

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 100427197-0207-01]

RIN 0648-AW86

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Emergency Rule Extension, Pollock Catch Limit Revisions**

**AGENCY:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Temporary final rule; emergency action extension and request for comments.

**SUMMARY:** NMFS extends the pollock specifications implemented by a July 20, 2010, emergency rule, which is scheduled to expire on January 11, 2011. Specifically, this temporary rule maintains the new stock status determination criteria for pollock and associated increases in pollock catch limits under the Northeast (NE) Multispecies Fishery Management Plan (FMP), for an additional 186 days, in order to implement pollock catch limits through either the end of fishing year (FY) 2010 (i.e., through April 30, 2011) or until superseded by limits for FY 2011.

**DATES:** The effective date of the interim rule published July 20, 2010 (75 FR 41996), is extended through July 17, 2011, unless superseded by another action. NMFS will accept comments through January 3, 2011.

**ADDRESSES:** You may submit comments, identified by 0648-AW86, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-rulemaking portal: <http://www.regulations.gov>.
- *Mail:* Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930-2276. Mark the outside of the envelope: "Comments on NE Multispecies Pollock Emergency Rule Extension."
- *Fax:* (978) 281-9135.

*Instructions:* All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) 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 PDF formats only.

Copies of the small entity compliance guide are available from the Regional Administrator, NMFS, Northeast Regional Office, at the address above. Copies of the Environmental Assessment (EA) prepared for this rule may be found at the following Internet address: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Warren, Fishery Policy Analyst, (978) 281-9347, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:**

**Background**

This temporary final rule extends the emergency rule published on July 20, 2010 (75 FR 41996), in order to extend the time period for which the revised pollock status determination criteria and catch limits are in effect through the end of FY 2010 (April 30, 2011). The July 2010 emergency final rule included detailed information on the background and reasons for the need to revise the pollock status determination criteria and catch limits. The public had an opportunity to comment on that rule, but no comments were submitted. NMFS will again accept public comment on both the appropriateness of the emergency action to date, and its extension.

The emergency specifications extended through this final rule include the revised pollock stock status determination and catch limits for FY 2010, as follows: The revised biomass target parameter (SSB msy; 91,000 mt); the maximum fishing mortality rate threshold (Fmsy; 0.25); Overfishing Levels (OFLs); Acceptable Biological Catches (ABCs); Annual Catch Limits (ACLs); ACL components; and incidental Total Allowable Catches (TACs) for special management programs. The ACL components included sub-ACLs for the common pool and sectors.

The pollock status determination criteria and catch specifications implemented by the initial emergency action were consistent with the best scientific information available, but were not evaluated by the New England Fishery Management Council's (Council) Scientific and Statistical

Committee (SSC). The SSC met on August 25-26, 2010, subsequent to the July 20, 2010, publication of the emergency rule, to discuss catch limits for FY 2011, including pollock. Although the SSC did not discuss the FY 2010 catch specifications for pollock, it accepted the revised assessment of pollock (SAW 50) as a basis for revising ABC recommendations, and affirmed use of the control rule for setting the pollock ABC (catch associated with 75 percent of Fmsy), the method utilized in setting the FY 2010 pollock catch specifications. The SSC characterized the risk associated with the utilization of the pollock ABC control rule in conjunction with the SAW 50 stock assessment as follows: "Scenario analyses indicated that ABCs based on 75 percent Fmsy have low risk of overfishing and low risk of leading to an overfished stock by 2015 if the domed survey selectivity estimated by the SAW 50 assessment is true. However, if selectivity is actually flat-topped, ABCs based on the SAW 50 assessment and 75 percent Fmsy have high risk of overfishing (risk > 50 percent) and a moderate risk of leading to an overfished stock by 2015 (risk between 25 percent and 50 percent)."

The pollock catch limits are contained in Tables 1 and 2 below. Consistent with the FMP, the incidental catch TAC is divided between the Regular B DAS Program (84 percent) and the Closed Area I Hook Gear Haddock Special Access Program (14 percent).

**TABLE 1—POLLOCK CATCH LEVELS FOR FY 2010**

Pollock catch limit	Pollock specification (mt)
OFL of Catch .....	25,200
ABC .....	19,800
State Waters ACL sub-component .....	1,188
Other ACL subcomponent .....	1,188
Groundfish sub-ACL .....	16,553
Sector sub-ACL .....	16,178
Common Pool sub-ACL ....	375
Incidental Catch TAC .....	7.5

**TABLE 2—POLLOCK ACE BY SECTOR (mt)**

Sector	Pollock ACE (mt)
Fixed Gear .....	1,290
NCCS .....	73
NEFS 2 .....	2,034
NEFS 3 .....	1,218
NEFS 4 .....	934
NEFS 5 .....	68
NEFS 6 .....	529

TABLE 2—POLLOCK ACE BY SECTOR (mt)—Continued

Sector	Pollock ACE (mt)
NEFS 7 .....	124
NEFS 8 .....	106
NEFS 9 .....	632
NEFS 10 .....	239
NEFS 11 .....	1,533
NEFS 12 .....	9
NEFS 13 .....	364
Port Clyde Community .....	707
Sustainable Harvest .....	6,309
Tri-State .....	9
<b>Total</b> .....	<b>16,178</b>

All ACE values for sectors assume that each sector member has a valid permit for FY 2010.

NCCS: Northeast Coastal Communities Sector; NEFS: Northeast Fishery Sectors.

This action will extend the pollock catch limits through July 17, 2011, or until FW 45 (which includes FY 2011 pollock specifications, and is currently being developed by the Council with an anticipated May 1, 2011, effective date) or other action supersedes this.

No comments were received on the initial emergency rule.

**Classification**

NMFS has determined that the emergency specifications extended by this temporary final rule are necessary and are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

The interim rule that this rule extends was determined to be not significant for purposes of E.O. 12866.

This rule is exempt from the procedures of the Regulatory Flexibility

Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment.

The EA prepared for the initial emergency rule analyzed the impacts of the emergency specifications for the duration of a year (Secretarial Emergency Action to Revise Fishing Year 2010 Catch Limits for Pollock; Environmental Assessment; May 28, 2010). Therefore, the impacts of this emergency action extension have been analyzed, and are within the scope of the Finding of No Significant Impact.

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

Dated: November 24, 2010.

**Eric C. Schwaab,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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