,896	314,778
AFA Catcher/Processors <sup>3</sup> .....	423,240	169,296	118,507	253,944	419,703	167,881	117,517	251,822
Catch by C/Ps .....	387,265	154,906	n/a	232,359	384,029	153,611	n/a	230,417
Catch by CVs <sup>3</sup> .....	35,975	14,390	n/a	21,585	35,675	14,270	n/a	21,405
Unlisted C/P Limit <sup>4</sup> .....	2,116	846	n/a	1,270	2,099	839	n/a	1,259
AFA Motherships .....	105,810	42,324	29,627	63,486	104,926	41,970	29,379	62,956
Excessive Harvesting Limit <sup>5</sup> .....	185,168	n/a	n/a	n/a	183,620	n/a	n/a	n/a
Excessive Processing Limit <sup>6</sup> .....	317,430	n/a	n/a	n/a	314,778	n/a	n/a	n/a
<b>Total Bering Sea DFA</b>	<b>1,058,100</b>	<b>423,240</b>	<b>296,268</b>	<b>634,860</b>	<b>1,049,259</b>	<b>419,703</b>	<b>293,792</b>	<b>629,555</b>
Aleutian Islands subarea <sup>1</sup>	6,600	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA .....	0	0	n/a	0	1,900	760	n/a	1,140
ICA .....	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation .....	5,000	5,000	n/a	0	15,500	15,500	n/a	0
Bogoslof District ICA <sup>7</sup> .....	500	n/a	n/a	n/a	500	n/a	n/a	n/a

<sup>1</sup> Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting 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 BS 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 BS 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/processers shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processers.

<sup>4</sup> Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processers are limited to harvesting not more than 0.5 percent of the catcher/processers 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.

**Note:** Seasonal or sector apportionments may not total precisely due to rounding.

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

Dated: March 9, 2012.

**Steven Thur,**

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

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