

wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

#### List of Subjects in 50 CFR Part 22

Exports, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons described in the preamble, we propose to amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

#### PART 22—EAGLE PERMITS

1. The authority citation for part 22 continues to read as follows:

**Authority:** 16 U.S.C. 668a; 16 U.S.C. 703–712; 16 U.S.C. 1531–1544.

2. In § 22.3, revise the heading and introductory paragraph and add a definition for “disturb” in alphabetical order to read as follows:

##### § 22.3 Definitions.

In addition to definitions contained in part 10 of this subchapter, the following definitions apply within this part 22:

\* \* \* \* \*

*Disturb* means to agitate or bother a bald or golden eagle to the degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, causing injury, death, or nest abandonment.

\* \* \* \* \*

Dated: November 1, 2005.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 06–1440 Filed 2–15–06; 8:45 am]

BILLING CODE 4310–55–P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 228

[I.D. 020806A]

##### Taking of Cook Inlet, Alaska Beluga Whales by Alaska Natives

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Marine Mammal Protection Act (MMPA) allows NMFS to regulate the subsistence harvest of marine mammals by Alaska Natives when the affected stock of marine mammals is depleted and after the opportunity for a formal hearing on the proposed regulations. After designating the Cook Inlet stock of beluga whales as depleted, NMFS proposed regulations to limit the subsistence harvest from this stock. In December 2000, a formal hearing was conducted on the proposed regulations. In August 2004, a second formal hearing was conducted on proposed long term harvest regulations from 2005 through the CI beluga whale's recovery. The Administrative Law Judge presiding in the August 2004 hearings submitted his recommended decision to the Assistant Administrator for Fisheries (AA) on November 8, 2005. The Judge's recommended decision is available for public review, and NMFS solicits comments on his recommendations.

**DATES:** Comments must be received by March 8, 2006

**ADDRESSES:** Copies of the recommended decision may be reviewed and/or copied at the NMFS, Protected Resource Division, 222 West 7th Ave. Room 517, Anchorage, AK 99512; or at the Alaska Regional Office, Protected Resource Division, 709 W 9th St. Room 420, Juneau, AK, 99802. The recommended decision is also available on the Internet (see Electronic Access). Copies of the recommended decision and the entire record of the hearing may be reviewed and/or copied at the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

- Mail: PO Box 21668, Juneau, AK 99802
- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK
- Fax: 907–586–7557
- E-mail: *CIB-MMPA-ALJ-recommended-decision@noaa.gov*. Please identify electronic comments with the header: CI Beluga ALJ decision. E-mail comments, with or without attachments, are limited to five (5) megabytes.
- Webform at the Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions at that site for submitting comments.

#### FOR FURTHER INFORMATION CONTACT:

Barbara Mahoney, NMFS Alaska Region, Anchorage Field Office, (907) 271–5006; or Kaja Brix, NMFS, Alaska Region, (907) 586–7235.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

The recommended decision, proposed regulations, and other documents related to the administrative hearing and recovery effort are available on the Internet at the following address: *http://www.fakr.noaa.gov/protectedresources/whales/beluga.htm*.

##### Background

NMFS initially proposed regulations limiting the subsistence harvest of beluga whales in Cook Inlet, AK on October 4, 2000 (65 FR 59164). The proposed rule's objectives are to recover the depleted stock of Cook Inlet beluga whales to its optimum sustainable population level while preserving the traditional subsistence use of the marine mammals by Alaska Natives.

Pursuant to Section 101(b) (3) and section 103(d) of the MMPA, an administrative hearing was held prior to regulations being prescribed to limit the subsistence harvest of marine mammals by Alaska Natives. Judge Parlen L. McKenna convened hearings on the proposed rule in December 2000 and August 2004, in Anchorage, AK.

On November 8, 2005, Judge McKenna submitted his recommended decision to the AA for the proposed regulation governing the taking of Cook Inlet, Alaska, beluga whales by Alaska Natives. Federal regulations (50 CFR 228.20) require the AA to make the recommended decision available for public review and comment for a 20–day period. Following the 20–day comment period, the AA must make a final decision on the proposed regulations, which must include the following:

- (1) A statement containing a description of the history of the proceeding;
- (2) Findings on the issues of fact with the reasons therefor; and
- (3) Rulings on issues of law.

The AA's final decision may affirm, modify, or set aside, in whole or in part, the recommended findings, conclusions and decision of the hearing's presiding officer.

The AA's decision must be published in the **Federal Register** and final regulations shall be promulgated with the decision. In accordance with the administrative regulations, NMFS solicits public comments on Judge McKenna's recommended decision.

Dated: February 10, 2006.

**James H. Lecky,**

*Director, Office of Protected  
Resources, National Marine Fisheries Service.*  
[FR Doc. E6-2196 Filed 2-15-06; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 060201022-6022-01; I.D.  
012606A]

RIN 0648-AU16

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Control Date for Bering Sea and Aleutian Islands Pacific Cod Fishery**

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

**ACTION:** Advance notice of proposed  
rulemaking; consideration of control  
date.

**SUMMARY:** This document announces that anyone entering the Bering Sea and Aleutian Islands (BSAI) Pacific cod fishery after December 11, 2005 (control date), will not be assured of future access to the Pacific cod resource if a management regime is developed and implemented that limits the number of participants, licenses or vessels in the fishery. This announcement is necessary for public awareness of a potential eligibility criterion for access with commercial fishing gear to the BSAI Pacific cod resource. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented. The intended effect of this announcement is to discourage new entry into the fishery based on speculation while discussions continue on whether and how access to the Pacific cod resource should be limited.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hartman, 907-586-7442, or [jeff.hartman@noaa.gov](mailto:jeff.hartman@noaa.gov).

**SUPPLEMENTARY INFORMATION:** On December 11, 2005 the North Pacific Fishery Management Council (Council) recommended that NMFS provide a notice to the public that a control date of December 11, 2005, for participation in the BSAI Pacific cod fishery be set. The purpose of this notice is to inform the public that participation in the BSAI Pacific cod commercial fishery after this date may not count for consideration of an allocation or eligibility to fish for Pacific cod.

The BSAI Pacific cod fishery is managed pursuant to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The total allowable catch (TAC) for BSAI Pacific cod currently is allocated among trawl, fixed, and jig gear sectors at 50 CFR 679.20(a)(7). The Council is developing a proposed amendment to the FMP (Amendment 85) that would further divide and refine these allocations. During the development of this amendment, the Council became aware that new entrants into some sectors of the Pacific cod fishery would exacerbate competition for increasingly smaller sector allocations under Amendment 85.

In October 2005, the Council developed a problem statement for Amendment 85 identifying that:

Participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability in the allocations to the trawl, jig, fixed gear, and CDQ [Community Development Quota] sectors. To reduce uncertainty and provide stability for these participants, allocations should be adjusted to better reflect historic use by sector. The basis for determining sector allocations will be catch history as well as consideration of socio-economic and community factors. As other fisheries in the BSAI and GOA [Gulf of Alaska] are incrementally rationalized, historical participants in the BSAI Pacific cod fishery may be put at a disadvantage. Each sector in the BSAI Pacific cod fishery currently has different degrees of license requirements and levels of participation. Allocations to the sector level are a necessary step on the path towards comprehensive rationalization. Prompt action is needed to maintain stability in the BSAI Pacific cod fisheries.

In October 2005, the public testified to the Council that new entry into the Pacific cod fishery likely would erode

the Pacific cod allocations and associated prohibited species catch amounts available to long-term participants, especially under proposed Amendment 85. On December 11, 2005, the Council recommended that NMFS provide a notice to the public that a control date of December 11, 2005, be set for participation in the BSAI Pacific cod fishery. This notice informs the public that participation in the BSAI Pacific cod commercial fishery after this date may not be considered by the Council for purposes of any future limited entry program developed for this fishery.

NMFS and the Council intend, in making this announcement, to discourage speculative entry into the Pacific cod fishery while potential entry or access control management regimes are considered by the Council. If the Council decides to develop an access or entry control regime, some fishermen who do not currently fish for Pacific cod in the BSAI and never have done so may decide to enter the fishery for the sole purpose of establishing a record of making commercial landings of this species.

A record of making commercial landings generally is considered indicative of economic dependence on a fishery. On this basis, a new entrant may successfully claim access to a fishery that otherwise is limited to traditional participants. New entrants may have to buy the fishing history or a permit from an earlier participant. Hence, initial access to the fishery at little or no entry cost may result in a transfer of wealth to entities with little investment in a fishery and away from those that have substantial investment in the fishery as indicated by their fishing history. Any anticipated increase in the security of an allocation also may encourage speculative entry, which is associated with a rapid and wasteful increase in fishing effort in fisheries already fully or over-exploited. Specification of a control date may communicate helpful investment and operational information to businesses considering entry to a fishery, or those currently operating in a fishery.