DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131363–0087–02]

RIN 0648–XA151

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.

SUMMARY: NMFS is reallocating the projected unused amounts of the Aleut Corporation's pollock directed fishing allowance and the Community Development Quota from the Aleutian Islands subarea to the Bering Sea subarea directed fisheries. These actions are necessary to provide opportunity for harvest of the 2011 total allowable catch of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 3, 2011, until the effective date of the final 2011 and 2012 harvest specifications for Bering Sea and Aleutian Islands (BSAI) groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council (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 Aleutian Islands subarea, the portion of the 2011 pollock total allowable catch (TAC) allocated to the Aleut Corporation's directed fishing allowance (DFA) is 15,500 metric tons (mt) and the Community Development Quota (CDQ) is 1,900 mt as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010), as adjusted by two inseason adjustments (75 FR 54792, September 9, 2010 and 76 FR 466, January 5, 2011).

As of January 28, 2011, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 12,500 mt of Aleut Corporation's DFA and 1,900 mt of pollock CDQ in the Aleutian Islands subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS proportionally reallocates 12,500 mt of Aleut Corporation's DFA and 1,900 mt of pollock CDQ from the Aleutian Islands subarea to the 2011 Bering Sea subarea allocations. The 1,900 mt of pollock CDQ is added to the 2011 Bering Sea CDQ DFA. The remaining 12,500 mt of pollock is apportioned to the AFA Inshore sector (50 percent), AFA catcher/processor sector (40 percent), and the AFA mothership sector (10 percent). The 2011 pollock incidental catch allowance remains at 33,804 mt. As a result, the harvest specifications for pollock in the Aleutian Islands subarea included in the final harvest 2010 and 2011 specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010) are revised as follows: 3,000 mt to Aleut Corporation's DFA and 0 mt to CDQ pollock. Furthermore, pursuant to § 679.20(a)(5), Table 3 of the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010), as adjusted by two inseason adjustments (75 FR 54792, September 9, 2010 and 76 FR 466, January 5, 2011), is revised to make 2011 pollock allocations consistent with this reallocation. This reallocation results in proportional adjustments to the 2011 Aleut Corporation and CDQ pollock allocations established at § 679.20(a)(5).

TABLE 3—FINAL 2010 AND 2011 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2010 Allocations	2010 A season [1]		2010 B season [1]	2011 Allocations	2011 A season [1]		2011 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea	813,000	n/a	n/a	n/a	1,266,400	n/a	n/a	n/a
CDQ DFA	81,300	32,520	22,764	48,780	127,100	50,840	35,588	76,260
ICA [1]	24,768	n/a	n/a	n/a	33,804	n/a	n/a	n/a
AFA Inshore	353,466	140,486	98,340	212,980	552,748	221,099	154,769	331,649
AFA Catcher/Processors [3]	282,773	112,389	78,672	170,384	442,198	176,879	123,816	265,319
Catch by C/Ps	258,737	102,836	n/a	155,901	404,612	161,845	n/a	242,767
Catch by CVs [3]	24,036	9,553	n/a	14,483	37,587	15,035	n/a	22,552
Unlisted C/P Limit [4]	1,414	562	n/a	852	2,211	884	n/a	1,327
AFA Motherships	70,693	28,097	19,668	42,596	110,550	44,220	30,954	66,330
Excessive Harvesting Limit [5]	123,714	n/a	n/a	n/a	193,462	n/a	n/a	n/a
Excessive Processing Limit [6]	212,080	n/a	n/a	n/a	331,649	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	706,932	280,973	196,681	425,959	1,105,496	442,198	309,539	663,298
Aleutian Islands subarea [1]	19,000	n/a	n/a	n/a	4,600	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140	0	0	n/a	0
ICA	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation	15,500	15,500	n/a	0	3,000	3,000	n/a	0
Bogoslof District ICA [7]	50	n/a	n/a	n/a	150	n/a	n/a	n/a

[1] 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 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 Bering Sea 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.

[2] 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 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.

[3] 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.

[4] 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.

[5] 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.

[6] 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.

[7] 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 AI pollock. 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 seasonal pollock allocations while value is optimum. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 28, 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: January 31, 2011.

James P. Burgess,

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

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