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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BJ35

Fisheries of the Exclusive Economic Zone off Alaska; Modifying Seasonal Allocations of Pollock and Pacific Cod for Trawl Catcher Vessels in the Central and Western Gulf of Alaska

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 submitted Amendment 109 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) to the Secretary of Commerce for review. If approved, Amendment 109 would reduce operational and management inefficiencies in the Central Gulf of Alaska and Western Gulf of Alaska trawl catcher vessel Pacific cod fisheries by changing seasonal Gulf of Alaska Pacific cod apportionments to allow greater harvest opportunities earlier in the year. Amendment 109 is necessary to provide participants in the fisheries an opportunity to more fully harvest the total allowable catch of Pacific cod, increase management flexibility, and potentially decrease prohibited species catch while not redistributing fishing opportunities between management areas or harvesting sectors. Amendment 109 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the GOA FMP, and other applicable laws.

DATES: Submit comments on or before [*insert date 60 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Submit your comments, identified by docket number NOAA-NMFS-2019-0125, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2019-0125, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record, and NMFS will post the comments for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 109 to the GOA FMP, the draft Environmental Assessment and the Regulatory Impact Review (collectively referred to as the “Analysis”) prepared for this proposed rule may be obtained from <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Joseph Krieger, 907-586-7228 or *joseph.krieger@noaa.gov*.

SUPPLEMENTARY INFORMATION:

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at section 304(a) requires that each regional fishery management council submit an amendment to a fishery management plan (FMP) for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act at section 304(a) also requires that the Secretary, upon receiving an amendment to a FMP, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. FMP amendments and regulations developed by the Council may be implemented by NMFS only after approval by the Secretary.

The North Pacific Fishery Management Council (Council) has submitted Amendment 109 to the GOA FMP (Amendment 109) to the Secretary for review. This notice announces that proposed Amendment 109 is available for public review and comment.

NMFS manages U.S. groundfish fisheries in the exclusive economic zone under the GOA FMP. The Council prepared, and the Secretary approved, the GOA FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the GOA FMP appear at 50 CFR parts 600 and 679. In June 2019, the Council adopted Amendment 109. If approved, Amendment 109 would change the Central Gulf of Alaska (CGOA) and Western Gulf of Alaska (WGOA) Pacific cod seasonal apportionments to increase the trawl catcher vessel (CV)

sector's A season total allowable catch (TAC) while proportionally decreasing the sector's B season TAC. In recommending Amendment 109, the Council intends to increase fishery yield, increase management flexibility, and potentially decrease prohibited species catch (PSC) in the CGOA and WGOA trawl CV Pacific cod fisheries.

Amendment 109 would amend the trawl CV seasonal apportionments of Pacific cod in the table in Section 3.2.3.4.3.3.2 of the GOA FMP. The WGOA trawl CV A season would change from 72.3 percent to 82.1 percent, and the B season would change from 27.7 percent to 17.9 percent. The CGOA trawl CV A season would change from 50.8 percent to 60.8 percent, and the B season would change from 49.2 percent to 39.2 percent.

At the same time the Council took action to adopt Amendment 109, the Council also adopted a regulatory amendment that would change the seasons for, and seasonal apportionments of, pollock in the CGOA and WGOA. The proposed rule to implement Amendment 109 will propose regulations to implement the regulatory amendment for GOA pollock seasons and seasonal apportionments.

Background

The trawl groundfish fisheries in the GOA include fisheries for pollock, sablefish, several rockfish species, numerous flatfish species, Pacific cod, and other groundfish. Trawl gear captures groundfish by towing a net above or along the ocean floor. Amendment 109 would affect the trawl CV fisheries for Pacific cod in two specific areas of the GOA: 1) the CGOA regulatory area, and 2) the WGOA regulatory area. These specific regulatory areas are defined at § 679.2.

NMFS annually establishes Pacific cod TACs for these two regulatory areas. NMFS apportions the annual WGOA and CGOA Pacific cod TACs across two seasons. NMFS apportions 60 percent of the annual WGOA and CGOA Pacific cod TACs to the A season, and apportions 40 percent of the annual WGOA and CGOA Pacific cod TACs to the B season. For vessels deploying trawl gear, the A season occurs from January 20 through June 10, and the B season occurs from September 1 through November 1.

Since the implementation of Amendment 83 to the GOA FMP in 2012 (76 FR 74670, December 1, 2011), NMFS, after subtracting a set-aside for the jig gear sector, also allocates the annual WGOA and CGOA Pacific cod TACs between five sectors in the WGOA and six sectors in the CGOA. Each sector's allocation is apportioned between the A and B seasons in each area, and the ratio for each sector's seasonal apportionment is not required to be a 60 percent: 40 percent ratio. However, for all gear (trawl and non-trawl) and operational-type (CV and catcher/processors (C/Ps)) sectors, the total of A season sector apportionments in each area equals 60 percent of the annual Pacific cod TAC, and the total of B season sector apportionments in each area equals 40 percent of the annual Pacific cod TAC.

Regulations at § 679.20(a)(12)(i) and Tables 2-2 and 2-3 in the Analysis show the seasonal percentage allocations for each sector. These tables illustrate that no sector, in isolation, experiences a 60 percent: 40 percent seasonal TAC split. For example, the CGOA trawl CV sector is currently allocated 21.1 percent of the annual CGOA Pacific cod TAC in the A season and 20.5 percent of the annual CGOA Pacific cod TAC in the B season. Those two figures are at a 51 percent: 49 percent ratio to each other. The WGOA trawl CV sector is allocated 27.7 percent of the annual WGOA Pacific cod TAC

in the A season TAC and 10.7 percent of the annual WGOA Pacific cod TAC in the B season, which results in a 72 percent: 28 percent seasonal ratio. The WGOA trawl CVs receive a relatively greater proportion of their annual Pacific cod TAC allocation in the A season, as they do not target Pacific cod in the fall (B season). The sectors that receive a small percentage of the annual TAC tend to be those that encounter Pacific cod as incidental catch that must be retained (as an Improved Retention/Improved Utilization Program (IR/IU) species), but do not conduct directed fishing for Pacific cod.

Regulations at 50 CFR 679.20(a)(12)(ii) describe the reallocation of sector allocations “if [...NMFS] determines that a sector will be unable to harvest the entire amount of Pacific cod allocated to [a] sector.” NMFS publishes these reallocations as inseason actions in the **Federal Register** and posts them on the NMFS Alaska Region website as Information Bulletins. Regulations at 50 CFR 679.20(a)(12)(ii) also state that NMFS should take into account “the capability of a sector [...] to harvest the remaining Pacific cod TAC.” There are no set dates upon which reallocations should occur; NMFS relies on its management expertise as well as communication with the fleets about their expected levels of activity or encounter rates of Pacific cod. In practice, NMFS reallocates Pacific cod that it projects will go unharvested by a sector. The regulations provide a hierarchy that guides preference in reallocations if there are competing needs for additional TAC. The regulations at § 679.20(a)(12)(ii)(B) state that NMFS should consider reallocation to CV sectors first, then reallocation to the combined CV and C/P pot sector, and then to any of the other C/P sectors (trawl and hook-and-line). NMFS provides a record of inseason Pacific cod TAC reallocations on its website. Since 2012, almost all inseason reallocations have occurred during the B season, and most

reallocations flowed from the trawl CV sector; no reallocations have been made to the trawl CV sector.

In recent years, trawl CVs in the GOA Pacific cod fishery only conduct directed fishing for B season Pacific cod in the CGOA. The WGOA trawl CV sector receives 10.7 percent of the annual WGOA Pacific cod TAC in the B season (see Table 2-2 in the Analysis) but it goes largely unharvested by trawl vessels except as incidental catch during the C and D seasons in the pollock trawl fishery. In the CGOA, where the trawl CV fishery is prosecuted, harvest of Pacific cod in the B season lags A season harvest by a significant margin in percentage terms. Table 3-4 in the Analysis shows that harvest of CGOA B season Pacific cod TAC was typically below 50 percent and began to fall precipitously in the years leading up to the 2018 reduction in ABC. While industry participants have reported that fish size and flesh quality can be better in the fall B season than in the late-winter A season due to the length of time removed from spawning activity, GOA Pacific cod do not tend to aggregate in the fall in a manner that lends itself to efficient harvest with trawl gear. As a result, a significant portion of the GOA Pacific cod B season TAC is left unharvested by trawl CVs, while the A season TAC is more fully prosecuted by trawl CVs.

The Council acknowledged that trawl CVs in the GOA have only directed fished for Pacific cod in the CGOA during the B season in recent years and that WGOA Pacific cod TAC goes largely unharvested. The Council also acknowledged that in the CGOA, where the trawl CV fishery is prosecuted, harvest of Pacific cod in the B season lags A season harvest by a significant margin in percentage terms, which also results in unharvested Pacific cod TAC. To address these concerns, the Council adopted

Amendment 109. Amendment 109 would increase trawl CV allocations of Pacific cod TAC in the CGOA and WGOA during the A season while proportionally decreasing trawl CV allocations of Pacific cod TAC in the CGOA and WGOA during the B season. Specifically, 25.29364 percent of the annual CGOA Pacific cod TAC would be allocated to the trawl CV sector during the A season and 16.29047 percent would be allocated to the B season. Additionally, 31.54 percent of the annual WGOA Pacific cod TAC would be allocated to the trawl CV sector during the A season and 6.86 percent would be allocated to the B season. Sections 2.3, 2.6 and 4.6.4 of the Analysis describe the range of alternative Pacific cod TAC allocations considered by the Council and summarizes the Council's rationale for the proposed allocations.

Before adopting its preferred alternatives for Amendment 109, the Council considered a range of alternatives and options (see Sections 2 and 4.6 of the Analysis for more detail on alternatives and options). The Council determined, and NMFS agrees, that Amendment 109 will reduce operational and management inefficiencies in the CGOA and WGOA trawl CV Pacific cod fisheries by changing seasonal Gulf of Alaska Pacific cod apportionments to allow greater harvest opportunities earlier in the year.

NMFS is soliciting public comments on proposed Amendment 109 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seeks public comment on the proposed rule that would implement Amendment 109 following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendment 109 and the proposed rule. All relevant written comments received by the end of the comment

period for Amendment 109, whether specifically directed to the FMP amendment or the proposed rule, will be considered by NMFS in the approval/disapproval decision for Amendment 109 and addressed in the response to comments in the final decision. Comments received after the end of the comment period for Amendment 109 will not be considered in the approval/disapproval decision on Amendment 109. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

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

Dated: February 3, 2020.

Jennifer M. Wallace,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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