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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BB24

Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Pollock Fishery; Amendment 93

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

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council has submitted Amendment 93 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Amendment 93, if approved, would establish separate prohibited species catch (PSC) limits in the Central and Western Regulatory Areas of the Gulf of Alaska (GOA) for Chinook salmon (*Oncorhynchus tshawytscha*). NMFS would close the directed pollock fishery in those areas if the applicable limit is reached. This action also would require full retention of salmon in the Central and Western GOA pollock fisheries until an observer is provided the opportunity to count the number of salmon and to collect scientific data or biological samples from the salmon. This action is necessary to minimize Chinook salmon bycatch in the GOA pollock fishery to the extent practicable while preserving the potential for the full harvest of pollock total allowable catch within PSC limits. Amendment 93 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Comments on the amendment must be received on or before [INSERT DATE 60

DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2011-0156, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter [NOAA-NMFS-2011-0156] in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.
- Mail: Submit written comments to P.O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586-7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered.

All comments received are a part of the public record. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region website at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Mary Grady, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the Federal Register announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 93 to the FMP is available for public review and comment.

The groundfish fisheries in the exclusive economic zone of the GOA are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act (MSA). Amendment 93 would apply only to the management of the pollock fishery (*Theragra chalcogramma*) in the Central and Western Reporting Areas of the GOA. The Central and Western GOA Reporting Areas, defined at § 679.2 and in Figure 3 to 50 CFR part 679, include the Central and Western Regulatory Areas (Statistical Areas 610, 620, and 630) and the adjacent State of Alaska (State) waters. The fisheries affected by this action would include the GOA State parallel fisheries for pollock that take place in State waters around

Kodiak Island, in the Chignik Area, and along the South Alaska Peninsula. Pollock harvests in these parallel fisheries occur in State waters and are typically opened and closed concurrently with Federal fisheries. The harvest by vessel operators participating in either the State parallel or Federal fisheries are deducted from the Federal total allowable catch (TAC) and PSC would be deducted from applicable PSC limits at the time the harvest is reported.

Harvest of Chinook salmon from vessels in the pollock parallel fisheries in State waters of the GOA will be deducted from the applicable PSC limit because coordinated State and Federal fisheries management provides consistent management for both groundfish and prohibited fish species that are distributed across State and Federal boundaries. Coordinated State and Federal fisheries management is desirable because the pollock fishery in parallel waters operate in both State and Federal waters and can cross the State and Federal boundary during a single haul. This management provides consistency to prevent confusion and eliminate loopholes that may occur under different requirements between State and Federal waters. Under parallel fisheries management the State and Federal fisheries are able to synchronize their seasons, which provides consistent time and area catch and management data for both groundfish and PSC limits.

The EA/RIR/IRFA indicates that a substantial portion of the pollock TAC in these areas is taken in State waters, at least in some years. Counting Chinook salmon PSC from State waters towards attainment of the Chinook salmon PSC limit would promote the effectiveness of the Federal PSC limits to protect Chinook salmon stocks as well as the interests of Chinook salmon users. Applying this action to the parallel fisheries in years of high Chinook salmon PSC catch could prevent the fleet from diverting effort into State waters to avoid reaching the PSC limit, and could effectively limit or reduce Chinook salmon PSC. The Council recommended inclusion

of the State parallel fisheries in this action because only by counting Chinook salmon PSC landed in State waters against the Chinook salmon PSC limits that apply in the EEZ can NMFS, the State, and the Council avoid an undesirable displacement of fishery effort into State waters to avoid accrual of Chinook salmon PSC, a shift that could actually have the effect of increasing Chinook salmon PSC. Under the proposed FMP amendment and proposed rule, Chinook salmon PSC in State waters would count against the limits. When a limit is reached, NMFS will close Federal waters. The limit and the possibility of closure should create an incentive for the fleet to fish in areas with lower Chinook salmon PSC rates. In addition, the State has indicated that it will close the parallel fishery if and when a Federal closure occurs, which will limit Chinook PSC throughout the Western and Central GOA reporting areas.

If approved, Amendment 93 would establish PSC limits in the Central and Western GOA pollock fisheries. The annual PSC limit for the pollock fishery in the Central Reporting Area would be 18,316 Chinook salmon. The annual PSC limit for the pollock fishery in the Western Reporting Area would be 6,684 Chinook salmon. If the applicable Chinook salmon PSC limit for the respective regulatory area is reached, NMFS would close the directed pollock fishery in the respective regulatory area. The State would continue to manage the closures of the pollock fishery in State waters.

The principal objective of Chinook salmon bycatch management in the GOA pollock fishery is to minimize Chinook salmon bycatch to the extent practicable, while enabling the pollock harvest to contribute substantially towards the attainment of optimum yield in the groundfish fishery on an ongoing basis. Minimizing Chinook salmon bycatch while achieving optimum yield is necessary to maintain a healthy marine ecosystem, ensure long-term conservation and abundance of Chinook salmon, provide maximum benefit to fishermen and

communities that depend on Chinook salmon and pollock resources, and comply with the MSA and other applicable federal law.

In developing Amendment 93, the Council considered consistency with the Magnuson-Stevens Act's 10 National Standards. The Council designed Amendment 93 to balance the competing demands of the National Standards. Specifically, the Council recognized the need to balance and be consistent with both National Standard 9 and National Standard 1. National Standard 9 requires that conservation and management measures shall, to the extent practicable, minimize bycatch. National Standard 1 requires that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry. The harvest of pollock in the Central and Western GOA contributes to the attainment of optimum yield in the GOA groundfish fishery; however, the ability to harvest the entire pollock TAC in any given year is not determinative of whether the GOA groundfish fishery achieves optimum yield on an ongoing basis. Providing the opportunity for the pollock fleet to harvest its TAC is one aspect of achieving optimum yield in the long term.

The Council also considered the importance of equity among user groups in recommending Amendment 93. In addition to providing a fair and equitable apportionment of the total GOA-wide PSC limit between the Central and Western GOA pollock fisheries, the Council also considered the needs of Chinook salmon users. The Council noted that the Chinook salmon resource is of value to many stakeholders, including, but not limited to, commercial, recreational, and cultural user groups; and it is a resource that is currently fully utilized. By recommending a PSC limit that reduces Chinook salmon bycatch, the Council also has considered the needs of these other user groups and has recommended measures to promote their

access to the Chinook salmon resource.

Under Amendment 93, the Chinook salmon PSC limits are based on the Council's recommended GOA-wide goal of limiting Chinook salmon bycatch to no more than 25,000 salmon in the Central and Western GOA pollock fisheries. The Council noted that the pollock fishery accounts for approximately 75 percent of Chinook salmon PSC in the GOA groundfish fisheries based on the Chinook salmon bycatch levels from 2001 to 2010. At final action, the Council selected a GOA-wide Chinook salmon PSC limit of 25,000 salmon, having previously considered a GOA-wide limit of 22,500 Chinook salmon. The Council apportioned the selected GOA-wide Chinook salmon PSC limit between the Central and Western GOA on the basis of annual Chinook salmon PSC levels and pollock harvests in each area, set at an equal ratio during 2001 to 2010 excluding 2007 and 2010, with an adjustment intended to prevent either area from bearing a disproportionate share of the economic impact of the PSC limit. To apportion the 25,000 Chinook salmon PSC limit, the Council recommended a PSC limit for the Western GOA PSC that reflects the output of this formula, applied to a total GOA-wide PSC limit of 22,500 Chinook salmon, with no adjustment. The Council recommended a PSC limit for the Central GOA that reflects the output of this formula, applied to a GOA-wide PSC limit of 22,500 Chinook salmon, adjusted to allow for an additional 2,500 Chinook salmon. The Council recommended this increase to the Central GOA Chinook salmon PSC limit to enable a greater proportion of the overall pollock TAC to be harvested from the GOA and to more evenly balance the economic impacts to fishery participants in the Central GOA and fishery participants in the Western GOA. The analysis indicated that a Chinook salmon PSC limit in the Central GOA, based strictly on historic catch in the two areas with no adjustment, would have resulted in larger amounts of foregone pollock harvest by the pollock fishery in the Central GOA historically than

the amount of pollock harvest that would have been foregone by the pollock fishery in the Western GOA under the corresponding limit in the Western GOA. The adjustment would likely reduce the amount of foregone pollock harvest in the Central GOA and the GOA as a whole. The adjustment would likely increase the total benefits realized from the harvest of the pollock resource and contribute toward the achievement of optimum yield from the GOA groundfish fishery as a whole, consistent with National Standard 1.

The EA/RIR/IRFA indicates that under this action, the Central and Western GOA pollock fisheries should be able to harvest the full pollock TAC in each area based on the lower, long-term (17 year) average bycatch rate, although they would be unable to harvest the full TAC based on the recent (8 year), higher average bycatch rate. The Council intends to maintain a constraint on the fleet as an incentive to reduce bycatch while still allowing for optimum yield from the groundfish fishery.

If Amendment 93 is approved, it is the Council's expectation that the PSC limits recommended in this action would be implemented in mid-2012. If Amendment 93 is approved and PSC limits are implemented in mid-2012, reduced PSC limits would apply in 2012, and these reduced PSC limits would apply for the C and D seasons only (August 25 through November 1). The Council recommended the PSC limits for the 2012 C and D seasons at the levels of 8,929 Chinook salmon in the GOA Central Reporting Area and 5,598 Chinook salmon in the GOA Western Reporting Area. If the Secretary approves the program, but NMFS cannot implement it before August 25, 2012, NMFS would implement it at the beginning of the next full fishing year (2013).

If approved, Amendment 93 would also require temporary retention of all salmon intercepted in the Central and Western GOA pollock fisheries until an observer is provided the

opportunity to count the number of salmon and to collect scientific data or biological samples from the salmon. The Amendment would not allow the sale or personal use of retained salmon. The FMP would defer to regulations to describe the specific requirements for retaining salmon. The proposed rule for this action would establish the requirements for retaining and handling intercepted salmon species in the GOA pollock fisheries in order to allow observers to count and sample salmon to obtain scientific information before the salmon must be discarded or donated to the Prohibited Species Donation Program.

NMFS is soliciting public comments on proposed Amendment 93 through the end of the comment period (see DATES). NMFS intends to publish in the Federal Register and seek public comment on a proposed rule that would implement Amendment 93 following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 93 to be considered in the approval/disapproval decision on Amendment 93. NMFS will consider all comments received by the end of the comment period on Amendment 93, whether specifically directed to the FMP Amendment or the proposed rule, in the FMP Amendment approval/disapproval decision.

NMFS will not consider comments received after that date in the approval/disapproval decision on the Amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

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

Dated: November 17, 2011

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

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