

contained in Table 5." That notation satisfies the requirement.

*Example 2.* Manufacturer Y furnishes a document containing several tables as in Example 1, with the following notation on its front page:

"Information applies as follows:

Model P. Regular cab, 135 in. (3,430 mm) wheel base—Table 1.

Model P. Club cab, 142 in. (3,607 mm) wheel base—Table 2.

Model Q—Table 3."

This notation does not satisfy the requirement, since it is conditioned on the model or the equipment of the vehicle with which the document is furnished, and therefore additional information is required to select the proper table.

\* \* \* \* \*

(d)(1)(i) Except as provided in paragraph (d)(1)(ii) of this section, in the case of all sections of subpart B other than § 575.104, as they apply to information submitted prior to new model introduction, each manufacturer of motor vehicles shall submit to the Administrator 2 copies of the information specified in subpart B of this part that is applicable to the vehicles offered for sale, at least 90 days before information on such vehicles is first provided for examination by prospective purchasers pursuant to paragraph (c) of this section.

(ii) Where an unforeseen preintroduction modification in vehicle design or equipment results in a change in vehicle performance for a characteristic included in subpart B of this part, a manufacturer of motor vehicles may revise information previously furnished under paragraph (d)(1)(i) of this section by submission to the Administrator of 2 copies of the revised information reflecting the performance changes, at least 30 days before information on such vehicles is first provided to prospective purchasers pursuant to paragraph (c) of this section.

(d)(2) In the case of § 575.104, and all other sections of subpart B as they apply to post-introduction changes in information submitted for the current model year, each manufacturer of motor vehicles, each brand name owner of tires, and each manufacturer of tires for which there is no brand name owner shall submit to the Administrator 2 copies of the information specified in subpart B of this part that is applicable to the vehicles or tires offered for sale, at least 30 days before it is first provided for examination by prospective purchasers pursuant to paragraph (c) of this section.

\* \* \* \* \*

4. Section 575.104 is amended by revising (c)(1), (d)(1)(i), and (d)(1)(iii), to read as follows:

#### § 575.104 Uniform Tire Quality Grading Standards

\* \* \* \* \*

(c) *Application.* (1) This section applies to new pneumatic tires for use on passenger cars. However, this section does not apply to deep tread, winter-type snow tires, space-saver or temporary use spare tires, tires with nominal rim diameters of 12 inches or less, or to limited production tires as defined in paragraph (c)(2) of this section.

\* \* \* \* \*

(d) \* \* \*

(1)(ii) In the case of the information required by § 575.6(c) to be furnished to prospective purchasers of tires, each tire manufacturer or brand name owner shall, as part of that information, list all possible grades for traction and temperature resistance, and restate verbatim the explanation for each performance area specified in Figure 2. The information need not be in the same format as in Figure 2. The information must indicate clearly and unambiguously the grade in each performance area for each tire of that manufacturer or brand name owner offered for sale at the particular location.

(iii) Each manufacturer of motor vehicles equipped with passenger car tires shall include in the owner's manual of each such vehicle a list of all possible grades for traction and temperature resistance and restate verbatim the explanation for each performance area specified in Figure 2, Part II. The information need not be in the exact format of Figure 2, Part II, but it must contain a statement referring the reader to the tire sidewall for the specific tire grades for the tires with which the vehicle is equipped, as follows:

#### Uniform Tire Quality Grading

Quality grades can be found where applicable on the tire sidewall between tread shoulder and maximum section width. For example:

#### Treadwear 200 Traction AA Temperature A

\* \* \* \* \*

Issued on: May 14, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99-13064 Filed 5-21-99; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

[Docket No. 990414095-9095-01; I.D. 033199B]

RIN 0648-AM57

### Regulations Governing the Taking of Marine Mammals by Alaskan Natives; Marking and Reporting of Beluga Whales Harvested in Cook Inlet

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This interim final rule amends 50 CFR 216.23 to require the marking and reporting of beluga whales, *Delphinapterus leucas*, harvested from Cook Inlet, Alaska, by Alaskan Natives. Comments are requested. The marking and reporting is necessary to provide essential biological data for the management and conservation of the stock. The effect of the information will be to provide a more sound scientific basis for management of the stock.

**DATES:** Effective May 24, 1999.

Comments on the interim rule will be accepted until June 23, 1999.

**ADDRESSES:** Comments on the interim rule should be addressed to the Assistant Regional Administrator for Protected Resources, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668. A copy of the Environmental Assessment for this action may be obtained by contacting Brad Smith; NMFS, 222 West 7<sup>th</sup> Avenue, Box 43, Anchorage, Alaska 99513. Comments regarding the burden-hour estimate or any other aspect of the collection of information in this rule should be sent to the preceding individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Brad Smith; telephone (907) 271-5006.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Marine Mammal Protection Act of 1972 (MMPA), as amended, was enacted for the purpose of ensuring the long-term survival of marine mammals by establishing Federal responsibility for their conservation and management. The MMPA imposed a general

moratorium on the taking of marine mammals. Section 101(b) of the MMPA provides an exemption allowing Alaskan Natives to harvest marine mammals for subsistence or for purposes of Native handicraft. The Congress, on October 9, 1981, amended the MMPA with the passage of Public Law 97-58 that, among other things, added section 109(i). This section authorizes the Secretary of Commerce (Secretary) to prescribe regulations requiring the marking, tagging, and reporting of animals taken pursuant to section 101(b) "after providing notice thereof in the *Federal Register* and in newspapers of general circulation, and through appropriate electronic media, in the affected area and providing opportunity for a hearing thereon in such area." Section 109(i) was enacted to enable the Secretary to gather sufficient information on the harvest and biology of marine mammals taken by Alaskan Natives to determine what effect such taking was having on these populations.

The interim final rule requires Alaskan Natives, upon harvesting a beluga whale from Cook Inlet, Alaska, to (1) remove the lower left jawbone, (2) provide the jawbone to NMFS, and (3) provide information on the circumstances of the harvesting of the whale.

#### Status of Stock

The Cook Inlet stock of beluga whale is genetically and geographically isolated from other Alaskan populations of beluga whales. NMFS has conducted annual surveys of the Cook Inlet beluga whale between 1994 and 1998. Results show a severe decline in estimated abundance, with the 1998 estimate (347 animals) nearly 50 percent lower than the 1994 estimate (653 animals). Reliable historical estimates of abundance are not available; however, Native hunters have stated their belief the stock numbered at least 1,000 animals as recently as the 1980s.

Responding to the dramatic decline in this stock, NMFS initiated a Status Review of the Cook Inlet stock on November 11, 1998. This process will evaluate the health of the stock and make recommendations for possible designation under the MMPA and/or Endangered Species Act (ESA).

Recommendations from this review are expected to be published at the end of May 1999.

#### Native Harvest

The Cook Inlet beluga whale stock is hunted by Alaskan Natives, some of whom reside in communities on or near Cook Inlet and some of whom are from

other Alaskan towns and villages. The whales concentrate off the mouths of several rivers entering upper Cook Inlet during the ice-free season, making them especially vulnerable to hunting. Most hunters use small motorboats launched from Anchorage, and hunt near the river mouths. Common hunting technique is to isolate a whale from a group and pursue it into shallow waters. Whales are shot with high powered rifles and may be harpooned to aid in recovery. The muktuk (skin and blubber), flippers, and tail flukes are normally harvested for food, while some hunters may also retain the meat. Subsistence harvest levels of Cook Inlet beluga whales are largely unreported.

The Cook Inlet Marine Mammal Council (CIMMC) is an organization of Cook Inlet treaty tribes, Native hunters, and concerned Alaskan Natives. The CIMMC was established to promote conservation, management, and utilization of Cook Inlet marine mammals by Alaskan Natives. The CIMMC provided estimates of Native harvest for 1995 and 1996, which indicated 42 beluga whales were landed in 1995 with an additional 26 struck and lost. The 1996 harvest was estimated as 49 beluga whales landed and 49-98 additional whales struck and lost. Because many Native hunters in Cook Inlet are not affiliated with the CIMMC, these estimates may not include a substantial portion of the overall harvest. Similarly, reports of the number of beluga whales that are struck and lost are not accurately reported because (1) surveys within the hunting community have been sporadic, (2) hunters have stated reluctance to report, (3) surveys have been conducted after the hunting season, relying on accurate memory of multiple events, and (4) a portion of these hunters are not known to NMFS or CIMMC and have not been surveyed. Therefore, NMFS has determined that promulgation of reporting regulations is necessary to establish reliable harvest estimates.

NMFS has modeled the viability of the Cook Inlet beluga whale stock. Analyses indicate that annual recruitment for this stock of beluga whales is 4 percent. NMFS has determined that no more than 2 percent of the population should be removed annually in order to prevent further decline and provide for the recovery and conservation of the stock. Recent Native subsistence harvest removals, therefore, are in excess of ten times this level. At a current population decline of 15 percent per year, which accounts for some recruitment to the population, the Cook Inlet beluga whale stock would be reduced to 50 percent of its current level

within 5 years. Without accurate and timely information on the Native subsistence harvest, NMFS' ability to execute its Federal mandate to conserve this stock will be greatly compromised. Harvest reductions may be achieved through on-going efforts for the cooperative management of this stock between NMFS and CIMMC. Additionally, NMFS may promulgate regulations to regulate Native harvest under the MMPA or ESA. However, such regulations require the stock to first be listed as a threatened or endangered species, or as a depleted stock under the MMPA. Because of this requirement and the procedural requirements for rulemaking to regulate the harvest, such regulations cannot be completed in time to address the 1999 harvest season. The potential impact of the 1999 harvest on the stock necessitates an accurate count of the number of whales harvested. If the effort to obtain a co-management agreement is successful, the data will provide information on how well the agreement is working. If unsuccessful, information on harvest levels becomes important to management actions that will be required in the future.

#### Marking

The interim regulation requires each whaling captain to collect the left lower jawbone (with teeth left in place) from beluga whales harvested from Cook Inlet. The jawbone may be removed with a knife, labeled, and placed into a plastic (garbage) bag for transport. The left lower jawbone weighs less than 5 pounds and does not represent a hardship to collect or transport. The whaling captain or vessel operator is required to provide these samples to the NMFS Anchorage Field Office at 222 West 7<sup>th</sup> Avenue, Anchorage, Alaska 99513, within 72 hours of returning from the hunt. NMFS biologists, or a NMFS-designated contact, will receive and tag these samples and provide a reporting form to the whaling captain or vessel operator.

#### Marking Objectives

The collection of the intact lower jawbone from each harvested beluga whale will improve the present accuracy of estimated Native harvest. Teeth from the jawbone will be analyzed to determine the age of the animal. Flesh from the jawbone will be used to determine the sex of the whale and for genetic studies of the Cook Inlet beluga whale stock. NMFS surveys often find dead beluga whales along Cook Inlet, and the removal of the lower left jawbone would distinguish carcasses as

Native harvest rather than struck and lost or death by other causes.

### Reporting

Each whaling captain or vessel operator, upon killing and landing a beluga whale from Cook Inlet, is required to remove and label the described sample and deliver it to NMFS (marking) and to complete a reporting form providing supporting biological or management information on that harvest. The captain or vessel operator is required to complete the form and return it to NMFS Anchorage Field Office, within 30 days.

The data from reporting forms will provide more complete estimates of harvest levels. Additional information provided will include the date and time of the harvest, the coloration of the whale, the area from which it was harvested, the method of harvest, and other comments such as stomach contents and any unusual physical or behavioral observations. The information contained on these forms will be held by NMFS and made available to the hunters, other Alaskan Native organizations, and the public.

This information is necessary to evaluate the health and stability of the Cook Inlet beluga whale stock and to manage these whales in order to both preserve the stock and provide for the sustainable subsistence harvest by Alaskan Natives. Because the most recent population analysis indicates that no more than 2 percent of a population of 347 beluga whales should be harvested, and because the potential harvest during the 1999 season may greatly exceed this amount, NMFS believes regulations are needed immediately. In the absence of such reporting, NMFS will be unable to monitor harvest levels, and removals from this population may reach levels that could harm the continued existence of this stock.

### Request for Comments

NMFS will accept written comments (see ADDRESSES) on this interim final rule until June 23, 1999. A public hearing on the interim final rule will be held in the Cook Inlet area. A notification of the date and location of the hearing will be published in the **Federal Register**.

### Classification

An Environmental Assessment (EA) has been prepared by NMFS to address this action and is available for public review and comment. Persons wishing to obtain this EA should contact NMFS Anchorage Field Office (see ADDRESSES).

This rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant Administrator for Fisheries (AA), NOAA, finds that good cause exists, under 5 U.S.C. 553(b)(B), to waive prior notice and an opportunity for comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for public comment because the subsistence harvest of beluga whales will start sometime in May.

The Cook Inlet population of beluga whales has dramatically declined from an estimated 653 animals in 1994 to a recently completed estimate of 347 animals in 1998. Estimates from the 1995 subsistence harvest were 42 beluga whales landed and 26 struck and lost. The 1996 harvest was estimated as 49 whales landed and 49–98 additional whales struck and lost.

NMFS is in the process of a status review to determine whether the stock should be listed as endangered or threatened under the ESA or designated as depleted under the MMPA. Because of the potential impact of the 1999 harvest on the stock, it is important to have an accurate number of the whales harvested. If the effort to obtain a co-management agreement is successful, the data will provide information on how well the agreement is working. If unsuccessful, information on harvest levels becomes the key to management actions that will be required in the future.

For these reasons, the Assistant Administrator for Fisheries also finds that good cause exists under 5 U.S.C. 553(d)(3), that the rule should not be subject to a 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required by 5 U.S.C. 553 or by any other law, under 5 U.S.C. 603(b) the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are not applicable to this rule. Accordingly, an initial Regulatory Flexibility Analysis was not prepared for this rule.

This rule contains a collection of information requirement subject to the provisions of the Paperwork Reduction Act (PRA). This collection was submitted to OMB for review under section 3540(b) of the PRA and was approved by OMB on May 11, 1999 (OMB no. 0648–0382) with an expiration date of October 31, 1999.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to the requirements of the PRA unless that

collection of information displays a currently valid OMB control number.

The reporting burden for this collection is estimated to be approximately one-half hour per response, including time necessary to remove and label the jawbone and to complete the reporting form. Comments are invited on (1) whether the proposed collection of information is necessary for the proper performance and function of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including, through use of automated collection techniques or other forms of information technology. Please send any comments to NMFS and OMB (see ADDRESSES).

### List of Subjects in 50 CFR Part 216

Marine mammals, Reporting and recordkeeping requirements.

Dated: May 18, 1999.

**Andrew A. Rosenberg,**

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

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

### PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for 50 CFR part 216 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.23, paragraph (e) is added to read as follows:

#### § 216.23 Native exceptions.

\* \* \* \* \*

(e) *Marking and reporting of Cook Inlet Beluga Whales.* (1) *Definitions.* In addition to definitions contained in the MMPA and the regulations in this part:

(i) *Reporting* means the collection and delivery of biological data, harvest data, and other information regarding the effect of taking a beluga whale (*Delphinapterus leucas*) from Cook Inlet, as required by NMFS.

(ii) *Whaling captain or vessel operator* means the individual who is identified by Alaskan Natives as the leader of each hunting team (usually the other crew on the boat) and who is the whaling captain; or the individual operating the boat at the time the whale is harvested or transported to the place of processing.

(iii) *Cook Inlet* means all waters of Cook Inlet north of 59° North latitude, including, but not limited to, waters of Kachemak Bay, Kamishak Bay, Chinitna Bay, and Tuxedni Bay.

(2) *Marking*. Each whaling captain or vessel operator, upon killing and landing a beluga whale (*Delphinapterus leucas*) from Cook Inlet, Alaska, must remove the lower left jawbone, leaving the teeth intact and in place. When multiple whales are harvested during one hunting trip, the jawbones will be marked for identification in the field to ensure correct reporting of harvest information by placing a label marked with the date, time, and location of harvest within the container in which the jawbone is placed. The jawbone(s) must be retained by the whaling captain or vessel operator and delivered to NMFS at the Anchorage Field Office, 222 West 7<sup>th</sup> Avenue, Anchorage, Alaska 99513 within 72 hours of returning from the hunt.

(3) *Reporting*. Upon delivery to NMFS of a jawbone, the whaling captain or vessel operator must complete and mail a reporting form, available from NMFS, to the NMFS Anchorage Field Office within 30 days. A separate form is required for each whale harvested.

(i) To be complete, the form must contain the following information: the date and location of kill, the method of harvest, and the coloration of the whale. The respondent will also be invited to report on any other observations concerning the animal or circumstance of the harvest.

(ii) Data collected pursuant to paragraph (e) of this section will be reported on forms obtained from the Anchorage Field Office. These data will be maintained in the NMFS Alaska Regional Office in Juneau, Alaska, where such data will be available for public review.

(4) No person may falsify any information required to be set forth on the reporting form as required by paragraph (e) of this section.

(5) The Anchorage Field Office of NMFS is located in room 517 of the Federal Office Building, 222 West 7<sup>th</sup> Avenue; its mailing address is: NMFS, Box 43, Anchorage, AK. 99513.

[FR Doc. 99-13083 Filed 5-21-99; 8:45 am]

BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 600 and 660

[Docket No. 981231333-9127-03; I.D. 122898E]

RIN 0648-AM12

#### Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Final 1999 ABC, OY, and Tribal and Nontribal Allocations for Pacific Whiting

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

**ACTION:** Final rule.

**SUMMARY:** NMFS publishes a final rule to announce the 1999 optimum yield (OY) specification (formerly called "harvest guideline") for Pacific whiting (whiting) harvested off Washington, Oregon, and California, and announces allocation of a portion of the OY to Washington coastal tribal fisheries. This rule is intended to accommodate the Washington coastal treaty tribes' rights to Pacific whiting and to provide equitable allocation of the whiting resource, and promoting the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP).

**DATES:** Effective May 19, 1999.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) for this action is available from NMFS, Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115-0070.

**FOR FURTHER INFORMATION CONTACT:** William Robinson, Northwest Region, NMFS, 206-526-6140.

**SUPPLEMENTARY INFORMATION:** Two actions are announced in this document: The final 1999 acceptable biological catch (ABC) and OY for whiting and allocation of part of that OY to the Washington coastal treaty tribes. Further background on these actions is found in the notice of proposed rulemaking, which was published in the **Federal Register** on January 8, 1999 (64 FR 1341) with a request for comments. Comments were received only on the tribal allocation, and are addressed later in this document. A draft EA/RIR (dated March 1, 1999) and an Initial Regulatory Flexibility Analysis (IRFA) (dated December, 17, 1998) were prepared for the tribal allocation and made available

at the March 9-12, 1999, meeting of the Pacific Fishery Management Council (Council). An FRFA has been prepared and is appended in the final EA/RIR/FRFA for the tribal allocation.

#### 1999 ABC/OY

Preliminary ranges for the U.S. ABC and OY were recommended at the Council's November 1998 meeting. The upper end was 232,000 mt, the same as the 1998 ABC and OY for U.S. waters. The lower end was 178,000 mt (the amount projected for the ABC (the proxy for maximum sustainable yield (MSY), also called the MSY proxy) for the U.S. and Canada combined in the then most recent stock assessment for the 1998 fishery), multiplied by 0.8, which is the proportion taken by the United States in recent years.

The final OY for whiting was delayed from the normal January 1 specification cycle so that data from the summer 1998 survey could be analyzed and incorporated into a new stock assessment. The new assessment was considered at the March 9-12, 1999, Council meeting.

A number of issues were discussed such as: (1) the appropriate harvest policy to be used—whether to continue with the hybrid harvest policy used in recent years, or to convert to the 40-10 harvest policy adopted for most other groundfish species (see the annual specifications published at 64 FR 1316 January 8, 1999, and Amendment 11 to the FMP); (2) continuation of the 80-percent U.S. allocation of the U.S.-Canada MSY; and (3) whether the ABC and OY should apply only to 1999, or whether it could be applied to the year 2000 as well, since a new assessment will not be conducted in 1999.

#### ABC

Under Amendment 11 to the FMP, ABC is set equal to a default proxy for the fishing mortality rate (F) needed to produce the MSY (F<sub>msy</sub>). In recent years, a hybrid F harvest policy, similar to the F<sub>35</sub> policy used for other groundfish species, was used as the F<sub>msy</sub> proxy for whiting ("F<sub>35</sub>" means the fishing mortality rate that reduces the spawning potential per recruit to 35 percent of the unfished condition). F<sub>35</sub> is commonly used in the FMP for faster growing stocks or stocks with quicker recruitment. The new policy, F<sub>40</sub> with the 40-10 OY adjustment, results in similar harvest rates to the moderate hybrid F policy used in previous years. Consequently, the Council endorsed the use of the more conservative F<sub>40</sub> for whiting, which would result in a U.S.-Canada ABC of 320,000 mt in 1999 (and 297,000 mt in 2000). Applying the 80-