

entitlement to an equitable adjustment warrants estimating, scheduling, or other effort not reasonably foreseeable at the time of contract award;

(2) Proposed costs are not included in a firm's time-related costs or overhead rate; and

(3) Proposed costs were incurred prior to a Contracting Officer's unilateral determination of an equitable adjustment under the conditions set forth in paragraph (o), or were incurred prior to the time the request for equitable adjustment otherwise became a matter in dispute.

(l) Proposed direct costs, markups, and proposal preparation costs shall be allowable in the determination of an equitable adjustment only if they are reasonable and otherwise consistent with the contract cost principles and procedures set forth in part 31 of the Federal Acquisition Regulation (48 CFR part 31) in effect on the date of this contract. Characterization of costs as direct costs, time-related costs, or overhead costs must be consistent with the requesting firm's accounting practices on other work under this contract and other contracts.

(m) If the Contracting Officer determines that it is in the Government's interest that the Contractor proceed with a change before negotiation of an equitable adjustment is completed, the Contracting Officer may order the Contractor to proceed on the basis of a unilateral modification to the contract increasing or decreasing the contract price by an amount to be determined later. Such increase or decrease shall not exceed the increase or decrease proposed by the Contractor.

(n) If the parties cannot agree to an equitable adjustment, the Contracting Officer may determine the equitable adjustment unilaterally.

(o) The Contractor shall not be entitled to any proposal preparation costs incurred subsequent to the date of a unilateral determination or denial of the request if the Contracting Officer issues a unilateral determination or denial under any of the following circumstances:

(1) The Contractor fails to submit a proposal within the time required by this contract or such time as may reasonably be required by the Contracting Officer.

(2) The Contractor fails to submit additional information requested by the Contracting Officer within the time reasonably required.

(3) Agreement to an equitable adjustment cannot be reached within 60 days of submission of the Contractor's proposal or receipt of additional requested information, despite the

Contracting Officer's diligent efforts to negotiate the equitable adjustment.

(End of clause)

#### 552.243-72 [Removed]

#### ■ 5. Remove section 552.243-72.

[FR Doc. E9-215 Filed 1-8-09; 8:45 am]

BILLING CODE 6820-61-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 071106673-8011-02]

RIN 0648-XM47

#### Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2009 Bering Sea Pollock Total Allowable Catch Amount; Correction

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

**ACTION:** Correction to a temporary rule; inseason adjustment; request for comments.

**SUMMARY:** This document corrects the comment period and a date for a temporary rule that published in the **Federal Register** on January 2, 2009 (74 FR 38). That rule adjusted the 2009 total allowable catch amount (TAC) for the Bering Sea pollock fishery to ensure the Bering Sea pollock TAC does not exceed the appropriate amount based on the best available scientific information for pollock in the Bering Sea subarea. One typographical error specifies that comments are due on the date of publication and another typographical error specifies that comments are due on January 13, 2008. The correct date is January 13, 2009. The date that data became available is also corrected.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), December 29, 2008, through 2400 hrs, A.l.t., December 31, 2009, unless otherwise modified or superceded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 13, 2009.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-XM47," by any one of the following methods:

• **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.

• **Mail:** P. O. Box 21668, Juneau, AK 99802.

• **Fax:** (907) 586-7557.

• **Hand delivery to the Federal Building:** 709 West 9<sup>th</sup> Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

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

#### SUPPLEMENTARY INFORMATION:

##### Correction

The final rule, identified as FR Doc. E8-31224 that published in the **Federal Register** on January 2, 2009 (74 FR 38) is corrected by fixing three typographical errors as follows.

1. On page 38, in the second column, the second paragraph under the DATES caption is corrected to read:

"Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 13, 2009."

2. On page 39, column 2, in the last line the date "December 19, 2007" is corrected to read "December 19, 2008".

3. On page 40, in the first column, line 2, the date "January 13, 2008" is corrected to read "January 13, 2009".

##### Classification

This action corrects three typographical errors and does not otherwise change the requirements in the January 2, 2009 (74 FR 38) temporary rule.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is

impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for pollock based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as

of December 19, 2008, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided in the January 2, 2009 (74 FR 38) rule and is not repeated here.

This action is required by § 679.22 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: January 6, 2009.

**Emily H. Menashes,**

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

[FR Doc. E9-222 Filed 1-8-09; 8:45 am]

**BILLING CODE 3510-22-S**