

## DEPARTMENT OF COMMERCE

## 48 CFR Part 1352

[Document Number: 080730954-0129-03]

RIN 0605-AA26

## Commerce Acquisition Regulation (CAR); Correction

AGENCY: Department of Commerce (DOC).

ACTION: Final rule; correction.

**SUMMARY:** We, the Department of Commerce, issue a final rule to bring the Commerce Acquisition Regulation in alignment with the Federal Acquisition Regulation (FAR) and to streamline DOC's internal policy and guidance.

**DATES:** This rule is effective April 7, 2010.

**ADDRESSES:** The final rule is available on the DOC Web site <http://www.doc.gov>, or <http://www.regulations.gov>, or by contacting the Department of Commerce: Room 1854, 1401 Constitution Avenue, NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Virna Evans, 202-482-3483.

**SUPPLEMENTARY INFORMATION:** On March 8, 2010, the Department of Commerce published a final rule to amend the CAR to update the regulations since its last revision on September 12, 1995. That rule updated the CAR to bring it into alignment with the current provisions of the FAR and added numerous new clauses that correspond to the new procedural requirements added to the CAR. For a detailed description of the changes by CAR Part, see the final rule published on March 8, 2010 in the *Federal Register* (75 FR 10568). The document is also available at <http://www.Regulations.gov> under Docket Number: DOC-2009-0003-0001.

Upon publication of the regulations, the Department identified a typographical error in the clause headings that appear in subpart 1352.2. In each clause heading, the Department included a reference to "DATE" to serve as a placeholder for the month and year when the rule is published so that each clause may have a reference point. However, this placeholder was not updated before the final rule was published. This final rule corrects this typographical error by adding to each clause heading the month and year when the clause is effective, which is April 2010. This amendment is a purely technical, non-substantive change to the regulations. No aspect of this action is controversial.

## Classification

*Executive Order 12866:* This rule has been determined to be not significant for purposes of Executive Order 12866, Regulatory Planning and Review.

*Administrative Procedure Act/Regulatory Flexibility Act:* Pursuant to 5 U.S.C. 553(b)(B), the Department finds good cause to waive prior notice and opportunity for public comment otherwise required by the section because it is unnecessary. The Department takes this action to correct an error in the headings that appear for each clause in subpart 1352.2. In the final rule published on March 8, 2010, the Department included a reference to "DATE" in each clause heading in subpart 1352 to serve as a placeholder for the month and year when the rule is published so that each clause may have a reference point. This placeholder was inadvertently retained rather than updated with the month and year of the final rule when the rule becomes effective. This final rule corrects this typographical error by adding the month and year when the rule is to become effective, which is April 2010. This amendment is a purely technical, non-substantive change to the regulations. No aspect of this action is controversial. This rule does not change any procurement practices or procedures made by the March 8, 2010 rule. The error should be corrected immediately to eliminate potential confusion by the regulated public.

For the reasons stated above, the Department finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

*Paperwork Reduction Act:* This rule does not impose any new information collections subject to review and approval by OMB under the Paperwork Reduction Act. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of PRA, unless that collection of information displays a currently valid OMB control number.

In FR Doc. 2010-4132 appearing on page 10568 in the *Federal Register* of Monday, March 8, 2010, the following corrections are made:

## PART 1352—[CORRECTED]

■ On pages 10594 through 10616, in part 1352, correct the clause heading of each section by revising each reference to "(DATE)" to read "(APR 2010)".

Dated: March 17, 2010.

Scott Quehl,

Assistant Secretary for Administration.

[FR Doc. 2010-6730 Filed 3-25-10; 8:45 am]

BILLING CODE P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

[Docket No. FWS-R6-ES-2010-0021; 92220-1113-0000; C6]

RIN 1018-AW97

Endangered and Threatened Wildlife and Plants; Reinstatement of Protections for the Grizzly Bear in the Greater Yellowstone Ecosystem in Compliance With Court Order

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) are issuing this final rule to comply with a court order that has the effect of reinstating the regulatory protections under the Endangered Species Act of 1973 (ESA), as amended, for the grizzly bear (*Ursus arctos horribilis*) in the Greater Yellowstone Area (GYA) and surrounding area. This rule corrects the grizzly bear listing to reinstate the listing of grizzly bears in the GYA. This final rule also takes administrative action to correct two associated special rules.

**DATES:** This action is effective March 26, 2010. However, the court order had legal effect immediately upon being filed on September 21, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, at our Missoula office (*see ADDRESSES* above) or telephone (406) 243-4903. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at (800) 877-8337 for TTY assistance.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 29, 2007, we announced the establishment of a distinct population segment (DPS) of the grizzly bear (*Ursus arctos horribilis*) for the

GYA and surrounding area and removed this DPS from the List of Threatened and Endangered Wildlife (72 FR 14866). In that rule, we determined that the Yellowstone grizzly bear population was no longer an endangered or threatened population pursuant to the ESA (16 U.S.C. 1531 *et seq.*), based on the best scientific and commercial data available. Robust population growth, coupled with State and Federal cooperation to manage mortality and habitat, widespread public support for grizzly bear recovery, and the development of regulatory mechanisms, brought the Yellowstone grizzly bear population to the point where making a change to its status was appropriate.

Subsequently, three lawsuits challenging our decision were filed in Federal courts in Boise, Idaho, and in Missoula, Montana. Legal briefings in these cases were completed in 2008.

In the Montana case, the plaintiff presented four claims including: (1) The regulatory mechanisms to protect the grizzly once it is delisted are inadequate; (2) the Service did not adequately consider the impacts of global warming and other factors on whitebark pine nuts, a grizzly food source; (3) the population is unacceptably small and dependent on translocation of outside animals for genetic diversity; and (4) the Service did not properly consider whether the grizzlies were recovered across a significant portion of their range.

On September 21, 2009, the Montana District Court issued an order in which plaintiffs prevailed on the first and second counts, while the United States prevailed on the third and fourth counts. The court's order vacated the delisting and remanded it to the Service. Thus, this final rule is required to

correct the Yellowstone grizzly bear population's listing status.

The United States is considering whether to appeal this decision. Regardless, this final rule is necessary because this process, should we move forward with an appeal, would likely take several years to complete.

The grizzly bear is a member of the brown bear species (*U. arctos*) that occurs in North America, Europe, and Asia; the subspecies *U. a. horribilis* is limited to North America (Rausch 1963, p. 43; Servheen 1999, pp. 50–53). The original 1975 grizzly bear listing (40 FR 31734–31736, July 28, 1975) established the listed entity as *U. a. horribilis*.

However, the entry for grizzly bear in the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h) was later modified inadvertently to *U. arctos* with a historic holarctic range. We corrected the listed entity back to its original form in the March 29, 2007, final rule (72 FR 14866), which again set forth the listed entity as *U. arctos horribilis* with a historic range of North America. With this final rule, we make this same correction to the special regulations found at 50 CFR 17.40(b) and 17.84(l).

**Administrative Procedure**

This rulemaking is necessary to comply with the September 21, 2009, court order. Therefore, under these circumstances, the Director has determined, pursuant to 5 U.S.C. 553(b), that prior notice and opportunity for public comment are impractical and unnecessary. The Director has further determined, pursuant to 5 U.S.C. 553(d), that the agency has good cause to make this rule effective upon publication.

**Effects of the Rule**

As of the filing of the respective court order, any and all grizzly bears in the

GYA are listed as a threatened species under the ESA. Because the Court vacated the entire delisting rule and remanded it to the Service, there is no longer a GYA grizzly bear DPS. Thus, all grizzly bears in the lower 48 States are again listed as threatened (50 CFR 17.11(h)). An existing 4(d) rule again applies to this population (50 CFR 17.40(b)).

This rule will not affect the grizzly bear's Appendix II status under the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulation Promulgation**

■ Accordingly, in order to comply with the court orders discussed above, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—[AMENDED]**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11 by revising the entry in the table at paragraph (h) for “Bear, grizzly” as follows:

**§ 17.11 [Amended]**

\* \* \* \* \*  
(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
<b>Mammals</b>							
* Bear, grizzly .....	* <i>Ursus arctos horribilis.</i>	* North America .....	* U.S.A., conterminous (lower 48) States, except where listed as an experimental population.	* T	* 1, 2D, 9, 759	NA	* 17.40(b)
Do .....	do .....	do .....	U.S.A. (portions of ID and MT, see 17.84(l)).	XN	706	NA	17.84(l)

\* \* \* \* \*

**§ 17.40 [Amended]**

■ 3. Amend § 17.40 by adding the word “horribilis” after the word “arctos” in paragraph (b) heading and in the

definition of “Grizzly bear” in paragraph (b)(2).

**§ 17.84 [Amended]**

■ 4. Amend § 17.84 by adding the word “horribilis” after the word “arctos” in paragraph (l) heading.

Dated: March 9, 2010.

**Daniel M. Ashe,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2010-6802 Filed 3-25-10; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 0910131362-0087-02]

**RIN 0648-XV51**

**Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 total allowable catch (TAC) of pollock in the West Yakutat District of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 23, 2010, through 2400 hrs, A.l.t., December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2010 TAC of pollock in the West Yakutat District of the GOA is 2,031 metric tons (mt) as established by the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2010 TAC of pollock in the West Yakutat District of the GOA will soon be reached.

Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,011mt, and is setting aside the remaining 20 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 22, 2010.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 23, 2010.

**Emily H. Menashes,**

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

[FR Doc. 2010-6754 Filed 3-23-10; 4:15 pm]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 0910131363-0087-02]

**RIN 0648-XV52**

**Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the Amendment 80 limited access fishery. This action is necessary to prevent exceeding the 2010 A season allocation of Atka mackerel in this area allocated to vessels participating in the Amendment 80 limited access fishery.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 23, 2010, through 1200 hrs, A.l.t., September 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 908-586-7269.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2010 A season allocation of Atka mackerel allocated to vessels participating in the Amendment 80 limited access fishery in the Central Aleutian District was established as 7,457 metric tons (mt) by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2010 Atka mackerel A season TAC allocated to vessels participating in the Amendment 80 limited access fishery in the Central Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed