

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

[Docket No. 021212306-2306-01; I.D. 110602B]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 2003 Harvest Specifications for Groundfish

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

ACTION: Interim final rule.

SUMMARY: NMFS issues interim 2003 total allowable catch (TAC) amounts for each category of groundfish, American Fisheries Act (AFA) sideboard amounts, and specifications for prohibited species catch (PSC) amounts for the groundfish fishery of the Gulf of Alaska (GOA). Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, which would result in unnecessary closures and disruption within the fishery industry. The intended effect is to conserve and manage the groundfish resources in the GOA.

DATES: The interim specifications are effective from 0001 hrs, Alaska local time (A.l.t.), January 1, 2003, until the effective date of the Final 2003 Harvest Specifications for GOA Groundfish, which will be published in the **Federal Register**.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared for this action, the final 2001 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2001, and the final 2002 SAFE report, dated November 2002, are available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, telephone (907-271-2809).

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907-481-1780 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Federal regulations at 50 CFR part 679 implementing the Fishery Management Plan (FMP) for Groundfish of the GOA govern the groundfish fisheries in the GOA. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations that also pertain to the U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council met in October 2002 to review scientific information concerning groundfish stocks and recommended proposed 2003 specifications which are available for public review (see **ADDRESSES**). The Council recommended and NMFS proposes a total acceptable biological catch (ABC) of 382,790 mt and a TAC of 233,166 mt for the 2003 fishing year. The proposed TAC amounts for each species were based on the best available biological and socioeconomic information.

Under § 679.20(c)(1)(ii), NMFS published in the **Federal Register** proposed harvest specifications for groundfish and associated management measures in the GOA for the 2003 fishing year (67 FR 76344, December 12, 2002). That document contains a detailed discussion of the proposed 2003 TACs, groundfish reserves, apportionments of TAC, ABC amounts, overfishing levels (OFLs), PSC amounts and apportionments, and associated management measures of the GOA groundfish fishery.

This action provides interim harvest specifications and apportionments thereof for the 2003 fishing year that will become available on January 1, 2003, and remain in effect until superseded by the final 2003 harvest specifications. Background information concerning the 2003 groundfish harvest specification process, upon which this interim action is based, is provided in the above mentioned proposed specification document.

Establishment of Interim TACs

Regulations at § 679.20(c)(2)(i) require that one-fourth of each proposed TAC and apportionment thereof (not including the reserves and the first

seasonal allowance of pollock and Pacific cod) and one-fourth of the halibut PSC amounts become effective at 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications. The final rule to implement the Steller sea lion protection measures will make the proposed first seasonal allowances of pollock and Pacific cod effective at 0001 hours, A.l.t., January 1, on an interim basis. They will remain in effect until superseded by the final harvest specifications. As stated in the proposed specifications (67 FR 76344, December 12, 2002), no harvest of groundfish is authorized prior to the effective date of this action implementing the interim specifications.

Regulations at § 679.20(a)(6)(ii) and (iii) allocate 100 percent of the pollock TAC to vessels catching pollock for processing by the inshore component, 90 percent of the Pacific cod TAC to vessels catching Pacific cod for processing by the inshore component, and 10 percent of the Pacific cod TAC to vessels catching Pacific cod for processing by the offshore component.

The reserves for the GOA are 20 percent of the TAC amounts for pollock, Pacific cod, flatfish species, and the "other species" category (§ 679.20(b)(2)). The GOA groundfish TAC amounts have been utilized fully since 1987 and NMFS expects this trend to continue in 2003. Therefore, NMFS has proposed reapportioning all the reserves to TAC. The interim TAC amounts contained in Table 1 reflect the proposed reapportionment of reserves back to the TAC.

Interim 2003 GOA Groundfish Harvest Specifications and Apportionments

Table 1 provides interim TAC amounts, the first seasonal allowance of pollock in the combined Western and Central regulatory areas, the first seasonal allowance of Pacific cod in the Western and Central Regulatory Areas, interim TAC allocations of Pacific cod to the inshore and offshore components, and interim sablefish TAC apportionments to hook-and-line and trawl gear. These interim TAC amounts and apportionments become effective at 0001 hours, A.l.t., January 1, 2003.

TABLE 1 - INTERIM 2003 TAC AMOUNTS OF GROUND FISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)1,2. THE FIRST SEASONAL ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS, THE FIRST SEASONAL ALLOWANCES OF PACIFIC COD. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR.

Species	Area	Interim TAC (mt)	
Pollock ^{3,4}	W (610)	2,916	
	C (620)	8,618	
	C (630)	1,222	
	W/C	12,656	
	WYK (640)	291	
Subtotal	SEO (650)	1,615	
Total		14,562	
Pacific cod ⁵	Inshore	W	7,987
	Offshore	W	887
	Inshore	C	11,741
	Offshore	C	1,302
	Inshore	E	512
	Offshore	E	57
	Total		22,481
Flatfish, Deep-water ⁶	W	45	
	C	555	
	WYK	332	
	SEO	288	
	Total		1,220
Rex sole	W	320	
	C	1,385	
	WYK	400	
	SEO	262	
	Total		2,367
Flathead sole	W	500	
	C	1,250	
	WYK	398	
	SEO	172	
	Total		2,320
Flatfish, Shallow-water ⁷	W	1,125	
	C	3,250	
	WYK	295	
	SEO	435	
	Total		5,105
Arrowtooth flounder	W	2,000	
	C	6,250	
	WYK	625	
	SEO	625	
	Total		9,500
Sablefish ^{8,9,10}	H/L	N/A (486)	
	TRW	122	
	H/L	N/A (1,180)	
	TRW	295	
	TRW	70	
	H/L	N/A (458)	
	SEO	N/A (872)	
Total		3,483	
Pacific ocean perch ¹¹	W	658	
	C	2,072	
	WYK	195	
	SEO	400	
	Total		3,325
Shorthead/rougheye ¹²	W	555	
	C	210	
	E	140	
Total		405	
Rockfish, northern ¹³	W	190	

TABLE 1 - INTERIM 2003 TAC AMOUNTS OF GROUND FISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)^{1,2}. THE FIRST SEASONAL ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS, THE FIRST SEASONAL ALLOWANCES OF PACIFIC COD. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR.—Continued

Species	Area	Interim TAC (mt)
Total Rockfish, other ^{14,15}	C	985
	E	N/A
		1,175
Total Rockfish, pelagic shelf ¹⁶	W	22
	C	138
	WYK	38
	SEO	50
		248
Total Rockfish, demersal shelf SEO ¹⁷	W	128
	C	870
	WYK	160
	SEO	215
	1,373	
Thornyhead rockfish	SEO	88
	W	90
	C	210
Total Atka mackerel	E	198
		498
Other species ¹⁸ GOA Total Interim TAC	GW	150
		2,776, 71,076

(Interim TAC amounts have been rounded to nearest mt)

¹ Reserves have been reapportioned back to each species' TAC and are reflected in the interim TAC amounts. (See § 679.20(a)(2))

² See § 679.2 for definitions of regulatory area and statistical area. See Figure 3b to part 679 for a description of regulatory districts.

³ The first seasonal allowance of pollock TAC in the W/C combined area is set at 25% of the annual TAC for the area which is 12,656 mt. Within the W/C area pollock is apportioned between Statistical Areas 610, 620, and 630 based on the winter distribution of pollock in the area which is 23% in Area 610 (2,916 mt), 68% in Area 620 (8,618 mt), and 9% in Area 630 (1,122 mt). In the Eastern Regulatory Area, pollock is not divided into less than annual allowances, and one-fourth of the TAC is available on an interim basis.

⁴ The pollock TAC in all regulatory areas will be allocated 100 percent to vessels catching groundfish for processing by the inshore component after subtraction of amounts that are determined by the Regional Administrator, NMFS, to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. At this time, these bycatch amounts are unknown and will be determined during the fishing year. (See § 679.20(a)(6)(ii))

⁵ The Pacific cod TAC in all regulatory areas is allocated 90 percent to vessels catching groundfish for processing by the inshore component and 10 percent to vessels catching groundfish for processing by the offshore component (See § 679.20(a)(6)(iii)). The first seasonal apportionment of Pacific cod in the GOA is 60% of the annual TAC.

⁶ "Deep-water flatfish" means Dover sole, Greenland turbot and deepsea sole.

⁷ "Shallow-water flatfish" means flatfish not including "deep-water flatfish", flathead sole, rex sole, and arrowtooth flounder.

⁸ Sablefish TAC amounts for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Central and Western Regulatory Areas, 80 percent of the TAC is allocated to hook-and-line gear and 20 percent to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear. Five percent is allocated to trawl gear and may only be used as bycatch to support directed fisheries for other target species. (See § 679.20(a)(4))

⁹ The sablefish hook-and-line (H/L) gear fishery is managed under the Individual Fishing Quota (IFQ) program and is subject to regulations contained in subpart D of 50 CFR part 679. Annual IFQ amounts are based on the final TAC amount specified for the sablefish H/L gear fishery as contained in the final specifications for groundfish. Under § 679.7(f)(3), retention of sablefish caught with H/L gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 2003, IFQ permits and IFQ cards will not be valid prior to the effective date of the 2003 final specifications. Thus, fishing for sablefish with H/L gear will not be authorized under these interim specifications. Nonetheless, interim amounts are shown in parentheses to reflect assignments of one-fourth of the proposed TAC amounts among gear categories and regulatory areas in accordance with § 679.20(c)(2)(i). See § 679.40 for guidance on the annual allocation of IFQ.

¹⁰ Sablefish caught in the GOA with gear other than hook-and-line or trawl gear must be treated as prohibited species and may not be retained.

¹¹ "Pacific ocean perch" means *Sebastes alutus*.

¹² "Shortraker/rougheye rockfish" means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

¹³ "Northern rockfish" means *Sebastes polyspinis*.

¹⁴ "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District means slope rockfish.

¹⁵ "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermillion), *S. babcocki* (redbanded), and *S. reedi* (yellowmouth).

¹⁶ "Pelagic shelf rockfish" includes *Sebastes ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail). "Offshore Pelagic shelf rockfish" includes *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

¹⁷ "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

¹⁸ "Other species" includes sculpins, sharks, skates, squid, and octopus. The TAC for "other species" equals 5 percent of the TAC amounts of target species.

Interim 2003 Halibut PSC Mortality Limits

Under § 679.21(d), annual Pacific halibut PSC mortality limits are established for trawl and hook-and-line gear and may be established for pot gear. The Council recommended and NMFS proposed to reestablish the 2002 halibut mortality limits for 2003 because no new information was available. Consistent with 2002, the Council recommended and NMFS proposed exemptions for pot gear, jig gear and the sablefish hook-and-line fishery from halibut PSC limits for 2003. The fishery specific interim PSC limits for halibut are in effect at 0001 hours, A.I.t., January 1, 2003, and remain in effect until superseded by the final 2003 harvest specifications. The interim halibut PSC limits are: (1) 500 mt to trawl gear, (2) 72.5 mt to hook-and-line gear for fisheries other than demersal shelf rockfish, and (3) 2.5 mt to hook-and-line gear for the demersal shelf rockfish fishery in the Southeast Outside District.

Regulations at § 679.21(d)(3)(iii) authorize apportionments of the trawl halibut PSC limit as bycatch allowances to a deep-water species complex, comprised of rex sole, sablefish,

rockfish, deep-water flatfish, and arrowtooth flounder, and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species". The interim 2003 apportionment for the shallow-water species complex is 409 mt and for the deep-water species complex is 91 mt.

Interim 2003 Non-exempt AFA Catcher Vessel Groundfish Harvest and PSC Limitations

One of the provisions implemented by AFA regulations was to place groundfish harvesting and processing limitations, also called sideboards, on AFA catcher/processors and catcher vessels in the GOA. These limitations are considered necessary for fishermen and processors who have received exclusive harvesting and processing privileges under the AFA to protect the interests of fishermen and processors who have not directly benefitted from the AFA. In the GOA, regulations that will be effective with the final rule to implement major provisions of the AFA prohibit unrestricted AFA catcher/processors from fishing for any species of fish (§ 679.7(k)(1)(ii)) and from processing any groundfish harvested in Statistical Area 630 of the GOA

(§ 679.7(k)(1)(iv)). The Council recommended and NMFS proposed that certain AFA catcher vessels in the GOA be exempt from groundfish harvest limitations. Under the final rule to implement major provisions of the AFA at § 679.63(b)(1)(i)(B), exempted AFA catcher vessels in the GOA will be those less than 125 ft (38.1 m) length overall (LOA) whose annual BSAI pollock landings totaled less than 5,100 mt and that made 40 or more GOA groundfish landings from 1995 through 1997.

For non-exempt AFA catcher vessels in the GOA, harvest limitations are based upon their traditional harvest levels of TAC in groundfish fisheries covered by the GOA FMP. Under the final rule to implement major provisions of the AFA at § 679.63(b)(1)(ii)(C), the amounts of groundfish harvest limits in the GOA will be based on the retained catch of non-exempt AFA catcher vessels of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period. These amounts are listed in Table 2. All harvests of sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or bycatch, will be deducted from the sideboard limits in Table 2.

TABLE 2 - INTERIM 2003 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUND FISH HARVEST LIMITATIONS (SIDEBOARDS). (VALUES ARE IN MT)

Species	Apportionments and Allocations by Area/processor/Gear	Ratio of 1995-1997 Non-Exempt AFA CV Catch to 1995-1997 TAC	2003 Interim TAC	2003 Non-Exempt AFA Catcher Vessel Sideboard
Pollock	Shumagin (610)	0.6112	2,916	1,782
	Chirikof (620)	0.1427	8,618	1,230
	Kodiak (630)	0.2438	1,122	274
	WYK (640)	0.3499	291	102
	SEO (650)	0.3499	1,615	565
Pacific cod	W inshore	0.1423	7,979	1,135
	offshore	0.1026	887	91
	C inshore	0.0722	11,741	848
	E inshore	0.0721	1,305	94
	offshore	0.0079	512	4
Flatfish deep-water	0.0078	57	0
	W.	0.000	45	0
	C	0.0670	555	37
Rex sole	E	0.0171	620	11
	W	0.0010	320	0
	C	0.0402	1,385	56
Flathead sole	E	0.0153	662	10
	W	0.0036	500	2
	C	0.0261	1,250	33
Flatfish shallow-water	E	0.0048	570	3
	W	0.0156	1,125	18
	C	0.0598	3,250	194
Arrowtooth flounder	E	0.0126	730	9
	W	0.0021	1,125	4
	C	0.0309	3,250	193
Sablefish	E	0.0020	730	2
	W trawl gear	0.0000	122	0
	C trawl gear	0.0720	295	21
	WYK trawl gear	0.0488	70	3

TABLE 2 - INTERIM 2003 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUND FISH HARVEST LIMITATIONS (SIDEBOARDS). (VALUES ARE IN MT)—Continued

Species	Apportionments and Allocations by Area/processor/Gear	Ratio of 1995–1997 Non-Exempt AFA CV Catch to 1995–1997 TAC	2003 Interim TAC	2003 Non-Exempt AFA Catcher Vessel Sideboard
Pacific Ocean perch	W	0.0623	658	41
	C	0.0866	2,072	179
	E	0.0466	595	28
Shortraker/Rougheye	W	0.0000	55	0
	C	0.0237	210	5
	E	0.0124	140	2
Other rockfish	W	0.0034	22	0
	C	0.2065	138	28
	E	0.0000	88	0
Northern rockfish	W	0.0003	190	0
	C	0.0336	985	33
	E	0.0001	128	0
Pelagic shelf rockfish	W	0.0000	870	0
	C	0.0067	375	3
	E	0.0308	90	3
Thornyhead rockfish	W	0.0308	210	6
	C	0.0308	198	6
	E	0.0020	88	0
Demersal shelf rockfish	SEO	0.0020	88	0
Atka mackerel	Gulfwide	0.0309	150	5
Other species	Gulfwide	0.0090	2,776	25

Under the final rule to implement major provisions of the AFA at § 679.63(b)(1)(iii), PSC bycatch limits for non-exempt AFA catcher vessels in the GOA are based upon the ratio of aggregate retained groundfish catch by non-exempt AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997. These amounts are shown in Table 3.

TABLE 3 - INTERIM 2003 NON-EXEMPT AFA CATCHER VESSEL PROHIBITED SPECIES CATCH (PSC) LIMITS FOR THE GOA. (VALUES ARE IN MT)

PSC Species	Fishery	Ratio of 1995–1997 Non-Exempt AFA CV Retained Catch to Total Retained Catch	Interim 2003 PSC Limit	Interim 2003 Non-Exempt AFA Catcher Vessel PSC Limit
Halibut	shallow water complex	0.340	409	139
mortality	deep water complex	0.070	91	6

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category apportioned to a fishery or, with respect to pollock and Pacific cod, to an inshore or offshore component

allocation, will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or

species group in the specified GOA regulatory area or district (§ 679.20(d)(1)(iii)).

The Regional Administrator has determined that the following interim TAC amounts (Table 4) are necessary as incidental catch to support other anticipated groundfish fisheries for the 2003 fishing year.

TABLE 4 - INTERIM INCIDENTAL CATCH NEEDED TO SUPPORT OTHER DIRECTED FISHERIES IN THE GOA IN 2003. (AMOUNTS ARE IN MT)

Species	Regulatory Area	Gear/Component	Amount
Atka Mackerel	entire GOA	all	150
Thornyhead Rockfish	entire GOA	all	498
Shortraker Rougheye Rockfish	entire GOA	all	405
Other Rockfish	entire GOA	all	248
Sablefish	entire GOA	trawl	487
Pollock	entire GOA	all/offshore	0

In accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the species or species groups in Table 4 as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is immediately prohibiting directed fishing for those species, areas, gear types, and components listed in Table 4. These closures will remain in effect until superseded by the final 2003 harvest specifications.

The final rule to implement major provisions of the AFA at § 679.63(b)(iv) will provide for management of AFA catcher vessel groundfish harvest limits and PSC bycatch limits using directed fishing closures and PSC closures according to procedures set out at § 679.20(d)(1)(iv) and § 679.21(d)(8). The Regional Administrator has determined that in addition to the closures listed in this document, many of the non-exempt AFA catcher vessel sideboard amounts listed in Table 2 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2003 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels in the GOA for the species and specified areas in Table 5. These closures will remain in effect until superseded by the final 2003 harvest specifications.

TABLE 5 - INTERIM 2003 NON-EXEMPT AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES IN THE GOA

Species	Regulatory Area/District	Gear
Pacific cod	E GOA	all
Deep-water flatfish	W and E GOA	all
Rex sole	W and E GOA	all
Flathead sole	E GOA	all
Shallow-water flatfish	E GOA	all
Arrowtooth flounder	E GOA	all
Pacific ocean perch	W GOA	all
Northern rockfish ..	W GOA	all
Pelagic shelf rockfish	entire GOA	all
Demersal shelf rockfish	SEO District	all
Other species	entire GOA	all

Classification

This action is necessary to establish interim harvest limits for the GOA groundfish fisheries for the 2003 fishing year. The groundfish fisheries in the GOA are governed by Federal regulations at 50 CFR part 679 that require NMFS, after consultation with the Council, to publish and solicit public comments on proposed annual TACs and PSC allowances.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds that the need to establish interim TACs and related management measures for groundfish fisheries in the GOA, effective January 1, 2003, makes it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this action. Because this action is a final action by NMFS, analyses and consultations required under the Magnuson-Stevens Act, the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) must be completed and considered by the agency prior to promulgation of the interim harvest specifications. However, the information on which the EA and the section 7 consultations are based was not available until early December 2002. The Council's GOA and BSAI groundfish Plan Teams met in mid-November 2002 to develop stock assessment reports and to provide recommendations on acceptable biological catch (ABC) levels for the upcoming fishing year. The stock assessment reports and ABC recommendations developed by the Plan Teams in mid-November incorporate scientific and fishery data from the current science, as required by national standard 2 of the Magnuson-Stevens Act. The Plan Teams prepared the final reports during the last two weeks of November. The EA and section 7 consultations were then based on these final reports.

Regulations at 50 CFR 679.20(c)(2) require NMFS to specify interim harvest specifications to be effective January 1 and remain in effect until superseded by the final specifications. Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open, resulting in unnecessary closures and disruption within the fishing industry. Because NMFS cannot publish interim specifications until all analyses and consultations are

complete, and those analyses and consultations were not completed until early December 2002, there is not sufficient time to provide the public with an opportunity to comment on the interim specifications before they must be in place on January 1. Additionally, the proposed 2003 GOA groundfish harvest specifications, on which the interim specifications are based, provide the opportunity for public comment. Given these reasons, good cause exists under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this action.

Likewise, the Assistant Administrator for Fisheries, NOAA, finds that the need to establish interim TACs and other management measures in the GOA effective on January 1, 2003, provides good cause to waive the 30-day delay in the effective date of the interim specifications. In order for the GOA groundfish fishing season to begin on January 1, 50 CFR 679.20(c)(2) requires NMFS to establish interim harvest specifications to be effective on January 1 and to remain in effect until superseded by the filing of final harvest specifications with the Office of the **Federal Register**. NMFS interprets regulations at § 679.20(c)(2) as requiring the filing of interim specifications with the Office of the **Federal Register** before any harvest of groundfish is authorized. Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, resulting in unnecessary closures and disruption within the fishing industry. Based on these reasons, the need to publish these measures in a timely manner constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

Because these interim specifications are not required to be issued with prior notice and opportunity for public comment, the analytical requirements of the Regulatory Flexibility Act do not apply. Consequently, no regulatory flexibility analysis has been prepared for this action.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

Dated: December 16, 2002.

Rebecca Lent,

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

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