



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200604-0152]

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: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 109 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and a regulatory amendment to the regulations governing pollock fishing in the Gulf of Alaska. This final rule reduces operational and management inefficiencies in the Central Gulf of Alaska and Western Gulf of Alaska trawl catcher vessel pollock and Pacific cod fisheries by reducing regulatory time gaps between the pollock seasons, and changing Gulf of Alaska Pacific cod seasonal apportionments to allow greater harvest opportunities earlier in the year. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the GOA FMP, and other applicable laws.

DATES: This rule is effective on January 1, 2021.

ADDRESSES: Electronic copies of the Environmental Assessment and the Regulatory Impact Review (collectively referred to as the “Analysis”) and the National Environmental Policy Act (NEPA) Finding of No Significant Impact prepared for this final rule may be obtained from <http://www.regulations.gov>.

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SUPPLEMENTARY INFORMATION:

I. Authority for Action

NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) under the GOA FMP. The North Pacific Fishery Management Council (Council) prepared, and the Secretary of Commerce (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. The Council is authorized to prepare and recommend a fishery management plan (FMP) amendment for the conservation and management of a fishery managed under the FMP. NMFS conducts rulemaking to implement FMP amendments and regulatory amendments. FMP amendments and regulations developed by the Council may be implemented by NMFS only after approval by the Secretary.

The Council recommended Amendment 109 to the GOA FMP (Amendment 109) and a regulatory amendment for pollock fisheries in the GOA. This final rule implements Amendment 109 by changing 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. This final rule also implements the Council’s regulatory

amendment by combining the CGOA and WGOA trawl CV pollock fishery A and B seasons into a single season (redesignated as the A season), and the C and D seasons into a single season (redesignated as the B season), and by changing the annual start date of the redesignated pollock B season from August 25 to September 1. These changes for pollock and Pacific cod are only applicable to the CGOA and the WGOA, which are comprised of NMFS statistical areas 610 (WGOA) and 620 and 630 (CGOA) (see Figure 3 to part 679). This preamble uses the term “management area” to refer to “statistical area” to avoid confusion with State of Alaska “statistical areas.” Also, the term “management area” is commonly used by harvesters and processors to refer to NMFS statistical areas.

NMFS published the Notice of Availability for Amendment 109 in the **Federal Register** on February 6, 2020 (85 FR 6890), with public comments invited through April 6, 2020. NMFS published the proposed rule to implement Amendment 109 in the **Federal Register** on February 28, 2020 (85 FR 11939), with public comments invited through March 30, 2020.

NMFS received 35 comment letters which contain a total of 13 unique comments during the comment periods. A summary of these comments and the responses by NMFS are provided under the heading “Response to Comments” below.

II. Background

This final rule modifies the seasonal apportionment of pollock and Pacific cod TAC in the CGOA and WGOA. The purpose of this action is to reduce operational and management inefficiencies in the CGOA and WGOA trawl CV pollock and Pacific cod fisheries by 1) reducing regulatory time gaps between the pollock fishery A and B seasons and the C and D seasons, and 2) changing seasonal Pacific cod apportionments in

the GOA to allow greater harvest opportunities earlier in the year. Modifying the seasonal allocations of pollock and Pacific cod could allow the fisheries to more fully harvest the TAC of GOA pollock and Pacific cod, increase management flexibility, and potentially decrease prohibited species catch (PSC) while not redistributing fishing opportunities between management areas or harvest sectors.

III. The Affected Fisheries Participants and Current Seasonal Allocations

A. Affected Fisheries Participants

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. This final rule affects the trawl fisheries for pollock and Pacific cod in two specific areas of the GOA: 1) the CGOA regulatory area (comprised of management areas 620 and 630), and 2) the WGOA regulatory area (comprised of management area 610). These specific areas are defined at 50 CFR 679.2. This action applies only to the federally permitted CVs using trawl gear to harvest pollock or Pacific cod in management areas 610, 620, and 630 of the GOA. This action does not apply to the Eastern GOA West Yakutat District (management area 640).

Regulations at 50 CFR 679.4(k) require trawl vessels participating in the GOA pollock and Pacific cod fisheries to possess a License Limitation Program license (LLP). Overall, 124 CV LLPs are endorsed for GOA trawl fishing. Ninety-seven CV LLPs are endorsed for CGOA trawl fishing and 78 CV LLPs are endorsed for WGOA trawl fishing. Fifty-one LLPs are trawl-endorsed for both areas.

B. Current Seasonal Allocations of Pollock and Pacific Cod in the CGOA and WGOA

GOA Pollock

The four pollock seasons for the CGOA and WGOA (management areas 610, 620, and 630) are currently defined in regulations at § 679.23(d)(2) as follows:

A season – From 1200 hours, A.l.t., January 20 to 1200 hours, A.l.t., March 10

B season – From 1200 hours, A.l.t., March 10 to 1200 hours, A.l.t., May 31

C season – From 1200 hours, A.l.t., August 25 to 1200 hours, A.l.t., October 1

D season – From 1200 hours, A.l.t., October 1 to 1200 hours, A.l.t., November 1

Through the annual harvest specifications process, NMFS establishes pollock TACs for management areas 610, 620, and 630 within the CGOA and the WGOA. These TACs are established in proportion to the distribution of the pollock biomass in those areas as determined by the most recent NMFS surveys. In addition, the regulations at 50 CFR § 679.20(a)(5)(iv)(B) state that 25 percent of the combined pollock TAC for the CGOA and WGOA is allocated to each of the four seasons. The seasonal apportionments are then further apportioned across management areas (*i.e.*, management area 610, 620, and 630) based on estimated biomass distribution throughout the year. The most recent example of these allocations is found in the 2020-2021 annual harvest specifications for the GOA (85 FR 13802, March 10, 2020).

Over the last 15 years, the seasonal pollock biomass distribution has shifted substantially, resulting in relatively smaller seasonal apportionments in management area 610—most notably in the A and B seasons—while substantially increasing seasonal apportionments and annual TACs in management area 620 and, to a lesser degree, management area 630. The seasonal biomass distribution aspect of annual harvest specifications is designed so that the pollock fleet is able to harvest fish where they are occurring, and not to allocate harvest opportunities to one area relative to another.

NMFS inseason managers monitor the catch of pollock and close the directed pollock fishery in each management area when they determine the seasonal apportionment will be taken. Because this process is based on many variable factors, sometimes catch exceeds the seasonal apportionment and sometimes catch is less than the seasonal apportionment.

NMFS' objective is to allow for optimal harvest while avoiding an overage of the seasonal apportionment or the annual TAC. TAC that is not harvested in one area or season that cannot be reallocated to a subsequent season is not made available for later harvest. TAC that remains at the end of the D season is not rolled over to the following calendar year.

After each management area's overages or underages are accounted for, NMFS has the ability to reallocate, or "rollover," pollock that is not harvested in one season to the subsequent season in the same or other management area(s). Rollovers are made according to a prescribed series of steps that are predicated on the area TAC levels and seasonal apportionments established in the annual harvest specifications and are described in detail in Section 2.1.1 in the Analysis.

Regulations at § 679.20(a)(5)(iv)(B) state that unharvested pollock may be added to a subsequent seasonal allocation provided that the revised seasonal apportionment does not exceed 20 percent of the subsequent season's pollock apportionment for the management area. This provision also states that any rollover of unharvested pollock is applied first to the subsequent season in the same management area, and only then may any remaining pollock be further reallocated to other GOA management areas. The purpose of the rollover is to help fishery participants harvest as much of the TAC as possible. However, the rollover regulations are designed to mitigate incentives for the

fleet to underharvest or overharvest the seasonal pollock apportionment in a management area in order to influence the amount of pollock available in the subsequent season.

GOA Pacific Cod

NMFS establishes annual Pacific cod TACs for the WGOA and CGOA and apportions these 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 among 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 60:40 percent ratio. However, for all gear (trawl and non-trawl) and operational-type (CVs 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 50 CFR § 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 60:40 percent seasonal TAC split. 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 § 679.20(a)(12)(ii) describe the reallocation of sector allocations. 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 § 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 of Pacific cod 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.

IV. Need for This Action

This final rule addresses concerns that arose from a series of discussion papers that were presented to the Council in 2017, 2018, and 2019. The discussion papers examined the amount of uncaught Pacific cod TAC in all gear sectors during the WGOA and CGOA B season, options for changing WGOA and CGOA pollock and Pacific cod

seasonal allocations with the goal of improving efficiency in fishery management, and whether delaying the start of the WGOA and CGOA pollock C season from August 25 to September 1 might provide operational benefits to vessels and processors that also engage in salmon fisheries or groundfish fisheries outside of the GOA.

For the pollock fishery, status quo management can result in time gaps between the A and B seasons and between the C and D seasons. The time gaps vary in length depending on the pace of fishing and TAC utilization during the A and C seasons. Table 4-8 in Section 4.5.1.2 of the Analysis shows instances where fisheries were closed for up to 80 percent of a season when the pollock TAC was taken quickly. In other cases, NMFS has closed directed fishing for pollock toward the very end of one season, and before another season has started, resulting in closures that lasted as little as one day.

The Council and NMFS acknowledge that these time gaps between seasons create operational inefficiencies and increase costs compared to a continuous fishery. For harvesters, operational inefficiencies could include fuel costs to transit back and forth to fishing grounds, lost labor productivity (*i.e.*, more days to earn the same income), missed windows of good weather, inability to fish during periods of high catch per unit effort (CPUE), or inability to fish during periods of high pollock roe content (and higher value product) that can occur between the A and B seasons. Processors also experience reduced productivity if labor and equipment are idled. A long time gap between seasons could also erode the real-time knowledge of the fishing grounds that skippers develop over the course of a continuous season. That knowledge is often key to achieving higher CPUE and minimizing bycatch of non-target species and PSC. Section 4.6.1.1.1 of the Analysis describes these inefficiencies in greater detail. Harvesters acknowledge that “pulse” fishing can limit the ability of the fleet to avoid fishing during periods of higher

bycatch of species such as Chinook salmon and halibut and can limit the ability of the fleet to fish during periods of lower bycatch. In contrast, combining seasons and reducing time gaps could give the fleet more flexibility to avoid fishing in times of expected high Chinook salmon PSC rates by providing a lower risk of running out of time to fully harvest a seasonal TAC. Section 3.3 of the Analysis describes bycatch rates in the pollock and Pacific cod fisheries and the factors that can result in higher, or lower, bycatch of various species.

In recommending regulatory changes for the WGOA and CGOA pollock fishery, the Council also sought to address a concern about the amount of pollock TAC that may go unharvested in a season because of existing restrictions on TAC rollover (see regulations at § 679.20(a)(5)(iv)(B)). Ultimately, the Council recommended the current rollover cap of 20 percent remain the same. The Council's recommendation to maintain the status quo 20 percent rollover cap was responsive to public testimony that underharvest in one season might continue into the following season, especially if the underharvest is due to poor fishing conditions in the underharvested area. As such, a higher rollover cap might increase the possibility of leaving fish stranded because TAC cannot be rolled over to other areas. This is further explained in Section 4.6.3 of the Analysis.

In addition, this final rule delays the start of the redesignated pollock B season from August 25 to September 1 to provide operational benefits to vessels and processors that also engage in salmon fisheries or groundfish fisheries outside of the GOA. A later pollock start date will minimize the potential for the redesignated pollock B season to overlap the end of salmon harvest and reduce the operational challenges that can occur with harvesters and processors that participate in both of these fisheries. Section 4.6.2.1

of the Analysis describes the operational inefficiencies and costs for harvesters and processors that can occur when processors cannot process peak capacities of pollock and salmon at the same time, resulting in limited deliveries of one species or the other.

To address concerns related to management inefficiencies in the GOA pollock fishery, this final rule implements regulations to (1) combine the A and B seasons into a single season (redesignated as the A season), combine the C and D seasons into a single season (redesignated as the B season), and allocate pollock among the redesignated A season and redesignated B season at 50 percent to the A season and 50 percent to the B season, applicable to management areas 610, 620, and 630; and (2) change the start date of the redesignated B pollock season in the GOA from August 25 to September 1, resulting in a redesignated B season that runs from September 1 to November 1.

In recent years, trawl CVs in the GOA Pacific cod fishery have only conducted directed fishing for B season Pacific cod in the CGOA. The WGOA trawl CV sector receives 10.7 percent of the total 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 the changes that have occurred in the B season Pacific cod fishery, resulting in unharvested Pacific TAC. To address this concern, the Council recommended Amendment 109 for Pacific cod trawl CV fisheries in the GOA. This final rule implementing Amendment 109 increases 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 will be allocated to the trawl CV sector during the A season and 16.29047 percent will be allocated to the B season. Additionally, 31.54 percent of the annual WGOA Pacific cod TAC will be allocated to the trawl CV sector during the A season and 6.86 percent will be allocated to the B season.

A description of the alternatives considered by the Council in regard to Amendment 109 and the regulatory amendment but not selected is provided in the proposed rule preamble and in Section 2.5 of the Analysis.

In adopting its preferred alternatives, the Council considered effects of this action on Steller sea lions. For the CGOA and WGOA pollock trawl fishery, Section 4.6.2 of the Analysis explains that various factors affect pollock harvest patterns, including, but not limited to, fish aggregation and quality (roe content), market availability, encounter rates with PSC-limited species, high and low TAC years for pollock, economic opportunities in – or trade-offs with – other fisheries, and other individual vessel business decisions. These factors can be difficult to predict with accuracy, with respect to this action, at this time. Additionally, many constraints that dictate the timing and pace of the

pollock fishery would remain, even if seasons were combined and the fleet had more available TAC at any given moment with which to optimize its fishing. Those constraints would be expected to prevent harvest patterns from changing in a significantly different manner under this rule than seen in the past.

Finally, changing the start of the combined C/D season from August 25 to September 1 does not change anticipated effects to the pollock stock (as noted in Section 3.2.3 of the Analysis), and therefore does not change anticipated impacts to prey availability for Steller sea lions.

For the Pacific cod fishery in the CGOA and WGOA, the overall change in seasonal allocation across all sectors combined is 4 percent from the B season to the A season. This modest shift in seasonal allocation is not expected to result in an increase in vessel participation, nor a change in the spatial distribution of the fishing vessels (as noted in Section 4.6.4. of the Analysis).

For the reasons outlined above, the Council and NFMS do not expect the implementation of Amendment 109 and the regulatory amendment to result in discernable spatial harvest concentrations or decreases in temporal dispersion of harvest which would significantly affect prey availability for Steller sea lions.

In recommending Amendment 109 and the regulatory amendment, the Council has chosen a portion of each action alternative for each of the GOA CV pollock and Pacific cod fisheries. This blended action provides the greatest improvements to operational and management efficiency of all the alternatives while not re-distributing allocations of pollock or Pacific cod between management areas or among participants, which is a stated objective in the purpose and need for this action.

V. This Final Rule

CGOA and WGOA Pollock Fishery

This final rule revises § 679.20(a)(5)(iv)(B) to combine the pollock A and B seasons into a single season (redesignated as the A season) in the GOA Western and Central regulatory areas and combine C and D seasons into a single season (redesignated as the B season). This final rule also apportions 50 percent of the CGOA and WGOA pollock TAC to the redesignated A season and 50 percent to the redesignated B season. These changes will not affect the relative amount of CGOA and WGOA pollock TAC apportioned to each season because current regulations specify that the TAC be evenly apportioned among each GOA pollock season.

This final rule revises § 679.23(d)(2) to change the dates of the redesignated A season as January 20 through May 31 and the dates of the redesignated B season as September 1 through November 1. This revision effectively leaves the duration of the redesignated A season unchanged from the duration of the current A and B seasons, but shortens the duration of the redesignated B season (September 1 to November 1) from the duration of the current C and D seasons (August 25 to November 1).

CGOA and WGOA Pacific Cod Fishery

This final rule revises § 679.20(a)(12)(i) to specify the new seasonal apportionments of Pacific cod TAC for the CV trawl sectors in the CGOA and the WGOA. Although the overall ratio of A and B seasonal apportionments of Pacific cod for the trawl CV sector is changing, this final rule does not affect the seasonal apportionments of Pacific cod to any of the other sectors. The seasonal apportionment of Pacific cod remains unchanged for all other sectors in the CGOA and the WGOA.

This final rule also revises the tables at § 679.20(a)(12)(i)(A) and (B) to change the seasonal allowance of Pacific cod for trawl CVs in the WGOA and the CGOA. For

both the CGOA and the WGOA, the A season allowance increases by approximately 4 percent while the B season allowance decreases by approximately 4 percent.

VI. Response to Comments

NMFS received 35 comment letters on the proposed rule and the NOA which contain 13 unique comments. Two of these comments were not relevant to the content of this rule and were not addressed. NMFS has summarized and responded to the remaining 11 unique comments below. The comments were from individuals and industry representatives representing trawl fishermen from the CGOA and WGOA.

Comment 1: Amendment 109 will benefit the community, processors, and the trawl fishermen. Combining the pollock A and B seasons will increase economic value by extending the period of time fishermen have access to the valuable pollock roe fishery. Combining the A, B, C, and D seasons into two seasons will increase fish processing efficiency and reduce processing costs.

Response: NMFS agrees. The final rule and Section 4.6.1.1.1 of the Analysis describe inefficiencies with status quo management which can result in time gaps between the A and B seasons and between the C and D seasons. The Council and NMFS acknowledge that these time gaps between seasons create operational inefficiencies and increase costs compared to a continuous fishery. This final rule combines the A and B seasons and the C and D season, thereby reducing the occurrence of time gaps in the fishery.

Comment 2: Several commenters expressed support for the implementation of the regulatory amendment to combine the pollock A, B, C, and D seasons in the WGOA. They believe that this action will help provide increased benefits in pollock roe harvest,

reduce mandatory stand downs between season closures, and reduce catch of Chinook salmon PSC.

Response: NMFS agrees. In recommending this action, the Council noted their intent in modifying the seasons or seasonal allocations of pollock and cod was to increase fishery yield, particularly for roe quality and quantity of pollock, increase management flexibility, and potentially decrease PSC. The Council's rationale for this recommendation is described in Section 2.6 of the Analysis.

Comment 3: One commenter expressed support for the proposed changes to the pollock fishery for several reasons. First, the proposed changes will improve efficiency and reduce operating costs for processors and fishing vessels since there will be less stop and go due to end of season stand downs. Second, combining the seasons gives fishermen the opportunity to manage the fisheries better and for maximum value from pollock (increased roe fishery). The commenter notes that in the WGOA, fishermen have often successfully negotiated voluntary stand downs within seasons to maximize harvest. However, these voluntary stand downs are never guaranteed because everyone needs to agree in order for them to work. Combining the seasons would remove two instances each year when these stand downs would have to be arranged (since there will only be two seasons). Third, the proposed changes will reduce bycatch of Chinook salmon in the WGOA C/D seasons. Fourth, starting the new B season on September 1 gives processors and fishermen a better transition time between salmon and pollock. Six less days for the combined C/D season should not have significant impact on the bottom line.

Response: NMFS acknowledges this comment. This final rule implements the Council's intent to increase fishery yield, particularly for roe quality and quantity of

pollock, increase management flexibility, and potentially decrease PSC. The Council's rationale for this action is described in Section 2.6 of the Analysis.

Comment 4: Several commenters expressed support for the increase in apportionment of the A season Pacific cod trawl sector. They feel this will reduce bycatch and leave less fish unharvested in the B season, particularly in the WGOA.

Response: NMFS acknowledges this comment. In recommending Amendment 109, the Council noted that more Pacific cod TAC for the trawl CV sector in the A season could provide additional opportunity for harvest of Pacific cod when fish are aggregated and when the fleet and processors are more heavily engaged in the fishery. This is described further in Section 4.6.4 of the Analysis.

In recommending Amendment 109, the Council also considered impacts on bycatch and noted that this action could reduce interactions with PSC in the Pacific cod fishery. The Council's rationale for this action is described in Section 2.6 of the Analysis.

Comment 5: Combining CGOA pollock A and B seasons would result in substantial increases in Chinook salmon bycatch. Current bycatch avoidance strategies, such as voluntary stand downs from fishing, are contentious at best. It is a distinct and real possibility that the Chinook salmon PSC cap could be completely exhausted within a combined A and B season, leaving pollock stranded in the water during the fall months.

Response: The Analysis prepared for this action did not indicate that it would increase Chinook salmon bycatch. Chinook salmon PSC in the GOA pollock fishery is discussed in detail in Section 3.3.1.3 of the Analysis and again in Section 4.6.2 of the Analysis. Combining the CGOA and WGOA pollock A/B and C/D seasons is intended to provide the fleet and processors with flexibility to prosecute the pollock fishery in a

manner that maximizes yield and profitability within other constraints on the timing and intensity of fishing that would not be removed by combining the seasons. By providing for increased flexibility, vessels could mitigate high Chinook salmon PSC rates by standing down during times of seasonally high Chinook salmon bycatch. A vessel is less likely to voluntarily stand down when a smaller seasonal TAC is nearing completion or if a regulated season end-date is approaching. This action will increase the size of seasonal TACs and reduce the number of season end dates from four to two.

Aside from reducing the cost of PSC stand downs, combining the seasons could also allow vessels to reallocate their effort toward parts of the season that are historically correlated with lower Chinook PSC rates. Figure 3-7 in Section 3.3.1.3 of the Analysis suggests that the “A” part of the A/B season and the “D” part of the C/D season carry higher intrinsic PSC rates. The commenter alluded to this as well. Taken at face value, vessels might expect lower PSC rates if they focused effort away from those times. Section 4.6.2 of the analysis notes that it is not clear that seasonality alone drives Chinook PSC. Rates might be higher at the beginning of the fishing year (A season) because skippers are learning the conditions on the grounds. Rates could also be higher at that time because vessels are in competition for valuable roe pollock and the fleet is fishing with more effort and exposing itself to extrapolation of observed PSC events over a larger number of unobserved vessels.

As described in Section 3.3.1.1 of the Analysis, flexibility introduced by season redefinitions implemented in this final rule could shift pollock harvest toward the “B” portion of the A/B season and the “C” part of the C/D season, either of which would reduce the expected incidence of Chinook salmon PSC. With regard to D season effort, it is expected that a combination of more pollock availability earlier in the fall, relatively

milder at-sea conditions, and lower expected Chinook salmon PSC encounter rates will generally attract CV trawl effort to September (the “C” part of the C/D season). Such an outcome could reduce pollock trawl fishery impacts on Chinook salmon by reducing Chinook salmon mortality relative to the status quo, as noted in Section 4.6.2 of the Analysis. These factors could similarly drive shifts in fishery effort toward the latter part of the consolidated A/B season but the result may be less profound given the attraction of the valuable roe season that occurs earlier in the year. Section 4.6.2 of the Analysis describes existing constraints that would help to dictate the timing and pace of the pollock fishery even if seasons were lengthened and the fleet had more available TAC at any given moment. These include limited vessel capacities, the 300,000 lb trip limit, and limits to processing capacity.

Information on Chinook salmon incidental catch in the GOA pollock fishery shows that, on average, Chinook salmon PSC is generally greater in the D season than in the A season, often times substantially so (<https://www.fisheries.noaa.gov/sites/default/files/akro/goasalmonmort2020.html>; accessed April 2, 2020). As described above, this action has the potential to decrease fishing effort in the “D” season by shifting fishing effort to earlier in the fall, resulting in less Chinook salmon PSC being taken at the end of the year. Chinook salmon PSC that is no longer needed for “D” season fishing could serve as a PSC buffer by enabling more Chinook salmon PSC to be taken during the A season if Chinook salmon PSC rates increase during the A season in years of unusually high Chinook salmon bycatch. As such, NFMS does not expect this action to directly result in significantly increased annual Chinook salmon bycatch nor does NMFS believe this action will directly jeopardize the fleet’s ability to fully prosecute the GOA pollock fishery TAC.

Comment 6: Changing the start date for the pollock C/D season is solely a measure to delay the fishery until the canneries are done processing salmon. In years when salmon harvest is down this is not needed. In years when pollock quotas are large, the fishery needs as much fishing time as possible. Shortening the season could result in available pollock harvest being left in the water.

Response: The Council's purpose in recommending a change in the start date of the combined C/D season was to enhance the operational and management efficiency of the GOA pollock trawl fishery. Under the status quo season dates, the C season can overlap the end of the salmon harvest in some years, causing congestion that plays out differently at individual processing facilities depending on throughput capacity and the characteristics of their delivering fleet. A later start date could eliminate the need for participants to negotiate voluntary stand-downs in high salmon harvest years. Regulatory uniformity around a start date also mitigates timing conflicts that intermittently affect a subset of participants. This rationale is addressed in Section 4.6.2.1 of the Analysis.

NMFS acknowledges that fishery participants may be differentially impacted by this action depending on factors such as the fisheries they participate in, annual variation in GOA pollock TAC, and annual variability in the level of salmon harvest. The Council considered these items fully during its June 2019 meeting when final action was taken. Ultimately, the Council determined that the overall benefits gained by enhanced operational and management efficiency outweigh what might be lost by delaying the start of the redesignated pollock B season by 7 days. NMFS agrees with the Council's recommendation to start the redesignated pollock B season on September 1.

Comment 7: For smaller vessels, weather patterns and fish aggregations make it more difficult to safely fish during the A season. The B season gives pollock time to

aggregate closer to Kodiak and for immature pollock to separate out from mature pollock. Combining the A and B seasons could put smaller vessels at a disadvantage because it is harder for them to access the resource earlier in the year. Combining the seasons will also lead to high discard rates of immature pollock upon delivery to Kodiak's processors which are not equipped to process small, immature fish.

Response: As discussed in the response to Comment 5, there are other constraining factors, both in regulation and in the fishery, which should limit the degree of changes in fishing effort and behavior as a result of combining the A and B seasons.

Section 4.6.2 of the Analysis notes that various factors affect harvest patterns in this fishery, including, but not limited to, fish aggregation and quality (roe content), market availability, encounter rates with PSC-limited species, high and low TAC years for pollock, economic opportunities in – or trade-offs with – other fisheries, and other individual vessel business decisions. Many constraints that dictate the timing and pace of the pollock fishery would remain, even under a combined A/B season. Given the multiple constraints that dictate the timing and pace of the fishery and inter-annual variability in harvest patterns, it would be difficult to accurately determine whether any shift in effort was a direct result from merging the A/B seasons and C/D seasons under this action. As such, NFMS does not expect this action to result in substantial shifts in harvest opportunities for fishery participants, or in harvest composition of immature versus mature pollock.

Comment 8: Combining the A and B seasons would result in increased participation from American Fisheries Act (AFA) vessels that are capable of coming into the GOA to fish pollock but are also capable of fishing in the Bering Sea and Aleutian

Islands management area. This in turn reduces the available quota that is left to participants that are only able to fish within the GOA.

Response: The Council's recommendation of combining the A and B and the C and D seasons was driven by the potential for increased flexibility for the GOA pollock fleet and processors. As discussed in the responses to Comment 5 and Comment 7 and in Section 4.6.2 of the Analysis, many constraints that dictate the timing and pace of the GOA pollock fishery would remain even if the season were lengthened and the fleet had more available TAC at any given moment with which to optimize its fishing.

During its December 2018 and June 2019 meetings, the Council deliberated over stakeholders' concerns about season modifications allowing AFA-exempt and non-exempt vessels to increase participation in the GOA. In light of existing constraints on the pace and timing of the fishery, the Council does not anticipate that the increased TAC available at the beginning of the season will result in additional vessels entering the GOA fishery to an impactful degree. During its deliberation, the Council noted that AFA non-exempt vessels did not enter the GOA pollock fishery during the recent, historically high years of GOA pollock TACs (see Section 4.5.1.1 of the Analysis). However, the Council recognized that it is difficult to predict what the impacts of this action will be, and that there is diversity among the GOA trawl business operations that could be affected by this action. The Council noted that further action could be taken at a later date if a significant increase in participation by the AFA-affiliated vessels is observed in the GOA. NFMS agrees with the Council's recommendation.

Comment 9: Trawling is very destructive. It destroys the bottom of the ocean and should not be operated at all. Trawl bycatch should not be measured in metric tons;

it is extremely wasteful and harms the environment. All quotas need to be drastically reduced by 75 percent at a minimum.

Response: This final rule modifies the pollock and Pacific cod seasons and seasonal allocation in the WGOA and CGOA. This final rule does not change the overall allocation of GOA pollock quota, the methods for measuring the amount of bycatch, or management measures currently in place to protect marine benthic habitat in the GOA. Harvest quotas are set each year by NMFS and the Council through the annual harvest specification process. The public is invited to comment on the harvest specifications during the October and December Council meetings and when the harvest specification proposed rule is published in the **Federal Register** annually in the fall.

Comment 10: The best way to determine if this rule will actually lower or increase rates of bycatch and help with fixing management gaps is to implement 100 percent observer or electronic monitoring (EM) coverage on trawl vessels.

Response: This final rule modifies the pollock and Pacific cod seasons and seasonal allocation in the WGOA and CGOA. Section 2.6 of the Analysis describes the rationale for this action. The Analysis does not indicate that implementing 100 percent observer or EM coverage is necessary to accomplish the purpose of and need for this action. Further, NMFS has determined that the existing level of observer coverage provides the necessary level of information needed to manage bycatch and PSC limits. Therefore, this final rule does not change observer or EM coverage rates.

Comment 11: When debating these changes in regulation, please use bycatch reduction as the primary metric for determining which path to take. In the GOA trawl fishery as a whole, there is concern that the value of bycatch is exceeding the value of target species catch.

Response: NMFS acknowledges this comment. The Council and NMFS considered the effects of this action on bycatch. Section 3.3.1.3 of the Analysis and the response to Comment 5 above describe some ways that a reduction in bycatch could be achieved from this action. Section 4.5.1.3 of the Analysis describes the economic value of the GOA pollock and Pacific cod trawl fisheries. This action does not apply to all GOA trawl fisheries, and the Analysis does not compare the value of all GOA trawl fisheries to the bycatch in all GOA trawl fisheries.

VII. Changes from Proposed to Final Rule

There were no changes to the regulatory text from the proposed rule to the final rule.

VIII. Classification

The NMFS Assistant Administrator has determined that Amendment 109 is necessary for the conservation and management of the GOA Pacific cod fishery and that it is consistent with the Magnuson-Stevens Act, and other applicable law. Furthermore, the NMFS Assistant Administrator has determined that this final rule is consistent with the Council's regulatory amendment for GOA pollock, Amendment 109 to the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

This final rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Regulatory Impact Review (RIR)

An RIR was prepared to assess the costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**).

NMFS is recommending Amendment 109 and the regulatory revisions in this final rule based on those measures that maximized net benefits to the Nation.

Certification under the Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements

Dated: June 4, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679--FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF

ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447;
Pub. L. 111-281.

2. In § 679.20, revise paragraphs (a)(5)(iv)(B), (a)(12)(i) introductory text, (a)(12)(i)(A)(3), and (a)(12)(i)(B)(4) to read as follows:

§ 679.20 General Limitations.

* * * * *

(a) * * *

(5) * * *

(iv) * * *

(B) *GOA Western and Central Regulatory Areas seasonal apportionments.* Each apportionment established under paragraph (a)(5)(iv)(A) of this section will be divided into two seasonal apportionments corresponding to the two fishing seasons specified in § 679.23(d)(2) as follows: A Season, 50 percent; and B Season, 50 percent. Within any fishing year, underharvest or overharvest of a seasonal apportionment may be added to or subtracted from remaining seasonal apportionments in a manner to be determined by the Regional Administrator, provided that any revised seasonal apportionment does not exceed 20 percent of the seasonal TAC apportionment for the statistical area. The reapportionment of underharvest will be applied to the subsequent season within the same statistical area up to the 20 percent limit specified in this paragraph. Any underharvest remaining beyond the 20 percent limit may be further apportioned to the subsequent season in the other statistical areas, in proportion to estimated biomass and in an amount no more than 20 percent of the seasonal TAC apportionment for the statistical area.

(12) ***

(i) *Seasonal allowances by sector.* The Western and Central GOA Pacific cod TACs will be seasonally apportioned to each sector such that 63.84 percent of the Western GOA TAC is apportioned to the A season and 36.16 percent of the Western GOA TAC is apportioned to the B season, and 64.16 percent of the Central GOA TAC is apportioned to the A season and 35.84 percent of the Central GOA TAC is apportioned to the B season, as specified in § 679.23(d)(3).

(A) ***

| Sector | Gear type | Operation type | Seasonal allowances | |
|--------|-----------|----------------|-----------------------|-----------------------|
| | | | A season (in percent) | B season (in percent) |
| ***** | | | | |
| (3) | Trawl | Catcher vessel | 31.54 | 6.86 |
| ***** | | | | |

(B) ***

| Sector | Gear type | Operation type | Length overall in feet | Seasonal allowances | |
|--------|-----------|----------------|------------------------|-----------------------|-----------------------|
| | | | | A season (in percent) | B season (in percent) |
| ***** | | | | | |
| (4) | Trawl | Catcher vessel | Any | 25.29364 | 16.29047 |
| ***** | | | | | |

3. In § 679.23, revise paragraph (d)(2) to read as follows:

§ 679.23 Seasons.

* * * * *

(d) * * *

(2) *Directed fishing for pollock.* Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., May 31; and

(ii) *B season.* From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

* * * * *

[FR Doc. 2020-12453 Filed: 6/24/2020 8:45 am; Publication Date: 6/25/2020]