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1-6	Identification of department/agency office				
7-8	Last two digits of the fiscal year in which the contract instrument is awarded				
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PART 217—SPECIAL CONTRACTING METHODS

4. Section 217.207 is added to read as follows:

217.207 Exercise of options.

(c) In addition to the requirements at FAR 17.207(c), exercise an option only after determining that the contractor's information in the Central Contractor Registration database is current, accurate, and complete and is accurately reflected in the contract document.

[FR Doc. E8-24486 Filed 10-17-08; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 080310410-8415-01]

RIN 0648-AW54

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to the Pollock Trip Limit Regulations in the Gulf of Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to revise pollock trip limit regulations to prohibit a catcher vessel from landing more than 300,000 lb (136 mt) of unprocessed pollock during a calendar day. NMFS

also proposes to prohibit a catcher vessel from landing a cumulative amount of unprocessed pollock from any Gulf of Alaska (GOA) reporting area that exceeds 300,000 lb multiplied by the number of calendar days the pollock fishery is open to directed fishing in a season. The objective of this proposed rule is to prevent catcher vessels from circumventing the intent of current trip limit regulations when making deliveries of pollock. Amending the current trip limit regulation to limit legal opportunities for a vessel to exceed 300,000 lb of pollock caught in a day, would continue to disperse catches of pollock in a manner that is consistent with the intent of Steller sea lion protection measures in the GOA.

DATES: Written comments must be received by November 19, 2008.

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-AW54," 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 9th 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.

Copies of the Categorical Exclusion (CE) and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available by mail from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or via the Internet at the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907-586-7442.

SUPPLEMENTARY INFORMATION:

The North Pacific Fishery Management Council (Council) prepared the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. NMFS manages the Gulf of Alaska (GOA) groundfish fisheries under the FMP. The FMP also authorizes the use of fishery

management measures to protect marine mammals, particularly for species that have been listed as endangered or threatened under the Endangered Species Act (ESA).

Regulations that establish current trip limits at § 679.7(b)(2), were implemented over several years in response to ESA consultations on Steller sea lions. The 1999 Steller sea lion protection measures, implemented by emergency interim rule (64 FR 3437, January 22, 1999), set trip limits for the Western and Central GOA. In 2001, NMFS issued a Biological Opinion (BiOp) that determined the groundfish fisheries managed under the protection measures were unlikely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or adversely modify or destroy designated critical habitat. After the BiOp was issued, additional rulemaking implemented the current pollock trip limits across the entire GOA (67 FR 956, January 8, 2002 and 68 FR 204, January 2, 2003).

Pollock trip limits were intended to protect Steller sea lions in part by temporally dispersing the pollock fishery in the GOA, thus reducing competition for prey species between the fishery and Steller sea lions. Trip limits were to accomplish this by decreasing daily pollock catches in areas that were in close proximity to foraging Steller sea lions.

Trip limits regulate the amount of a species that may be landed by a vessel during a fishing trip. Trip limits often are specific to a management, regulatory or reporting area; fishing gear type or programs (such as exempted fishing or the Community Development Quota Program); and specific intervals of time during a year or season.

In developing the current trip limits, NMFS analyzed several alternative protection measures for temporally dispersing daily catches of pollock and concluded that the most effective and least burdensome approach was to limit pollock landings for a fishing trip and to set the trip limit at 300,000 lb. That amount would allow larger catcher vessels to fully utilize available space in a hold, while still reducing landings that were frequently exceeding 300,000 lb per day. NMFS based the limit on a trip because trawl fishing trips in the GOA were typically completed within a calendar day, and enforcement issues existed with applying a landing limit based on a daily or weekly interval. A daily limit was deemed to be impractical because at the time this option was considered in 2002, NMFS did not receive accurate data on groundfish catch by each vessel in a

sufficient time to determine whether a daily catch limit had been reached to prevent further fishing on that same day. Catch data was reported by paper fish tickets, that could take several days to become available to NMFS. This delay also prevented the use of a weekly landing limit. Presently, when a landing occurs, it is quickly reported electronically and made available to NMFS allowing for a much shorter turn over for enforcement of daily landing limits.

Under the current regulations, pollock trip limits are to be applied to any catcher vessel that retains pollock in the GOA at any time during a fishing trip. Trawl catcher vessels are the only vessels that may fish in the directed pollock fishery and have sufficient catching and retention capacity to be affected by GOA pollock trip limits. For the purpose of calculating retained catch, a fishing trip is defined at § 679.2 as ending at the time that all fish or fish products are offloaded. An offload is a partial or complete landing of unprocessed catch from a catcher vessel to a processing plant or tender. A vessel operator would not be in compliance with current regulations for pollock trip limits if the amount of pollock retained onboard a vessel exceeded 300,000 lb during a fishing trip between offloads.

In 2005, the Council reviewed trawl landing data that demonstrated current pollock trip limits were not completely effective at restricting catches of pollock to 300,000 lb per day. The Council also received testimony from industry and a report from Council staff at their February 2005 meeting describing how some trawl catcher vessels were completing multiple trips in a day, or offloading to tenders to increase their daily pollock catch. If a vessel completed two fishing trips of 300,000 lb each in a day, or delivered 300,000 lb to a tender and landed 300,000 lb in the same a day to a processor, that vessel would be complying with regulation, while removing twice as much pollock. These practices were inconsistent with the Council's intention that only one trip per trawl vessel would be completed in a day, limiting the daily catch of pollock per vessel to 300,000 lb. Because the current trip limit is based on retention of pollock at any time during a fishing trip, the current regulations have allowed vessels to catch more than 300,000 lb in a day. Increasing fishing effort from these practices in 2005 also led to a 2,000 mt overage of the 5,000 mt seasonal pollock quota. The Council did not recommend any changes to pollock trip limits in 2005, but requested that

industry voluntarily restrict catches to 300,000 lb per vessel, per day.

Between October and December of 2007 the Council again received testimony from vessel owners and reviewed updated catch data from NMFS. The Council concluded that the current pollock trip limit continued to be ineffective in dispersing catch of pollock among various reporting areas of the GOA. Representatives from the trawl catcher vessel sector reported that voluntary efforts to control pollock catches were not effective because vessels in the Western GOA were circumventing the intent of the trip limit by making more than one trip per calendar day, delivering more than 300,000 lb to a tender in a day, and towing cod ends to a tender that exceeded 300,000 lb at the point of landing. Catch data prepared by NMFS for the RIR/IRFA for this proposed rule confirmed that the trip limit regulation has not been fully effective because vessels in the GOA pollock fishery exceeded landings of 300,000 lb in a day, 241 times from 1999 to 2006.

In December 2007, the Council recommended adding two new provisions to the current GOA trip limit regulation to resolve this problem. The first provision would add a daily landing limit at § 679.7(b)(2)(ii) for pollock by prohibiting a trawl catcher vessel from landing more than 300,000 lb of unprocessed pollock during a calendar day. The second provision would add a seasonal landing limit at § 679.7(b)(2)(iii), that would prohibit a trawl catcher vessel from landing a cumulative amount of pollock that exceeds 300,000 lb multiplied by the number of calendar days that the directed fishery is open.

The daily landing limit would partially close the loophole in regulations that has allowed vessel operators to exceed the trip limit. The combination of a daily landing limit and a trip limit, however, could still allow some vessels to land well in excess of 300,000 lb of pollock per day.

Trawl vessels that transit only a short distance to a processor for delivering pollock could exceed a daily landing of 300,000 lb in a 24-hour season opening, because a single 24-hour season opening overlaps with 2 calendar days (a season opening always begins at noon), and because groundfish offloads may be extended across one or more calendar days. For example, if the pollock season were to open for a 24-hour period at 12 noon on Monday (day 1), a vessel could catch 300,000 lb of pollock and complete the offload of all catch before midnight on day 1. That vessel could begin to fish in the evening of day 1,

and start its second offload of 300,000 lb on Tuesday morning (day 2). Prior to the closing of the 24 hour period at 12 noon on Tuesday (day 2), the vessel could finish fishing a third trip for pollock, but return to port and complete its offload of pollock after 12 midnight on Wednesday (day 3). An offload can start on one calendar day, and end on a subsequent calendar day. Thus, in a 24-hour season opening with the proposed daily landing limit, a total of three calendar days multiplied by the daily landing limit of 300,000 lb of pollock could be delivered, for a total of 900,000 lb. Furthermore, in a 48-hour season opening, the proposed daily landing limit could allow a vessel to offload 4 x 300,000 lb, or 1,200,000 lb of pollock, and in a 72-hour opening, a vessel could offload 5 x 300,000 lb, or a total of 1,500,000 lb.

The seasonal landing limit would prohibit a vessel operator from landing an amount of pollock that exceeds the daily landing limit multiplied by the number of calendar days that occur during the time period the directed fishery is open. In the case of a 24-hour opening that extends across two calendar days (for example, from noon on July 1 to noon on July 2), the seasonal landing limit combined with the daily landing limit and trip limit would allow a vessel to land no more than the daily landing limit of 300,000 lb multiplied by two (the number of calendar days), for a total of 600,000 lb.

This proposed action would be consistent with the original intent of pollock trip limits to temporally and spatially disperse catches of pollock in the GOA. The daily landing limit portion of this proposed action would temporally disperse catches of pollock in the GOA by prohibiting operators of catcher vessels from exceeding 300,000 lb of pollock landed in a calendar day. The seasonal landing limit would temporally disperse pollock catches by constraining pollock vessels from exceeding an average daily catch of 300,000 lb of pollock over the period of a season, in a specific GOA regulatory area.

The proposed action would also reduce the chance of exceeding the pollock total allowable catch (TAC) or a seasonal allocation of the pollock TAC. Implementing both a daily and seasonal landing limit to prohibit landing daily amounts of pollock in excess of 600,000 lb in a 24 hour period may also slow down the overall rate of pollock catch in a season opening. Particularly in years and reporting areas of high pollock abundance, both the daily and seasonal landing limits would slow removals from large capacity vessels

that have previously landed more than 1,000,000 lb per day.

This action would apply to vessels of all sizes and capacities in the GOA. For example, catcher vessels with larger capacity for catching and delivering pollock would no longer be able to bypass the original intent of pollock trip limits by practices such as delivering cod ends to a tender or processor, or making multiple landings per day. The RIR/IRFA for this action states that the number of times that larger trawl catcher vessels over 60 ft length overall (LOA) exceed a daily catch of 300,000 lb of pollock is consistently greater than small trawl catcher vessels (under 60 ft LOA), and the combination of day, trip, and seasonal landing limits included in this proposed action are more likely to reduce the amount of pollock caught per day for large than for small vessels. To compensate for constraining the amount of pollock that a catcher vessel may catch in a day, some of the 146 trawl vessels in the pollock fishery would require additional trips to catch the annual pollock TAC. The vessels that forego the amount of those landings in excess of 300,000 lb per day, would still remain available to all vessels to catch in additional fishing trips.

NMFS would not need additional data to calculate or monitor compliance for daily or seasonal pollock landing limits. NMFS would use landings data entered by each shoreside, mothership or inshore floating processor in eLandings at the time a vessel offloads pollock to monitor compliance with the trip, daily, and seasonal landing limits. If a vessel exceeded the daily pollock landing limit, the amount of the overage would be detected by NOAA Office for Law Enforcement during an audit of pollock landings recorded in eLandings. Because a landing record is recorded at the end of an offload, any amount exceeding 300,000 lb in a day would be identified during a routine audit of landing records. NMFS would also have eLandings data to monitor compliance with the seasonal landing limit, by comparing the 300,000 lb per calendar day limit multiplied by the number of calendar days in the season opening, with a given vessel's cumulative amount of pollock landings in that season opening.

The proposed action would apply to pollock caught in both the Federal waters of the Exclusive Economic Zone (EEZ) and the adjacent State of Alaska waters (State waters) by Federally permitted vessels. Regulations on the daily and seasonal landing limits at § 679.7(b)(2)(ii) and (iii) would apply to reporting areas defined at § 679.2 and depicted in Figure 3 to part 679, and

thus, encompasses pollock groundfish fishing in State waters. If the regulation were administered only in Federal waters, the unintended result would likely be to shift pollock catches and effort to State waters.

A definition for "calendar day" would be added at § 679.2 to specify the interval of time in a day from 0001 hours Alaska local time to 2400 hours Alaska local time that a catcher vessel is prohibited from exceeding a daily pollock landing limit of 300,000 lb at § 679.7(b)(2)(ii). This definition also would be used to prohibit catcher vessels from landing a cumulative amount of unprocessed pollock harvested from any GOA reporting area during a directed fishery that exceeds the daily landing limit of 300,000 lb times the number of calendar days the directed fishery is open in a reporting area at § 679.7(b)(2)(iii).

Regulations governing the prohibitions on pollock trip limits at § 679.7(b)(2) would be moved to § 679.7(b)(2)(i) to reorganize § 679.7(b)(2). The current regulatory text at § 679.7(b)(2) that includes the phrase "on board a vessel" would be moved from the beginning of the sentence to the middle of the sentence in § 679.7(b)(2)(i). Technical changes to § 679.7(b)(2), recommended by NOAA Office for Law Enforcement, are proposed to clarify the regulation. These proposed amendments do not change the content or meaning of the regulation.

This rule also would revise Figure 3 to part 679, by increasing the accuracy of the geographic boundaries shown on the map and by changing the figure title from "Gulf of Alaska Statistical and Reporting" to read "Gulf of Alaska Reporting Areas." The correction to the title is necessary because the Federal statistical areas are not visible in the figure or in the coordinates. A Federal statistical area is measured from 3 miles to 200 miles from shore. A Federal reporting area is measured from shore, including State waters, and extends to 200 miles from shore. The correction to the figure is necessary to more accurately depict these areas.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, the reasons why it is being considered, and a statement of the objectives of and the legal basis for this action are included at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A summary of the remainder of the IRFA follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The directly regulated entities for this proposed action are the members of the commercial fishing industry that operate groundfish trawl catcher vessels in the GOA. Under a conservative application of the Small Business Administration criterion and the best available data, there were seven small entities out of a total of 148 vessels in 2005, and four out of a total of 146 vessels in 2006, which would be directly regulated by the proposed action. To provide these estimates, earnings from all Alaskan fisheries for 2005 and 2006 were matched with the vessels that participated in the GOA pollock fishery for that year.

In addition to the proposed alternative, the Council evaluated two other alternatives, which were rejected because they would be less effective than the preferred alternative to address the Council's problem statement. The no action alternative was rejected because it is not consistent with the intent of the original 1999 Steller sea lion protection measures. A second alternative considered and rejected was to limit the applicability of the preferred alternative to the Federal EEZ. Trawl pollock fisheries in the GOA are managed in the Federal EEZ by NMFS under the Gulf of

Alaska Groundfish Management Plan, and within State waters by the State of Alaska. The alternative to apply daily and seasonal trip limits to only Federal EEZ would not encompass activities within State waters. As discussed in the RIR/IRFA for this action, the pollock resource and the fishery within the GOA occur both within Federal and State waters. Taking action in only one area of the GOA would limit the effectiveness of the action, since participants in the pollock trawl fishery would be free to move to the area without the trip limits. From 1999 to 2006, 60.6 percent of pollock was harvested in Federal waters and 39.4 percent in State waters. If this proposed action is implemented, Federal rules would be consistent with the corresponding action taken by the Alaska Board of Fisheries in November of 2007.

The analysis did not identify any Federal rules that would duplicate, overlap, or conflict with the proposed rule. This rule would impose no additional recordkeeping and reporting requirements on the effected vessels.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: October 14, 2008.

Samuel D. Rauch III

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 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.

2. In § 679.2 add a definition for “Calendar day” in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Calendar day means a 24-hour period that starts at 0001 hours Alaska local time and ends at 2400 hours Alaska local time.

* * * * *

3. In § 679.7, revise paragraph (b)(2) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(b) * * *

(2) *Catcher vessel harvest limit for pollock.* (i) Retain more than 300,000 lb (136 mt) of unprocessed pollock on board a catcher vessel at any time during a fishing trip as defined at § 679.2;

(ii) Land more than 300,000 lb (136 mt) of unprocessed pollock harvested in any GOA reporting area to any processor or tender vessel during a calendar day as defined at § 679.2; and

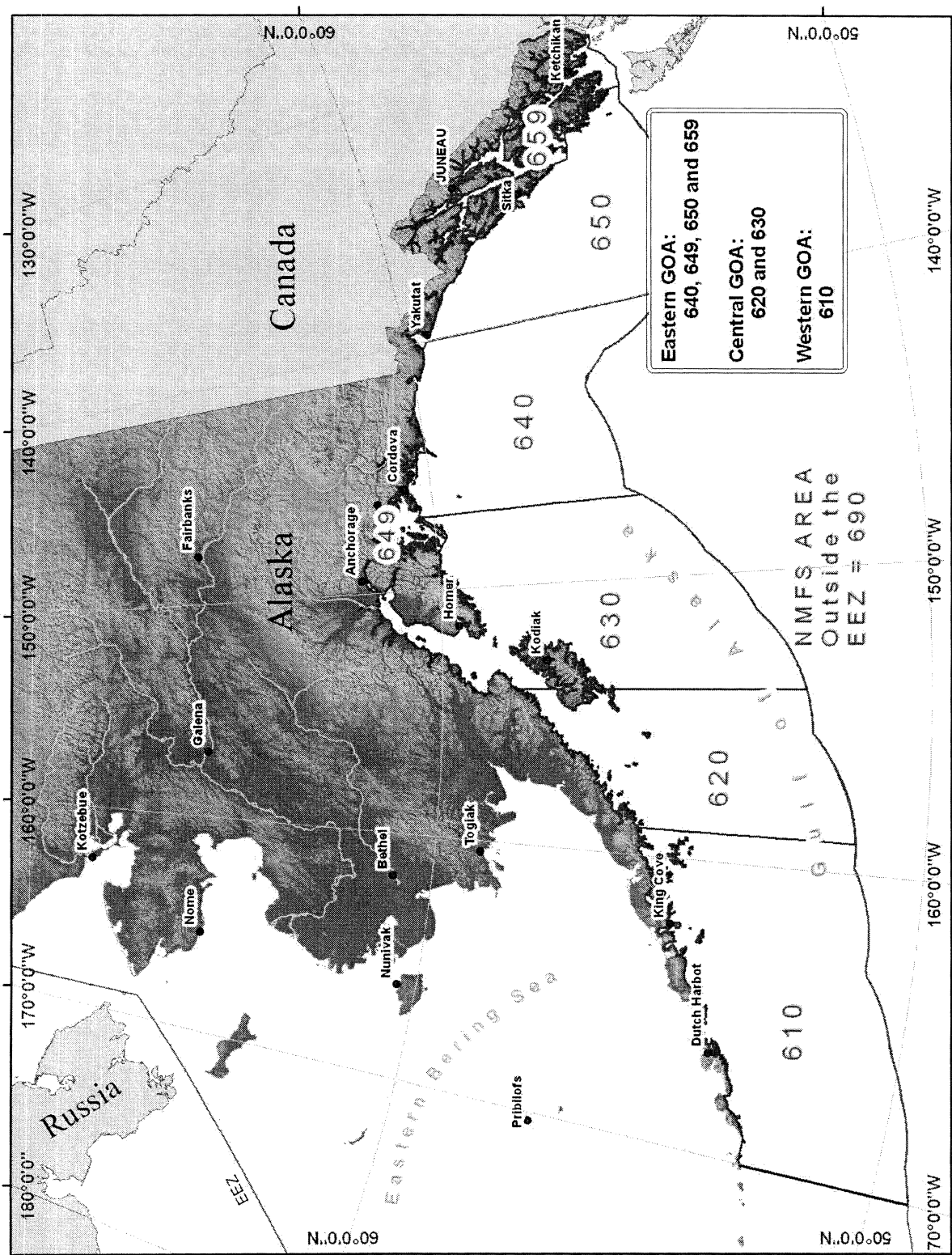
(iii) Land a cumulative amount of unprocessed pollock harvested from any GOA reporting area during a directed fishery that exceeds the amount in paragraph (b)(2)(ii) of this section multiplied by the number of calendar days that occur during the time period the directed fishery is open in that reporting area.

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4. In Figure 3 to part 679, the figure heading and map are revised to read as follows:

Figure 3 to Part 679—Gulf of Alaska Reporting Areas

BILLING CODE 3510–22–S



a. Map

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[FR Doc. E8-24923 Filed 10-17-08; 8:45 am]

BILLING CODE 3510-22-C