



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 201105-0291]

RTID 0648-XY201

### Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Revised Final 2020 and 2021 Harvest Specifications for Groundfish

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

**ACTION:** Final rule; closures.

**SUMMARY:** NMFS publishes revisions to the final 2020 and 2021 harvest specifications for the 2021 groundfish fisheries of the Gulf of Alaska (GOA) that are required by the final rule implementing Amendment 109 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This action is necessary to revise the 2021 seasons associated with the pollock fishery and revise the trawl catcher vessel sector's Pacific cod seasonal apportionments of the total allowable catch in the Western and Central Regulatory Areas of the GOA. The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the FMP and the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** The final 2020 and 2021 harvest specifications for 2021 and associated apportionment of reserves are effective at 0001 hours, Alaska local time (A.l.t.), January 1, 2020, until the effective date of the final 2021 and 2022 harvest specifications for GOA groundfish, which are anticipated to be published in the *Federal Register* in early 2021.

**ADDRESSES:** Electronic copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), the annual Supplementary

Information Reports (SIRs) to the EIS, and the Initial Regulatory Flexibility Analysis (IRFA) prepared for the final 2020 and 2021 harvest specifications are available from <https://www.fisheries.noaa.gov/region/alaska>. The 2019 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the GOA, dated November 2019, and SAFE reports for previous years are available from the North Pacific Fishery Management Council (Council) at 1007 West 3<sup>rd</sup> Avenue, Suite 400, Anchorage, AK 99501, phone 907-271-2809, or from the Council's website at <https://www.npfmc.org>. Electronic copies of the Environmental Assessment (EA) and the Regulatory Impact Review and the National Environmental Policy Act (NEPA) Finding of No Significant Impact (FONSI) prepared for the final rule implementing Amendment 109 to the FMP may be obtained from <https://www.regulations.gov>.

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

**SUPPLEMENTARY INFORMATION:** Federal regulations at 50 CFR parts 679 and 680 implement the FMP and govern the groundfish fisheries in the GOA. The Council prepared the FMP, and NMFS approved it, under the Magnuson-Stevens Fishery Conservation and Management Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

On June 25, 2020, NMFS published a final rule to implement Amendment 109 to the FMP and a regulatory amendment to the regulations governing pollock and Pacific cod fishing in the GOA (85 FR 38093, effective January 1, 2021). The final rule revised the pollock seasons in the GOA by modifying the seasonal apportionment of the annual pollock total allowable catch (TAC) in the Western Regulatory Area of the GOA (Western GOA) and Central Regulatory Area of the GOA (Central GOA). Additionally, the final rule revised the Pacific cod TAC seasonal allowances of the TAC to the trawl catcher vessel (CV) sector by increasing the A season allocation of the TAC and decreasing the B season allocation of the TAC in the Western GOA and Central GOA.

In order to effectively manage the GOA pollock and Pacific cod fisheries in the

beginning of 2021, the final 2020 and 2021 harvest specifications (85 FR 13802, March 10, 2020) must be revised for 2021 to comport with the regulatory revisions contained in the final rule implementing Amendment 109 to the FMP (85 FR 38093, June 25, 2020). In addition, those regulatory revisions will be incorporated into the proposed 2021 and 2022 harvest specifications, which should be published in December 2020. The final 2021 and 2022 harvest specification should be published by March 2021.

*Amendment 109 to the GOA FMP*

The Council recommended a regulatory amendment for pollock fisheries in the GOA and Amendment 109 to the FMP for Pacific cod seasonal allowances to trawl CVs with an objective of improving the overall performance of these two fisheries. The Council acknowledged the challenges and management inefficiencies of a pollock fishery spread across four separate seasons. The Council also acknowledged the changes that have occurred in the trawl CV Pacific cod fishery in recent years, resulting in underharvest of B season Pacific cod TAC. Specifically, the Council examined the amount of uncaught Pacific cod TAC in all gear sectors during the B season in the Western GOA and Central GOA, options for changing pollock and Pacific cod seasonal allowances with the goal of improving efficiency in fishery management, and whether delaying the start of the pollock C season in the Western GOA and Central GOA 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. A complete description of the purpose and background of Amendment 109 is in the proposed rule for that action (85 FR 11939, February 28, 2020), as well as the associated final rule (85 FR 38093, June 25, 2020).

The final rule implementing Amendment 109 (85 FR 38093, June 25, 2020) modified the seasonal allowances of the Pacific cod TAC apportioned to trawl CVs in the Western GOA and Central GOA, as well as revised the pollock seasons in those areas. The regulatory revisions associated with Amendment 109 revised the Pacific cod seasonal allowances to increase the trawl CV sector's A season TAC while proportionally decreasing the sector's B season TAC in

the Western GOA and Central GOA (85 FR 38093, June 25, 2020). The final rule also implemented a regulatory amendment that combines the Western GOA and Central GOA trawl pollock fishery A and B seasons into a single season (now designated as the A season), and the C and D seasons into a single season (now designated 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 applicable only to the Western GOA and Central GOA, which are comprised of NMFS statistical area 610 for the Western GOA and NMFS statistical areas 620 and 630 for the Central GOA (see Figure 3 to 50 CFR part 679).

Revisions to the Final 2020 and 2021 Harvest Specifications for 2020/21 for the Gulf of Alaska

Based on the approval of Amendment 109 and its implementing regulations at 50 CFR part 679 (effective January 1, 2021), NMFS is revising the final 2020 and 2021 harvest specifications for 2021 for pollock and Pacific cod in the GOA. With this final rule, NMFS revises Tables 4 and 6 in the final 2020 and 2021 harvest specifications for groundfish in the GOA (85 FR 13802, March 10, 2020) to be consistent with the final rule implementing Amendment 109. Tables 4 and 6 were originally published in the final 2020 and 2021 harvest specifications for the GOA and are available at the NMFS, Alaska Region website:

<https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-groundfish-harvest-specifications>. This final rule uses the same table numbers and titles that were used in the final 2020 and 2021 harvest specifications. However, the title of Table 4 is revised to remove the term “Seasonal Biomass Distribution,” and the reasons for this revision are addressed in the next section.

*Revision to Table 4 - Final 2021 Distribution of Pollock in the Western and Central Regulatory Areas of the Gulf of Alaska; Area Apportionments; and Seasonal Allowances of Annual TAC*

Table 4 lists the final 2021 distribution of pollock TAC in the Western GOA and Central GOA, including area and seasonal apportionments. The table published in the final 2020 and 2021 harvest specifications reflects four seasonal allowances, consistent with the regulations in

effect when the final 2020 and 2021 harvest specifications were published. Table 4 must be revised to reflect only two seasonal apportionments in accordance with regulatory changes made under Amendment 109. Pursuant to § 679.20(a)(5)(iv)(B) (as revised), the annual pollock TAC specified for the Western GOA and Central GOA is now apportioned into two seasonal allowances of 50 percent. As established by § 679.23(d)(2)(i) through (ii) (as revised), the A and B season allowances are available from January 20 through May 31 and September 1 through November 1, respectively. This is a change from 2020 and prior years, when there were four specified pollock seasons and a different start date for one of the seasons. This final action revises Table 4 to incorporate the correct seasonal apportionments for 2021 pollock in the Western GOA and Central GOA. Table 4 will no longer contain the seasonal apportionments (in percentages). Those percentages will continue to be available in the annual pollock stock assessment: the stock assessment will continue to use a four-season methodology to determine pollock distribution in the Western and Central Regulatory Areas of the GOA, and the pollock distribution over four seasons will then be summed and used to calculate seasonal apportionments for the two seasons (A and B seasons) set forth in the revised regulations.

**Table 4--Final 2021 Distribution of Pollock in the Western and Central Regulatory Areas of the Gulf of Alaska; Area Apportionments; and Seasonal Allowances of Annual TAC<sup>1</sup> (Values are rounded to the nearest metric ton)**

Season <sup>2</sup>	Shumigan (Area 610)	Chirikof (Area 620)	Kodiak (Area 630)	Total <sup>3</sup>
A (January 20-May 31)	1,067	42,260	8,354	51,682
B (September 1-November 1)	18,708	13,899	19,074	51,682
Annual Total	19,775	56,159	27,429	103,363

<sup>1</sup> Area apportionments and seasonal allowances may not total precisely due to rounding.

<sup>2</sup> As established by § 679.23(d)(2)(i) through (ii), the A and B season allowances are available from January 20 through May 31 and September 1 through November 1, respectively. The annual TAC for the Western and Central Regulatory Areas is divided into two seasonal allowances of 50 percent. The seasonal allowances are apportioned among Areas 610, 620, and 630 based on an abundance-based distribution methodology contained in the annual pollock stock assessment report. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

<sup>3</sup> The West Yakutat District and Southeast Outside District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

*Allowable Catch (TAC) Amounts in the GOA; Allocations in the Western GOA and Central GOA Sectors, and the Eastern GOA Inshore and Offshore Processing Components*

Table 6 lists the seasonal allocations of the 2021 Pacific cod TAC in the Western GOA and Central GOA among gear and operational sectors. These allocations are made pursuant to § 679.20(a)(12)(i) (as revised). The table published in the final 2020 and 2021 harvest specifications incorporates seasonal apportionments for the trawl CV sector, among other sectors. Table 6 must be revised to incorporate the correct 2021 seasonal apportionments to trawl CVs between the A and B seasons in accordance with regulatory changes made under Amendment 109. The A season apportionment for trawl CVs increased to 31.54 percent and 25.29 percent in the Western GOA and Central GOA, respectively. The B season apportionment for trawl CVs decreased to 6.86 percent and 16.29 percent in the Western GOA and Central GOA, respectively. This final action revises in Table 6 the 2021 seasonal allowances of the trawl CV sector's annual TAC limit in the Western GOA and Central GOA to reflect the revised seasonal apportionments.

**Table 6 – Final 2021 Seasonal Apportionments and Allocation of Pacific Cod TAC Amounts in the GOA; Allocations in the Western GOA and Central GOA Sectors, and the Eastern GOA Inshore and Offshore Processing Components (Values are rounded to the nearest metric ton)**

Regulatory area and sector	Annual allocation (mt)	A Season		B Season	
		Sector percentage of annual non-jig TAC	Seasonal allowances (mt)	Sector percentage of annual non-jig TAC	Seasonal allowances (mt)
Western GOA					
Jig (3.5% of TAC)	73	N/A	44	N/A	29
Hook-and-line CV	28	0.70	14	0.70	14
Hook-and-line C/P	397	10.90	218	8.90	178
Trawl CV	769	31.54	632	6.86	137
Trawl C/P	48	0.90	18	1.50	30
Pot CV and Pot C/P	761	19.80	397	18.20	365
Total	2,076	63.84	1,323	36.16	753
Central GOA					
Jig (1.0% of TAC)	38	N/A	23	N/A	15
Hook-and-line < 50 CV	550	9.32	351	5.29	199
Hook-and-line ≥ 50 CV	253	5.61	211	1.10	41
Hook-and-line C/P	192	4.11	155	1.00	38
Trawl CV <sup>1</sup>	1,567	25.29	953	16.29	614
Trawl C/P	158	2.00	75	2.19	83
Pot CV and Pot C/P	1,048	17.83	672	9.97	376
Total	3,806	64.16	2,440	35.84	1,366
Eastern GOA		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
		549		494	
				55	

<sup>1</sup> Trawl catcher vessels participating in Rockfish Program cooperatives receive 3.81 percent, or 145 mt, of the annual Central GOA Pacific cod TAC (see Table 28c to 50 CFR part 679). This apportionment is deducted from the Trawl CV B season allowance (see Table 13. Final 2021 Apportionments of Rockfish Secondary Species in the Central GOA and Table 28c to 50 CFR part 679).

This final rule is necessary to ensure that appropriate seasonal allocations will be in effect for the beginning of the 2021 fishing year for those fishery participants affected by the pollock season changes and the trawl CV Pacific cod seasonal allocation changes that were established

under Amendment 109 and its implementing regulations. These changes to the allocations also will be incorporated in future harvest specifications for the GOA groundfish fisheries.

### *Small Entity Compliance Guide*

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is necessary to revise final 2020 and 2021 harvest specifications for 2021 pollock and Pacific cod in the GOA so that the allocations and seasons are consistent with new fishery allocations and seasons established under Amendment 109. This action affects all fishermen who participate in the pollock and Pacific cod fisheries in the GOA. The specific amounts of pollock and Pacific cod TAC apportionments and seasonal allocations are provided in tabular form to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

### **Classification**

NMFS determined that these revisions to the final 2020 and 2021 harvest specifications for 2021 are consistent with the FMP and with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive prior notice and opportunity for public comment on this action as notice and comment is unnecessary and contrary to the public interest. Through this action, NOAA revises the final 2021 GOA harvest specifications to be consistent with the final rule implementing Amendment 109 to the FMP and to ensure that the 2021 pollock and trawl CV Pacific cod allocation and season changes implemented under Amendment 109 will be effective at the beginning of the 2021 fishing year. Prior notice and opportunity for public comment on

this action is unnecessary because the revisions from this action merely update the 2021 GOA harvest specifications to reflect allocations and seasons implemented and required by Amendment 109, and which have already been subject to notice and comment. This action does not revise the final 2020 and 2021 GOA harvest specifications in any substantive manner not previously the subject of notice and comment during the development of Amendment 109.

In addition, it is important and necessary that the pollock and Pacific cod allocations revised under Amendment 109 are effective at the beginning of the 2021 fishing year, rather than waiting to implement Amendment 109's revisions in the final 2021 and 2022 GOA harvest specifications, which will not be effective until after the start of the 2021 fishing year. The pollock and Pacific cod fisheries in the Western and Central GOA are intensive, fast-paced fisheries. U.S. fishing vessels have demonstrated the capacity to catch the Pacific cod TAC allocations in these fisheries. Any delay in allocating the 2021 pollock and Pacific cod TACs under Amendment 109 would cause confusion to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing up fishing vessels, allowing them to move from closed fisheries to open fisheries, increasing the fishing capacity in those open fisheries, and causing them to close at an accelerated pace. Accordingly, waiver of prior notice and opportunity for public comment and publication of this final rule is necessary to ensure that the allocations and limitations required under Amendment 109 will be effective at the beginning of the 2021 fishing year and to provide the regulated community with timely, adequate, and accurate information necessary to allow the industry to plan for the 2021 fishing season, to conduct orderly and efficient fisheries, and to avoid potential disruption to the fishing fleet and processors.

NMFS prepared a Final EIS for the harvest strategy implemented by the annual harvest

specifications and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. In January 2020, NMFS prepared its annual Supplementary Information Report (SIR) for the 2020 and 2021 harvest specifications and determined that a supplemental EIS is not necessary to implement the 2020 and 2021 harvest specifications. Copies of the Final EIS, ROD, and annual SIRs for this action are available (see **ADDRESSES**). NMFS also prepared an EA and FONSI in conjunction with Amendment 109 to the GOA FMP (See **ADDRESSES**).

A final regulatory flexibility analysis (FRFA) was prepared to evaluate the impacts on small entities resulting from the alternative harvest strategies employed in establishing the final 2020 and 2021 harvest specifications, in accordance with Section 604 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 604). The FRFA met the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601-612). The FRFA was published with the harvest specifications final rule (85 FR 13802, March 10, 2020) and is not repeated here.

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 Amendment 109 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 (85 FR 11939, February 28, 2020) and is not repeated here. No comments were received regarding certification. As a result, a regulatory flexibility analysis was not required, and none was prepared, for Amendment 109.

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540 (f), 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105-277; Pub. L. 106-31; Pub. L. 106-554; Pub. L. 108-199; Pub. L. 108-447; Pub. L. 109-241; Pub. L. 109-479.

Dated: November 6, 2020.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

[FR Doc. 2020-25004 Filed: 11/19/2020 8:45 am; Publication Date: 11/20/2020]