

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-AR06

Fisheries of the Exclusive Economic Zone Off Alaska; Catcher Vessel Operational Area and Inshore/Offshore Provisions for the Bering Sea and Aleutian Islands and the Gulf of Alaska Groundfish Fisheries; Amendments 62/62

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

ACTION: Announcement of availability of fishery management plan amendments; request for comments.

SUMMARY: The North Pacific Fishery Management Council has submitted Amendment 62 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 62 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). If approved, Amendments 62/62 would revise the BSAI FMP description of the Catcher Vessel Operational Area (CVOA) and remove the obsolete sunset date for inshore/offshore sector allocations of pollock and Pacific cod in the GOA FMP. This action is necessary to amend outdated FMP text so that both FMPs are consistent with the American Fisheries Act (AFA) and other applicable law. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable laws.

DATES: Comments on Amendments 62/62 must be received on or before June 1, 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-AR06" by any one of the following methods:

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

- Fax: 907-586-7557.

- Mail: P. O. Box 21668, Juneau, AK 99802.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, Alaska.

All comments received are a part of the public record and will 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 must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats to be accepted.

Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for this action are available from the NMFS Alaska Region website at <http://www.alaskafisheries.noaa.gov> or from the mailing and street addresses listed above.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 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 FMP or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** that the FMP amendment is available for public review and comment. This requirement is satisfied by this notice of availability (NOA) for Amendments 62/62.

In June 2002, the North Pacific Fishery Management Council (Council) adopted Amendments 62/62 to revise obsolete or inconsistent inshore/offshore language in the BSAI and GOA FMPs to make them consistent with the AFA. A combination of circumstances has since resulted in the delay of submitting these amendments for Secretarial review. Additionally, other amendments incorporated two of the four Council-approved FMP changes regarding inshore/offshore language. In April 2008, the Council reviewed Amendments 62/62 and affirmed its 2002 decisions concerning the remaining FMP amendments.

Inshore/Offshore Language

The purpose of the revisions recommended by the Council concerning BSAI inshore/offshore

language in the FMPs was to make the FMPs consistent with the AFA, passed in 1998. Most of the inshore/offshore language made obsolete by the AFA was removed from federal regulations under a final rule that implemented the AFA provisions under Amendments 61/61 to the BSAI and GOA FMPs (67 FR 79692, December 30, 2002). To revise additional inshore/offshore language in the FMPs overlooked in Amendments 61/61, the following four actions were adopted by the Council under Amendments 62/62:

- Remove obsolete inshore/offshore language from the BSAI FMP.
- Revise the BSAI FMP description of the CVOA.
- Remove references to BSAI inshore/offshore allocations from the GOA FMP.
- Remove the December 31, 2004, sunset date for inshore/offshore sector allocations of pollock and Pacific cod from the GOA FMP.

Since the Council adopted Amendments 62/62, other FMP amendments incorporated two of the four Council-recommended FMP changes regarding inshore/offshore language. The recommended removals from the FMPs of obsolete inshore/offshore language and references were made under Amendments 83/75 (70 FR 35395, June 20, 2005), as part of comprehensive housekeeping amendments. Amendments 83/75 revised the respective FMPs by updating harvest, ecosystem, and socioeconomic information; consolidating text; and organizing the information to improve the readability of the documents. Amendments 83/75 were approved by the Secretary on June 14, 2005.

In April 2008, the Council reviewed its remaining two recommendations under Amendments 62/62 and affirmed its 2002 adoption of these actions. Amendment 62 to the BSAI FMP would revise the CVOA descriptions to make the FMP consistent with current federal regulations at § 679.22(a)(5). The CVOA is an area in which AFA catcher/processors are prohibited from directed fishing for pollock during the non-roe, or B, season unless they are participating in the Community Development Quota fishery. The current description at Section 3.5.2.1.6 of the BSAI FMP would be changed to use the more comprehensive term "non-roe season" instead of the term "pollock B season," and the coordinates that define the CVOA would be added to the description.

Also, the description of the CVOA in Appendix B would be revised. Obsolete references to pollock "B" season dates, to the closing of the "inshore component" of the BSAI pollock fishery, and to the "offshore component" of the BSAI would be removed or modified. Currently, the description states that the "B" season for pollock begins on September 1. This season start date has been changed due to Steller sea lion protection measures and because the AFA has allowed for the lengthening of the pollock season. The current FMP description states that the "inshore component" in the BSAI may be closed to directed fishing for pollock. Under the AFA, NMFS no longer closes the "inshore component" to directed fishing for pollock, because each individual shoreside cooperative operates under its own pollock allocation. Therefore, this reference would be removed. Finally, the outdated reference to "offshore component" would be replaced by the AFA category "AFA catcher/processor."

The proposed new BSAI FMP text for Section 3.5.2.1.6 and Appendix B would be as follows: "The CVOA is defined as the area of the BSAI east of 167°30' W. longitude, west of 163° W. longitude, south of 56° N. latitude, and north of the Aleutian Islands. AFA catcher/processors are prohibited from engaging in directed fishing for pollock in the CVOA during the non-roe season unless

they are participating in the CDQ fishery." This prohibition currently exists in the regulations at § 679.22(a)(5).

Amendment 62 to the GOA FMP would formally remove the sunset date for GOA inshore/offshore pollock and Pacific cod allocations. As adopted by the Council and submitted to the Secretary in November 2001, Amendment 61 to the GOA FMP incorporated the AFA into the FMP, and extended GOA inshore/offshore allocations to December 31, 2004. Section 213 of the AFA as passed by Congress contained a December 31, 2004, sunset date. The Council decided to apply this sunset date to GOA inshore/offshore allocations under Amendment 61 so that BSAI and GOA allocation issues could be addressed concurrently when the AFA pollock allocations were scheduled to expire. However, after Amendment 61 was submitted for Secretarial review, Congress enacted legislation to remove the December 31, 2004, sunset date from the AFA (Section 211 of title II, Department of Commerce and Related Agencies Appropriations Act, 2002, Public Law 107-77, November 28, 2001). To reconcile the sunset dates contained in the FMP amendment with the newly-amended AFA, NMFS partially approved Amendments 61/61/13/8 to the FMPs for groundfish, crab, and scallop on February 27, 2002.

NMFS disapproved the December 31, 2004, sunset dates in the amendments because the primary reason articulated by the Council for reviewing GOA inshore/offshore allocations in 2004 no longer existed. However, not all references to the sunset date were removed from the GOA FMP, necessitating Amendment 62 to the GOA FMP. As noted above, changes were made to the GOA FMP under Amendment 75. The removal of the sunset date from the FMP by Amendment 75 was premature because its removal was not specified as one of the changes made by Amendment 75. Approval of Amendment 62 to the GOA FMP would officially remove the sunset date from the FMP.

Public comments are being solicited on the amendments through the end of the comment period stated in this NOA. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

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

Dated: March 27, 2009.

Kristen C. Koch,

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