

fast-paced fisheries. Others fisheries, such as those for flatfish and rockfish, are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch full TAC allocations in all these fisheries. Any delay in allocating full TAC in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. For the foregoing reasons and pursuant to 50 CFR 679.20(b)(3) and 5 U.S.C. 553(b)(3B), NMFS makes an apportionment of a portion of the non-specified reserve to fisheries that it has determined appropriate (see Table 2) to allow for the orderly conduct and efficient operation of these fisheries and waives the requirement for prior notice for good cause because it is impracticable and contrary to the public interest.

Under the provisions of 5 U.S.C. 553(d)(1), an agency can waive a delay in the effective date of a substantive rule if it relieves a restriction. Unless this delay is waived, fisheries that are currently closed (See **SUPPLEMENTARY INFORMATION**) because the interim TACs were reached would remain closed until the final specifications became effective. Those closed fisheries are restrictions on the industry that can be relieved by making the final specifications effective on publication. Another relief from a restriction would be the elimination of discards of sablefish caught incidentally to Pacific halibut. If the final specifications are not effective by February 29, 2004, which is the start of the Pacific halibut season as specified by the IPHC, the longline sablefish fishery will not begin concurrently with the Pacific halibut season. This would cause disruption to the fishing industry, as both longline sablefish and Pacific halibut are managed under the same IFQ program, and as stated above, require sablefish that is caught with Pacific halibut to be discarded.

Under the provisions of 5 U.S.C. 553(d)(3), an agency can waive a delay in the effective date for good cause found and published with the rule. For all other fisheries not currently closed because the interim TACs were reached, the possibility exists for their closures prior to the expiration of a 30-day delayed effectiveness period because their interim TACs or PSC allowances could be reached. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing-up

fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace. The interim specifications currently in effect are not sufficient to allow directed fisheries to continue predictably, resulting in unnecessary closures and disruption within the fishing industry and the potential for regulatory discards. The final specifications establish increased TACs and PSC allowances to provide continued directed fishing for species that would otherwise be prohibited under the interim specifications. These final specifications were developed as quickly as possible, given plan team review in November 2003, Council consideration and recommendations in December 2003, and NOAA Fisheries review and development in January–February 2004.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105–277, Title II of Division C; Pub L. 106–31, Sec. 3027; and Pub L. 106–554, Sec. 209.

Dated: February 23, 2004.

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031125292–4061–02; I.D. 111703E]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2004 Harvest Specifications for Groundfish

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

ACTION: Final 2004 harvest specifications for groundfish and associated management measures; closures.

SUMMARY: NMFS announces final 2004 harvest specifications for groundfish, reserves and apportionments thereof, halibut prohibited species catch (PSC) limits, and associated management measures for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits and associated management measures for groundfish during the 2004 fishing year and to accomplish the goals and

objectives of the Fishery Management Plan for Groundfish Fishery of the GOA (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The final 2004 harvest specifications and associated management measures are effective at 1200 hrs, Alaska local time (A.l.t.), February 27, 2004 through 2400 hrs, A.l.t., December 31, 2004.

ADDRESSES: Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action and the Final 2003 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2003, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510 (907–271–2809) or from its homepage at <http://www.fakr.noaa.gov/npfmc>.

FOR FURTHER INFORMATION CONTACT: Tom Pearson, 907–481–1780 or e-mail at tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and for the “other species” category, the sum of which must be within the optimum yield (OY) range of 116,000 to 800,000 metric tons (mt) (see § 679.20(a)(1)(ii)). Regulations at § 679.20(c)(3)(i) further require NMFS to publish annually the final annual TACs, halibut PSC amounts, and seasonal allowances of pollock and inshore/offshore Pacific cod. The final specifications set forth in Tables 1 to 11 of this document satisfy these requirements. For 2004, the sum of the TAC amounts is 264,433 mt.

The proposed GOA groundfish specifications and Pacific halibut PSC allowances for the groundfish fishery of the GOA were published in the **Federal Register** on December 5, 2003 (68 FR 68002). Comments were invited and accepted through January 5, 2004. NMFS received one letter of comment

on the proposed specifications. This letter of comment is summarized and responded to in the "Response to Comments" section of this action. NMFS consulted with the Council during the December 2003 Council meeting in Anchorage, AK. After considering public comments received, as well as biological and economic data that were available at the Council's December 2003 meeting, NMFS is implementing the final 2004 groundfish specifications as recommended by the Council.

Regulations at § 679.20(c)(2)(i) establish interim amounts of each proposed TAC and allocations thereof, and proposed PSC allowances established under § 679.21 that become available at 0001 hours, A.L.T., January 1, and remain available until superceded by the final specifications. NMFS published the interim 2004 groundfish harvest specifications in the **Federal Register** on December 5, 2003 (68 FR 67964). The final 2004 groundfish harvest specifications, apportionments, and halibut PSC allowances contained in this action supercede the interim 2004 groundfish harvest specifications.

Acceptable Biological Catch (ABC) and TAC Specifications

The final ABC levels are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised methods used to calculate stock biomass. The FMP specifies the formulas, or tiers, to be used in computing ABCs and overfishing levels (OFLs). The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to fisheries scientists. This information is categorized into a successive series of six tiers with tier one representing the highest level of information and tier six the lowest level of information.

The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) reviewed the current biological information about the condition of GOA groundfish stocks in December 2003. This information was compiled by the Council's GOA Plan Team and was presented in the final 2003 SAFE report for the GOA groundfish fisheries, dated November 2003.

The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the GOA ecosystem and the economic condition of groundfish fisheries off Alaska. From these data and

analyses, the Plan Team estimates an ABC for each species or species category.

The SSC, AP, and Council adopted the Plan Team's ABC recommendations for all groundfish species categories except for shortraker/rougheye rockfish. For shortraker/rougheye rockfish, the SSC recommended decreasing the ABC from the Plan Team's recommendation. The SSC based its recommended ABC on the recent average catch of shortraker rockfish in this species group. Shortraker rockfish has been harvested in disproportionately high amounts relative to the biomass estimates of shortraker/rougheye rockfish. The SSC believes that the ABC for shortraker/rougheye rockfish should be decreased in order to prevent the overharvest of shortraker rockfish, which is preferentially targeted to rougheye rockfish in the groundfish fisheries. The AP endorsed the ABC for shortraker/rougheye rockfish recommended by the SSC, and the Council adopted the ABC. For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted them. The final ABCs, as adopted by the Council are listed in Table 1.

As in 2003, the SSC's, AP's and Council's recommendation for the method of apportioning the sablefish ABC among management areas includes commercial fishery data as well as survey data. NMFS stock assessment scientists believe that the use of unbiased commercial fishery data reflecting catch-per-unit effort provides a desirable input for stock distribution assessments. The use of commercial fishery data will be evaluated annually to ensure that unbiased information is included in stock distribution models. The Council's recommendation for sablefish area apportionments also takes into account the prohibition on the use of trawl gear in the Southeast Outside (SEO) District of the Eastern GOA and makes available 5 percent of the combined Eastern GOA ABCs to trawl gear for use as incidental catch in other directed groundfish fisheries in the West Yakutat District (see § 679.20(a)(4)(i)).

The AP and Council recommended that the ABC for Pacific cod in the GOA be apportioned among regulatory areas based on the three most recent NMFS summer trawl surveys. As in previous years, the Plan Team, SSC, and Council recommended that total removals of Pacific cod from the GOA not exceed ABC recommendations. Accordingly, the AP and Council recommended that the TACs be adjusted downward from the ABCs by amounts equal to the 2004 guideline harvest levels (GHL)

established for Pacific cod by the State of Alaska (State) for fisheries that occur in State waters in the GOA. The effect of the State's GHL on the Pacific cod TAC is discussed in greater detail below.

In October 2003, the Council took final action on Amendment 63 to the FMP. The Council has submitted Amendment 63 to the Secretary of Commerce for approval. If approved, Amendment 63 would move skates from the "other species" group to the "target species" group in the FMP. By listing skates as a target species, the fishery for skates in the GOA can be managed to reduce the potential for overfishing skates. NMFS published a Notice of Availability for Amendment 63 (68 FR 67390, December 2, 2003) inviting public comment through February 2, 2004. In December 2003, the Council made specific recommendations for the management of skates in the 2004 fishing year in the GOA, pending approval of Amendment 63 by the Secretary. These recommendations included OFL, ABC, and TAC levels for skates by target and management area in the GOA. NMFS will publish in the **Federal Register** proposed and final rules, pending approval of Amendment 63, that would amend these harvest specifications and provide management measures for the skate fishery in 2004.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 116,000 to 800,000 mt. The Council adopted the AP's TAC recommendations. None of the Council's recommended TACs for 2004 exceeds the final ABC for any species category. NMFS finds that the recommended ABCs and TACs are consistent with the biological condition of the groundfish stocks as described in the 2003 SAFE report and approved by the Council.

Table 1 lists the final 2004 OFL, ABC, TAC, and area apportionments of groundfish in the GOA. The sum of 2004 ABCs for all assessed groundfish is 498,948 mt, which is higher than the 2003 ABC total of 416,600 mt. The apportionment of TAC amounts among gear types, processing sectors, and seasons is discussed below.

Specification and Apportionment of TAC Amounts

The Council adopted the AP's proposals for the 2004 GOA TAC amounts. The Council recommended TACs that are equal to ABCs for pollock, deep-water flatfish, rex sole, sablefish, shortraker/rougheye rockfish, northern

rockfish, Pacific ocean perch, pelagic shelf rockfish, thornyhead rockfish, demersal shelf rockfish, and Atka mackerel. The Council recommended TACs that are less than the ABC for Pacific cod, flathead sole, shallow-water flatfish, arrowtooth flounder, and other rockfish.

The apportionment of annual pollock TAC reflects the seasonal biomass distribution and is discussed in greater detail below. The annual TAC in the Western and Central Regulatory Areas of the GOA is apportioned among Statistical Areas 610, 620, and 630 as well as equally among each of the following four seasons: the A season (January 20 through February 25), the B season (March 10 through May 31), the C season (August 25 through September 15), and the D season (October 1 through November 1) (see §§ 679.23(d)(2)(i) through (iv) and 679.20(a)(5)(iii)(B)).

The 2004 Pacific cod TAC is affected by the State's developing fishery for Pacific cod in State waters in the Central and Western Regulatory Areas in the GOA, as well as Prince William Sound (PWS). The SSC, AP, and Council recommended that the sum of all State and Federal water Pacific cod removals should not exceed the ABC. Accordingly, the Council recommended that Pacific cod TAC be reduced from ABC levels to account for State GHs in each regulatory area of the GOA. Respective TACs, therefore, are reduced from ABCs as follows: (1) Eastern GOA 440 mt, (2) Central Regulatory Area 8,684 mt, and (3) Western Regulatory Area 5,653 mt. These amounts reflect the sum of the State's 2004 GHs in these areas which are 10 percent, 24.25 percent, and 25 percent of the Eastern, Central, and Western Regulatory Area ABCs, respectively. Compared to 2003, the State's GH for Pacific cod is decreased in 2004 to 10 percent from 25 percent of the Eastern Regulatory Area ABC, increased in 2004 to 24.25 percent from 21.75 percent of the Central Regulatory Area ABC and, unchanged at 25 percent of the Western Regulatory Area ABC.

NMFS is also establishing seasonal apportionments of the annual Pacific cod TAC in the Western and Central

Regulatory Areas. Sixty percent of the annual TAC is apportioned to the A season for hook-and-line, pot and jig gear from January 1 through June 10, and for trawl gear from January 20 through June 10. Forty percent of the annual TAC is apportioned to the B season for hook-and-line, pot and jig gear from September 1 through December 31, and for trawl gear from September 1 through November 1 (see § 679.23(d)(3) and § 679.20(a)(11)). These seasonal apportionments of the annual Pacific cod TAC are discussed in greater detail below.

The FMP specifies that the amount for the "other species" category is calculated as 5 percent of the combined TAC amounts for target species. The 2004 GOA-wide "other species" TAC is 12,592 mt, which is 5 percent of the sum of the combined TAC amounts (251,841 mt) for the assessed target species. The sum of the TACs for all GOA groundfish is 264,433 mt, which is within the OY range specified by the FMP. The sum of the 2004 TACs is higher than the 2003 TAC sum of 236,400 mt.

NMFS finds that the Council's recommendations for OFL, ABC, and TAC amounts are consistent with the biological condition of groundfish stocks as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 116,000 to 800,000 mt. NMFS has reviewed the Council's recommended TAC specifications and apportionments and hereby approves these specifications under § 679.20(c)(3)(ii). The final 2004 ABCs, TACs, and OFLs are shown in Table 1.

Changes From the Proposed 2004 Harvest Specifications in the GOA

In October 2003 the Council's recommendations for the proposed 2004 harvest specifications (68 FR 68002, December 5, 2003) were based largely upon information contained in the final 2002 SAFE report for the GOA groundfish fisheries, dated November 2002. The Council recommended that OFLs and ABCs for stocks in tiers 3 and above, except for pollock, be based on biomass projections as set forth in the

2002 SAFE report and estimates of groundfish harvests through the 2003 fishing year. For stocks in tiers 4 and below, for which projections could not be made, the Council recommended that OFL and ABC levels be unchanged from 2003 until the final 2003 SAFE report could be completed. The final 2003 SAFE report (dated November 2003), which was not available when the Council made its recommendations in October 2003, contains the best and most recent scientific information on the condition of the groundfish stocks and was considered in December by the Council in making its recommendations for the final 2004 harvest specifications. Based on the final 2003 SAFE report, the sum of the 2004 recommended final TACs for the GOA (264,433 mt) is 36,636 mt more than the proposed sum of TACs (227,797 mt), representing a 16 percent increase overall. The largest increases occurred for pollock, from 54,350 mt to 71,260 mt (31 percent increase); sablefish, from 11,400 mt to 16,550 (45 percent increase); and Pacific cod, from 36,809 mt to 48,033 mt (30 percent increase). The largest decreases occurred for other slope rockfish, from 990 mt to 670 mt (32 percent decrease); pelagic shelf rockfish, from 5,490 mt to 4,470 mt (19 percent decrease); and shortraker/rougheye, from 1,620 mt to 1,318 mt (19 percent decrease). Other increases or decreases are within these ranges. The 2004 final TAC recommendations for the GOA are within the OY range established for the GOA and do not exceed ABCs for any single species/complexes. Compared to the proposed 2004 harvest specifications, the Council's final 2004 TAC recommendations increase fishing opportunities for species for which the Council had sufficient information to raise TAC levels, most notably, pollock, Pacific cod and sablefish, while providing greater protection for several species, most notably rockfish, by lowering TAC levels. The changes recommended by the Council were based on the best scientific information available, consistent with National Standard 2 of the Magnuson-Stevens Act, and within a reasonable range of variation from the proposed TAC recommendations.

TABLE 1.—FINAL 2004 ABCS, TACS, AND OVERFISHING LEVELS OF GROUND FISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are in metric tons]

Species	Area ¹	ABC	TAC	Overfishing
Pollock ²				
Shumagin	(610)	22,930	22,930	.....

TABLE 1.—FINAL 2004 ABCs, TACs, AND OVERFISHING LEVELS OF GROUND FISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

Species	Area ¹	ABC	TAC	Overfishing
Chirikof	(620)	26,490	26,490	.....
Kodiak	(630)	14,040	14,040	.....
WYK	(640)	1,280	1,280	.....
Subtotal	W/C/ WYK	64,740	64,740	91,060
SEO	(650)	6,520	6,520	8,690
Total		71,260	71,260	99,750
Pacific cod ³	W	22,610	16,957	.....
	C	35,800	27,116	.....
	E	4,400	3,960	.....
Total		62,810	48,033	102,000
Flatfish ⁴ (deep-water)	W	310	310	.....
	C	2,970	2,970	.....
	WYK	1,880	1,880	.....
	SEO	910	910	.....
Total		6,070	6,070	8,010
Rex sole	W	1,680	1,680	.....
	C	7,340	7,340	.....
	WYK	1,340	1,340	.....
	SEO	2,290	2,290	.....
Total		12,650	12,650	16,480
Flathead sole	W	13,410	2,000	.....
	C	34,430	5,000	.....
	WYK	3,430	3,430	.....
	SEO	450	450	.....
Total		51,270	10,880	64,750
Flatfish ⁵ (shallow-water)	W	21,580	4,500	.....
	C	27,250	13,000	.....
	WYK	2,030	2,030	.....
	SEO	1,210	1,210	.....
Total		52,070	20,740	63,840
Arrowtooth flounder	W	23,590	8,000	.....
	C	151,840	25,000	.....
	WYK	10,590	2,500	.....
	SEO	8,910	2,500	.....
Total		194,930	38,000	228,130
Sablefish ⁶	W	2,930	2,930	.....
	C	7,300	7,300	.....
	WYK	2,550	2,550	.....
	SEO	3,770	3,770	.....
Subtotal	E	6,320	6,320	.....
Total		16,550	16,550	22,160
Pacific ocean perch ⁷	W	2,520	2,520	2,990
	C	8,390	8,390	9,960
	WYK	830	830	.....
	SEO	1,600	1,600	.....
Subtotal	E	.....	.....	2,890
Total		13,340	13,340	15,840
Shortraker/rougheye ⁸	W	254	254	.....
	C	656	656	.....
	E	408	408	.....
Total		1,318	1,318	2,510
Other rockfish ^{9 10}	W	40	40	.....
	C	300	300	.....
	WYK	130	130	.....
	SEO	3,430	200	.....
Total		3,900	670	5,150

TABLE 1.—FINAL 2004 ABCS, TACS, AND OVERFISHING LEVELS OF GROUND FISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

Species	Area ¹	ABC	TAC	Overfishing
Northern Rockfish ^{10 12 15}	W	770	770	.....
	C	4,100	4,100	.....
	E	N/A	N/A	.....
Total		4,870	4,870	5,790
Pelagic shelf rockfish ¹³	W	370	370	.....
	C	3,010	3,010	.....
	WYK	210	210	.....
	SEO	880	880	.....
Total		4,470	4,470	5,570
Thornyhead rockfish	W	410	410	.....
	C	1,010	1,010	.....
	E	520	520	.....
Total		1,940	1,940	2,590
Demersal shelf rockfish ¹¹	SEO	450	450	690
Atka mackerel	GW	600	600	6,200
Other species ¹⁴	GW	N/A	12,592	N/A
Total ¹⁶		498,948	264,433	649,460

¹Regulatory areas and districts are defined at § 679.2.

²Pollock is apportioned in the Western and Central Regulatory Areas among three statistical areas. During the A season, the apportionment is based upon an adjusted estimate of the relative distribution of pollock biomass at 23.62 percent, 56.9 percent, and 19.48 percent in Statistical Areas 610, 620, and 630, respectively. During the B season, the apportionment is based on the relative distribution of pollock biomass at 23.62 percent, 64.47 percent, and 8.91 percent in Statistical Areas 610, 620, and 630, respectively. During the C and D seasons, pollock is apportioned based on the relative distribution of pollock biomass at 48.64 percent, 21.3 percent, and 30.6 percent in Statistical Areas 610, 620, and 630, respectively. These seasonal apportionments are shown in Table 3. In the West Yakutat and Southeast Outside Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

³The annual Pacific cod TAC is apportioned 60 percent to the A season and 40 percent to the B season in the Western and Central Regulatory Areas of the GOA. Pacific cod is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component. Seasonal apportionments and component allocations of TAC are shown in Table 4.

⁴“Deep water flatfish” means Dover sole, Greenland turbot, and deepsea sole.

⁵“Shallow water flatfish” means flatfish not including “deep water flatfish”, flathead sole, rex sole, or arrowtooth flounder.

⁶Sablefish is allocated to trawl and hook-and-line gears (Table 2).

⁷“Pacific ocean perch” means *Sebastes alutus*.

⁸“Shortraker/rougheye rockfish” means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

⁹“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.

¹⁰“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. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergry), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermillion), and *S. reedi* (yellowmouth). In the Eastern GOA only, “slope rockfish” also includes northern rockfish, *S. polyspinous*.

¹¹“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).

¹²“Northern rockfish” means *Sebastes polyspinis*.

¹³“Pelagic shelf rockfish” means *Sebastes ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

¹⁴“Other species” means sculpins, sharks, skates, squid, and octopus. The TAC for “other species” equals 5 percent of the TACs of assessed target species.

¹⁵N/A means not applicable.

¹⁶The total ABC and OFL is the sum of the ABCs and OFLs for assessed target species.

Apportionment of Reserves

Regulations at § 679.20(b)(2) implementing the FMP require 20 percent of each TAC for pollock, Pacific cod, flatfish, and the “other species” category be set aside in reserves for possible apportionment at a later date. In 2003, NMFS reapportioned all of the reserves in the final harvest specifications. NMFS proposed reapportionment of all reserves for 2004 in the proposed GOA groundfish specifications published in the **Federal Register** on December 5, 2003 (68 FR 68002). NMFS received no public

comments on the proposed reapportionments. For the final 2004 GOA harvest specifications, NMFS has reapportioned all of the reserve for pollock, Pacific cod, flatfish, and “other species.” Specifications of TAC shown in Table 1 reflect apportionment of reserve amounts for these species and species groups.

Allocations of the Sablefish TAC to Vessels Using Hook-and-Line and Trawl Gear

Under § 679.20(a)(4)(i) and (ii), sablefish TACs for each of the regulatory areas and districts are allocated to hook-

and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to hook-and-line gear and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to hook-and-line gear and 5 percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used to support incidental catch of sablefish in directed fisheries for other target species (see § 679.20(a)(1)). In recognition of the trawl ban in the SEO District of the Eastern Regulatory Area, the Council recommended, and NMFS

concurr, that 5 percent of the combined Eastern GOA sablefish be allocated to trawl gear in the WYK District and the remainder to vessels using hook-and-line gear. This recommendation results in an allocation of 316 mt to trawl gear

and 2,234 mt to hook-and-line gear in the WYK District and 3,770 mt to hook-and-line gear in the SEO District. In the SEO District, 100 percent of the sablefish TAC is allocated to vessels using hook-and-line gear, resulting in

the 3,770 mt allocation. Table 2 shows the allocations of the 2004 sablefish TACs between hook-and-line and trawl gear.

TABLE 2.—FINAL 2004 SABLEFISH TAC AMOUNTS IN THE GULF OF ALASKA AND ALLOCATIONS TO HOOK-AND-LINE AND TRAWL GEAR

[Values are in metric tons]

Area/District	TAC	Hook-and-line allocation	Trawl allocation
Western	2,930	2,344	586
Central	7,300	5,840	1,460
West Yakutat	2,550	2,234	316
Southeast Outside	3,770	3,770	0
Total	16,550	14,188	2,362

Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Under regulations at § 679.20(a)(5)(iii)(B) the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is divided into four equal seasonal allowances of 25 percent. As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 through February 25, March 10 through May 31, August 25 through September 15, and October 1 through November 1, respectively.

Pollock TACs in the Western and Central Regulatory Areas of the GOA in the A and B seasons are apportioned among Statistical Areas 610, 620, and 630 in proportion to the distribution of pollock biomass as determined by a composite of NMFS winter surveys, and in the C and D seasons in proportion to the distribution of pollock biomass as determined by the four most recent NMFS summer surveys. The Plan Team

recommended an adjustment to the distribution of pollock in the Central Regulatory Area during the A season. The Plan Team recommended that during the A season the winter and summer distribution of pollock be averaged in the Central Regulatory Area to reflect the distribution of pollock and the performance of the fishery in the area during the A season. The SSC, AP, and Council concurred with the Plan Team’s recommendation. Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Administrator, Alaska Region, NMFS, (Regional Administrator), provided that the sum of the revised seasonal allowances does not exceed 30 percent of the annual TAC apportionment for the Central and Western Regulatory Areas (see § 679.20(a)(5)(iii)(B)). For 2004, 30 percent of the annual TAC for the Central and Western Regulatory Areas is 19,038 mt. The WYK and SEO District pollock TACs of 1,280 mt and 6,520 mt, respectively, are not allocated by season.

Regulations at § 679.20(a)(6)(i) require that 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances thereof be allocated to vessels catching pollock for processing by the inshore component after subtraction of amounts that are projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. The amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount actually taken as bycatch during directed fishing for groundfish species other than pollock, up to the maximum retainable amounts allowed under regulations at § 679.20(e) and (f). At this time, these bycatch amounts are unknown and will be determined during the fishing year.

The seasonal biomass distribution of pollock in the Western and Central Regulatory Areas, area apportionments, and seasonal apportionments for the A, B, C, and D seasons are summarized in Table 3, except that amounts of pollock for processing by the inshore and offshore components are not shown.

TABLE 3.—DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA, SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND SEASONAL ALLOWANCES OF ANNUAL TAC IN 2004

[Values are in metric tons]

Season	Shumagin (Area 610) (biomass distribution)	Chirikof (Area 620) (biomass distribution)	Kodiak (Area 630) (biomass distribution)	Total (biomass distribution)
A	3,747 (23.63%)	9,027 (56.9%)	3,091 (19.48%)	15,865 (100%)
B	3,748 (23.62%)	10,704 (67.47%)	1,413 (8.91%)	15,865 (100%)
C	7,717 (48.64%)	3,380 (21.3%)	4,768 (30.06%)	15,865 (100%)
D	7,718 (48.64%)	3,379 (21.3%)	4,768 (30.06%)	15,865 (100%)
Annual Total	22,930	26,490	14,040	63,460

Allocations for Processing by Inshore and Offshore Components and Apportionments of Pacific Cod TAC Among Seasons

Regulations at § 679.20(a)(6)(ii) require that the TAC apportionment of Pacific cod in all regulatory areas be allocated to vessels catching Pacific cod for processing by the inshore and offshore components. Ninety percent of the Pacific cod TAC in each regulatory area is allocated to vessels catching Pacific cod for processing by the inshore component. The remaining 10 percent of the TAC is allocated to vessels catching Pacific cod for processing by the offshore component. These seasonal apportionments and allocations of the Pacific cod TAC for 2004 are shown in Table 4.

Pacific cod fishing is divided into two seasons in the Western and Central

Regulatory Areas of the GOA. For hook-and-line, pot and jig gear the A season begins on January 1 and ends on June 10, and the B season begins on September 1 and ends on December 31. For trawl gear, the A season begins on January 20 and ends on June 10, and the B season begins on September 1 and ends on November 1 (see § 679.23(d)(3)). After subtraction of estimated incidental catch needs by the inshore and offshore components in other directed fisheries through the A season ending June 10, 60 percent of the annual TAC will be available as a directed fishing allowance during the A season for the inshore and offshore component. The remaining 40 percent of the annual TAC will be available for harvest during the B season and will be apportioned between the inshore and offshore processing components, as provided in § 679.20(a)(6)(ii). Any amount of the A

season apportionment of Pacific cod TAC under or over harvested will be added to or subtracted from the B season apportionment of Pacific cod TAC (see § 679.20(a)(11)(ii)). Between the A and the B seasons, directed fishing for Pacific cod is closed and fishermen participating in other directed fisheries may retain Pacific cod up to the maximum retainable amounts allowed under regulations at § 679.20(e) and (f). Pacific cod harvested as incidental catch between the closure of the A season on June 10 and opening of the B season on September 1 will be deducted from the B season TAC apportionment (see § 679.20(a)(11)(iii)). For purposes of clarification, NMFS points out that the dates for the A season and the B season Pacific cod fishery differ from those of the A, B, C, and D seasons for the pollock fisheries.

TABLE 4.—FINAL 2004 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GULF OF ALASKA; APPORTIONMENTS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS
[Values are in metric tons]

Regulatory area	TAC	Component apportionment	
		Inshore (90%)	Offshore (10%)
Western	16,957	15,261	1,696
A Season (60%)	10,174	9,157	1,017
B Season (40%)	6,783	6,104	679
Central	27,116	24,404	2,712
A Season (60%)	16,270	14,643	1,627
B Season (40%)	10,846	9,761	1,085
Eastern	3,960	3,564	396
Total	48,033	43,229	4,804

“Other Species” TAC

The FMP specifies that amounts for the “other species” category are calculated as 5 percent of the combined TAC amounts for target species. The GOA-wide “other species” TAC is calculated as 12,592 mt, which is 5 percent of the sum of combined TAC amounts for the target species (251,841 mt).

Halibut PSC Limits

In accordance with regulations at § 679.21(d), annual halibut PSC limits are established and apportioned to trawl and hook-and-line gear and may be established for pot gear. In December 2003, the Council recommended that NMFS maintain the 2003 halibut PSC limits of 2,000 mt for the trawl fisheries and 300 mt for the hook-and-line fisheries, with 10 mt of the hook-and-line limit allocated to the demersal shelf rockfish (DSR) fishery in the SEO District and the remainder to the

remaining hook-and-line fisheries. The DSR fishery is defined at § 679.21(d)(4)(iii)(A) and historically has been apportioned this amount in recognition of its small-scale harvests. Although observer data are not available to verify actual halibut bycatch amounts, given most vessels are less than 60 ft. (18.3 m) length overall (LOA) and thus are exempt from observer coverage, halibut bycatch in the DSR fishery is assumed to be low because of the short soak times for the gear and the short duration of the DSR fishery. Also, the DSR fishery occurs in the winter when there is less of an overlap in the distribution of DSR and halibut.

Regulations at § 679.21(d)(4) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. The Council recommended that pot gear, jig gear, and the hook-and-line sablefish fishery be exempted from the non-trawl PSC halibut limit for 2004. The Council recommended these exemptions

because: (1) The pot gear fisheries experience low halibut bycatch mortality (4 mt in 2001, 2 mt in 2002, and 14 mt in 2003); (2) the individual fishing quota (IFQ) program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ; and (3) halibut mortality for the jig gear fleet cannot be estimated because these vessels do not carry observers. Halibut mortality is assumed to be very low given the small amount of groundfish harvested by jig gear (336 mt in 2001, 277 mt in 2002, and 294 mt in 2003) and the survival rates of any halibut that are incidentally caught by jig gear and released are assumed to be high.

Under § 679.21(d)(5), NMFS seasonally apportion the halibut PSC limits based on recommendations from the Council. The FMP and regulations require that the Council and NMFS consider the following information in

seasonally apportioning halibut PSC limits: (1) Seasonal distribution of halibut, (2) seasonal distribution of target groundfish species relative to halibut distribution, (3) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catch of target groundfish species, (4) expected bycatch rates on a seasonal basis, (5) expected changes in directed groundfish fishing seasons, (6) expected actual start of fishing effort, and (7) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The final 2003 groundfish harvest specifications (68 FR 9924, March 3, 2003) summarize Council findings with respect to each of the FMP considerations set forth here. At this time, the Council's findings are unchanged from those set forth in 2003. The opening date for the third seasonal allowance of the trawl halibut PSC limit and the start date for directed fishing for rockfish by trawl gear is July 4, 2004. This date will facilitate inseason management of the rockfish fisheries and reduce the effect of the rockfish fisheries on the annual NMFS sablefish survey which occurs later in July.

NMFS concurs with the Council's recommendations described here and listed in Table 5. Regulations at § 679.21(d)(5)(iii) and (iv) specify that any underages or overages in a seasonal apportionment of a PSC limit will be added to or subtracted from the next respective seasonal apportionment within the 2004 fishing year. The following types of information as presented in, or summarized from, the 2003 SAFE report, or as otherwise available from NMFS, Alaska Department of Fish and Game, the International Pacific Halibut Commission (IPHC) or public testimony were considered when establishing the halibut PSC limits.

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is data collected by observers during 2003. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through December 6, 2003, is 2,012 mt, 296 mt, and 14 mt, respectively, for a total halibut mortality of 2,322 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries during the 2003 fishing year. Trawling during the second season closed for the shallow-water complex on June 19 (68 FR 37094, June 23, 2003), during the fourth season for the shallow-water complex on September

12 (68 FR 54395, September, 17, 2003), during the second season for the deep-water fishery complex on May 16 (68 FR 27479, May 20, 2003), and during the fifth season for all trawling for the remainder of the year on October 15 (68 FR 59889, October 20, 2003). The use of hook-and-line gear for groundfish, other than DSR and sablefish, closed during the second season on August 1 (68 FR 46502, August 6, 2003) and during the third season for the remainder of the year on September 28 (68 FR 56788, October 2, 2003).

The amount of groundfish that trawl and hook-and-line gear might have harvested if halibut PSC limitations had not restricted the season in 2003 is unknown.

(B) Expected Changes in Groundfish Stocks

In December 2003, the Council adopted higher 2004 ABCs for pollock, Pacific cod, sablefish, deep water flatfish, rex sole, sablefish, and DSR than those established for 2003. The Council adopted lower 2004 ABCs for shallow water flatfish, flathead sole, other rockfish, northern rockfish, Pacific ocean perch, shortraker/rougheye rockfish, pelagic shelf rockfish, and thornyhead rockfish than those established for 2003. For the remaining targets the Council recommended that ABC levels remain unchanged from 2003. More information on these changes is included in the final SAFE report (November 2003) and in the Council and SSC December 2003 meeting minutes.

(C) Expected Changes in Groundfish Catch

The total of the 2004 TACs for the GOA is 264,433 mt, an increase of 12 percent from the 2003 TAC total of 236,440 mt. Those fisheries for which the 2004 TACs are lower than in 2003 are shallow water flatfish (decreased to 20,740 mt from 21,620 mt), flathead sole (decreased to 10,880 mt from 11,150 mt), other rockfish (decreased to 670 mt from 990 mt), Pacific ocean perch (decreased to 13,340 mt from 13,660 mt), shortraker /rougheye rockfish (decreased to 1,318 mt from 1,620 mt), northern rockfish (decreased to 4,870 mt from 5,530 mt), pelagic shelf rockfish (decreased to 4,470 mt from 5,490 mt), and thornyhead rockfish (decreased to 1,940 mt from 2,000 mt). Those species for which the 2004 TACs are higher than in 2003 are pollock (increased to 71,260 mt from 54,350 mt), Pacific cod (increased to 48,033 mt from 40,540 mt), sablefish (increased to 16,550 mt from 14,890 mt), deep water flatfish (increased to 6,070 mt from 4,880 mt),

rex sole (increased to 12,650 mt from 9,470 mt), DSR (increased to 450 mt from 390 mt), and "other species" (increased to 12,592 mt from 11,260 mt).

(D) Current Estimates of Halibut Biomass and Stock Condition

The most recent halibut stock assessment was conducted by the IPHC in December 2003. The halibut resource is considered to be healthy, with total catch near record levels. The current exploitable halibut biomass in Alaska for 2004 is estimated to be 215,912 mt, round weight. This amount is not comparable to the estimate of 263,086 mt in 2003 because the 2004 exploitable biomass estimate is computed with a new set of length-specific selectivities that are lower than the age-specific selectivities used in the 1999 to 2002 assessments.

The exploitable biomass of the Pacific halibut stock apparently peaked at 326,520 mt in 1988. According to the IPHC, the long-term average reproductive biomass for the Pacific halibut resource was estimated at 118,000 mt. Long-term average yield was estimated at 26,980 mt, round weight, for the United States and Canada combined. The species is fully utilized. Recent (1994–2003) catches in the commercial halibut fisheries in Alaska have averaged 34,100 mt, round weight. This catch in Alaska is 26 percent higher than long-term potential yield for the entire halibut stock, which reflects the good condition of the Pacific halibut resource. In January 2004, the IPHC recommended commercial catch limit recommendations totaling 37,029 mt (round weight equivalents) for Alaska in 2004, an increase from 36,812 mt in 2003. Through December 31, 2003, commercial hook-and-line harvests of halibut in Alaska total 36,040 mt (round weight equivalents).

The December 2003 assessment of the halibut stock contains a number of major changes including: the adoption of length-specific in place of age-specific selectivities, separate accounting of females and males, allowance for the bias and variance of age readings, and for the first time, analytical rather than survey-based estimates of abundance in Areas 3B, 4A, and 4B. Estimates of average recruitment (1974–2004) in Areas 2C and 3A are higher than last years' estimates by 20 to 50 percent, but estimates of exploitable biomass in those areas are lower because they are computed with an updated set of length-specific commercial selectivities that accurately represent the lower size at age and the presence of a large number of small males. While the trajectory of

the halibut stock biomass is downward, the biomass is still above the long-term average level and is expected to remain above this level for the next several years.

This year's catch limits are based on the Commission's existing Constant Exploitation Yield (CEY) harvest policy. Over the coming year IPHC staff will continue to investigate a new harvest policy, the Conditional Constant Catch (CCC) policy, that may result in greater

stability in the yield from the fishery and insulate the process of setting catch limits from technological changes in the assessment.

Additional information on the Pacific halibut stock assessment and the CCC harvest policy may be found in the IPHC's 2003 Pacific halibut stock assessment (December 2003), available from the IPHC and on its Web site at <http://www.iphc.washington.edu/hal.com>.

(E) Other Factors

The proposed 2004 harvest specifications (68 FR 68002, December 5, 2003) discuss potential impacts of expected fishing for groundfish on halibut stocks, as well as methods available for, and costs of, reducing halibut bycatch in the groundfish fisheries.

TABLE 5.—FINAL 2004 HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR
[Values are in metric tons]

Trawl gear		Hook-and-line gear			
Dates	Amount	Other than DSR		DSR	
		Dates	Amount	Dates	Amount
Jan 20–Apr 1	550 (27.5%)	Jan 1–June 10	250 (86%)	Jan 1–Dec 31	10 (100%)
Apr 1–July 4	400 (20%)	June 10–Sept 1	5 (2%)	.	.
July 4–Sept 1	600 (30%)	Sept 1–Dec 31	35 (12%)	.	.
Sept 1–Oct 1	150 (7.5%)			.	.
Oct 1–Dec 31	300 (15%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

Regulations at § 679.21(d)(3)(ii) authorize apportionments of the trawl halibut PSC limit to be further apportioned to trawl fishery categories, based on each category's proportional share of the anticipated halibut bycatch mortality during the fishing year and the

need to optimize the amount of total groundfish harvest under the halibut PSC limit. The fishery categories for the trawl halibut PSC limits are: (1) a deep-water species complex, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder; and

(2) a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species" (see § 679.21(d)(3)(iii)). The proposed apportionment for these two fishery complexes is presented in Table 6.

TABLE 6.—FINAL 2004 APPORTIONMENT OF HALIBUT PSC LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX.
[Values are in metric tons]

Season	Shallow-water	Deep-water	Total
Jan. 20–Apr. 1	450	100	550
Apr. 1–July 4	100	300	400
July 4–Sept. 1	200	400	600
Sept. 1–Oct. 1	150	(¹)	150
Subtotal:			
Jan. 20–Oct. 1	900	800	1,700
Oct. 1–Dec. 31			300
Total			2,000

¹ Any remainder.

Halibut Discard Mortality Rates

The Council recommended, and NMFS concurs, that the recommended halibut discard mortality rates (DMRs) developed by the staff of the IPHC for the 2004 GOA groundfish fisheries be used to monitor halibut bycatch mortality limits established for the 2004 GOA groundfish fisheries. The IPHC recommended use of long-term average

DMRs for the 2004–2006 groundfish fisheries. The IPHC recommendation also includes a provision that DMRs could be revised should analysis indicate that a fishery's annual DMR deviates substantially (up or down) from the long-term average. Most of the IPHC's assumed DMRs were based on an average of mortality rates determined from NMFS observer data collected between 1993 and 2002. DMRs were

lacking for some fisheries, so rates from the most recent years were used. For the "other species" fishery, where insufficient mortality data are available, the mortality rate of halibut caught in the Pacific cod fishery for that gear type was recommended as a default rate. The DMRs for hook-and-line targeted fisheries range from 8 to 13 percent. The DMRs for trawl targeted fisheries range from 57 to 75 percent. The DMRs for all

pot targeted fisheries is 17 percent. The final 2004 DMRs are listed in Table 7. The justification for these DMRs is discussed in Appendix B of the final SAFE report dated November 2003.

TABLE 7.—FINAL 2004 HALIBUT DISCARD MORTALITY RATES (DMR) FOR VESSELS FISHING IN THE GULF OF ALASKA.

[Listed values are percent of halibut bycatch assumed to be dead]

Gear and target	Mortality Rate
Hook-and-line:	
Other species	13
Pacific cod	13
Rockfish	8
Trawl:	
Arrowtooth flounder	69
Atka mackerel	60
Deep-water flatfish	57
Flathead sole	62
Nonpelagic pollock	59
Other species	61
Pacific cod	61
Pelagic pollock	75
Rex sole	62
Rockfish	67
Sablefish	62
Shallow-water flatfish	68
Pot:	
Other species	17

TABLE 7.—FINAL 2004 HALIBUT DISCARD MORTALITY RATES (DMR) FOR VESSELS FISHING IN THE GULF OF ALASKA.—Continued

[Listed values are percent of halibut bycatch assumed to be dead]

Gear and target	Mortality Rate
Pacific cod	17

Non-Exempt American Fisheries Act (AFA) Catcher Vessel Groundfish Harvest and PSC Sideboard Limitations

Regulations at § 679.64 established groundfish harvesting and processing sideboard limitations on AFA catcher/processors and catcher vessels in the GOA. These sideboard limitations are necessary to protect the interests of fishermen and processors who have not directly benefitted from the AFA from fishermen and processors who have received exclusive harvesting and processing privileges under the AFA. Under the AFA regulations at fnl;§ 679.4 (1)(2)(i), listed AFA catcher/processors are prohibited from fishing for any species of fish in the GOA (see § 679.7(k)(1)(ii)) and from processing any pollock in the GOA and groundfish

harvested in Statistical Area 630 of the GOA (see § 679.7(k)(1)(iv)). The Council recommended, and NMFS concurs, that certain AFA catcher vessels in the GOA be exempt from groundfish sideboard limitations. The AFA regulations exempt AFA catcher vessels in the GOA less than 125 ft (38.1 m) LOA whose annual Bering Sea and Aleutian Islands (BSAI) pollock landings totaled less than 5,100 mt and that made 30 or more GOA groundfish landings from 1995 through 1997 (see § 679.64(b)(2)(i)(A)).

For non-exempt AFA catcher vessels in the GOA, sideboard limitations are based upon their traditional harvest levels of TAC in groundfish fisheries covered by the GOA FMP. The AFA regulations base the groundfish sideboard limitations in the GOA 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 (see § 679.64(b)(3)(iii)). These amounts are listed in Table 8. All catch of sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the sideboard limitations in Table 8.

TABLE 8.—FINAL 2004 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUND FISH SIDEBOARD LIMITATIONS

[Amounts are rounded to the nearest metric tons]

Species and apportionments and allocations by area/season/processor/gear	Ratio of 1995–1997 Non-exempt AFA CV catch to 1995–1997 TAC	2004 TAC	2004 Non-exempt AFA catcher vessel sideboard limitations
Pollock:			
A Season (W/C areas only), January 20–February 25:			
Shumagin (610)	0.6112	3,747	2,290
Chirikof (620)	0.1427	9,027	1,288
Kodiak (630)	0.2438	3,091	754
B Season (W/C areas only), March 10–June 1:			
Shumagin (610)	0.6112	3,748	2,291
Chirikof (620)	0.1427	10,704	1,527
Kodiak (630)	0.2438	1,413	354
C Season (W/C areas only), August 25–September 15:			
Shumagin (610)	0.6112	7,717	4,717
Chirikof (620)	0.1427	3,380	482
Kodiak (630)	0.2438	4,768	1,162
D Season (W/C areas only), October 1–November 1:			
Shumagin (610)	0.6112	7,718	4,717
Chirikof (620)	0.1427	3,379	482
Kodiak (630)	0.2438	4,768	1,162
Annual:			
WYK (640)	0.3499	1,280	448
SEO (650)	0.3499	6,520	2,281
Pacific cod:			
A Season 1, January 1–June 10:			
W inshore	0.1423	9,157	1,303
W offshore	0.1026	1,017	104
C inshore	0.0722	14,643	1,057
C offshore	0.0721	1,627	107
B Season 2, September 1–December 31:			
W inshore	0.1423	6,104	869
W offshore	0.1026	679	70
C inshore	0.0722	9,761	705

TABLE 8.—FINAL 2004 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUND FISH SIDEBOARD LIMITATIONS—
Continued

[Amounts are rounded to the nearest metric tons]

Species and apportionments and allocations by area/season/processor/gear	Ratio of 1995–1997 Non-exempt AFA CV catch to 1995–1997 TAC	2004 TAC	2004 Non-exempt AFA catcher vessel sideboard limitations
C offshore	0.0721	1,085	78
Annual:			
E inshore	0.0079	3,564	28
E offshore	0.0078	396	3
Flatfish deep water:			
W	0.0000	310	0
C	0.0670	2,970	199
E	0.0171	2,790	48
Rex sole:			
W	0.0010	1,680	2
C	0.0402	7,340	295
E	0.0153	3,630	56
Flathead sole:			
W	0.0036	2,000	7
C	0.0261	5,000	131
E	0.0048	3,880	19
Flatfish shallow water:			
W	0.0156	4,500	70
C	0.0598	13,000	777
E	0.0126	3,240	41
Arrowtooth flounder			
W	0.0021	8,000	17
C	0.0309	25,000	773
E	0.0020	5,000	10
Sablefish:			
W trawl gear	0.0000	586	0
C trawl gear	0.0720	1,460	105
WYK trawl gear	0.0488	316	15
Pacific ocean perch:			
W	0.0623	2,520	157
C	0.0866	8,390	727
E	0.0466	2,430	113
Shortraker/Rougheye:			
W	0.0000	254	0
C	0.0237	656	16
E	0.0124	408	5
Other rockfish:			
W	0.0034	40	0
C	0.2065	300	62
E	0.0000	330	0
Northern rockfish:			
W	0.0003	770	0
C	0.0336	4,100	150
Pelagic shelf rockfish:			
W	0.0001	370	0
C	0.0000	3,010	0
E	0.0067	1,090	7
Thornyhead rockfish:			
W	0.0308	410	13
C	0.0308	1,010	31
E	0.0308	520	16
Demersal shelf rockfish:			
SEO	0.0020	450	1
Atka mackerel:			
Gulfwide	0.0309	600	19
Other species:			
Gulfwide	0.0090	12,592	113

¹ The Pacific cod A season for trawl gear does not open until January 20.² The Pacific cod B season for trawl gear closes November 1.

PSC sideboard limitations 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 (see § 679.64(b)(4)). These amounts are shown in Table 9.

TABLE 9.—FINAL 2004 NON-EXEMPT AFA CATCHER VESSEL PROHIBITED SPECIES CATCH (PSC) LIMITS FOR THE GOA
[Amounts are rounded to the nearest metric ton]

PSC species/Target fishery and season	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	2004 PSC limit	2004 Non-exempt AFA catcher vessel PSC limit
Halibut (mortality in mt):			
Trawl 1st Seasonal Allowance, January 20–April 1:			
Shallow-water targets	0.340	450	153
Deep-water targets	0.070	100	7
Trawl 2nd Seasonal Allowance, April 1–July 4:			
Shallow-water targets	0.340	100	34
Deep-water targets	0.070	300	21
Trawl 3rd Seasonal Allowance, July 4–Sept 1:			
Shallow-water targets	0.340	200	68
Deep-water targets	0.070	400	28
Trawl 4th Seasonal Allowance, Sept 1–Oct 1:			
Shallow-water targets	0.340	150	51
Deep-water targets	0.070	0	0
Trawl 5th Seasonal Allowance, Oct 1–Dec 31:			
All targets	0.205	300	62

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 (see § 679.20(d)(1)(iii)).

The Regional Administrator has determined that the following TAC amounts for the species and species groups listed in Table 10 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2004 fishing year.

TABLE 10.—DIRECTED FISHING CLOSURES IN THE GOA
[Amounts needed for incidental catch in other directed fisheries are in metric tons]

Target	Regulatory area	Gear/component	Amount
Atka mackerel	Entire GOA	All	600
Thornyhead rockfish	Entire GOA	All	1,940
Shortraker/Rougheye rockfish	Entire GOA	All	1,318
Other rockfish	Entire GOA	All	670
Sablefish	Entire GOA	Trawl	2,362
Pollock	Entire GOA	All/offshore	unknown ¹

¹ Pollock is closed to directed fishing in the GOA by the offshore component under § 679.20(a)(6)(i).

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for those species, regulatory areas, gear types, and components listed in Table 10. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2004.

Regulations at § 679.64(b)(5) provide for management of AFA catcher vessel groundfish sideboard limits and PSC 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 above, many of the non-exempt AFA catcher vessel sideboard limits listed in Table 8 are necessary as incidental catch to support other anticipated groundfish

fisheries for the 2004 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the directed fishing allowances for the species and species groups in Table 11 as zero. 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 set out in Table 11. These closures will remain in effect through 2400 hrs, A.l.t, December 31, 2004.

TABLE 11.—NON-EXEMPT AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES IN THE GOA
[Amounts needed for incidental catch in other directed fisheries are in metric tons]

Species	Regulatory area/district	Gear/component	Amount
Pacific cod	E GOA	All	28 (inshore) and 3 (offshore)
Deep-water flatfish	W GOA	All	0
Rex sole	W GOA	All	21
Flathead sole	W and E GOA	All	7 and 19
Arrowtooth flounder	W and E GOA	All	17 and 10
Northern rockfish	W GOA	All	0
Pelagic shelf rockfish	Entire GOA	All	7
Demersal shelf rockfish	SEO District	All	1
Other species	Entire GOA	All	113

Under authority of the interim 2004 specifications (68 FR 67964, December 5, 2003), pollock fishing opened on January 20, 2004, for amounts specified in that notice. NMFS has since closed Statistical Area 610 to directed fishing for pollock effective 1200 hrs, A.l.t., January 22, 2004 (69 FR 3852, January 27, 2004), and Statistical Area 630 to directed fishing for pollock effective 1200 hrs, A.l.t., January 21, 2004 (69 FR 2850, January 21, 2004), and opened Statistical Area 630 to directed fishing for pollock effective 1200 hrs, A.l.t., February 4, through 2400 hrs, A.l.t., February 4, 2004 (69 FR 5943, February 9, 2004), reopened effective 1200 hrs, A.l.t., February 15 through 2400 hrs, A.l.t., February 15, 2004 (69 FR 7704, February 19, 2004), and reopened effective 1200 hrs A.l.t. through 2400 hrs A.l.t., February 24, 2004. The closures for pollock in Statistical Areas 610 and 630 will remain in effect through 1200 hrs, A.l.t., March 10, 2004. NMFS has prohibited directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area, effective 1200 hrs, A.l.t., January 31, 2004 (69 FR 5299, February 4, 2004), by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area effective 1200 hrs, A.l.t., February 2, 2004 (69 FR 5298, February 4, 2004), and by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area, effective 1200 hrs, A.l.t., February 24, 2004. The closures for Pacific cod in the Western and Central Regulatory Areas will remain in effect through 1200 hrs, A.l.t., September 1, 2004.

These closures supercede the closures announced under the authority of the interim 2004 harvest specifications (68 FR 67964, December 5, 2003). While these closures are in effect, the maximum retainable amounts at § 679.20 (e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to

closures and prohibitions found in regulations at 50 CFR 679. NMFS may implement other closures during the 2004 fishing year as necessary for effective conservation and management.

Response to Comments

NMFS received one letter of comment in response to the EA and the SAFE reports for the 2004 harvest specifications. The letter contained six separate comments concerning the GOA that are summarized and responded to below.

Comment 1. NMFS has only a revised draft Programmatic Environmental Impact Statement (PSEIS) and will be implementing the 2004 harvest specifications without proper National Environmental Policy Act compliance. This is troubling considering the impacts of spatial, temporal, and bycatch trends of fisheries, especially in sensitive habitat areas subject to damage and in Northern fur seal and Steller sea lion habitat.

Response. NMFS prepared a Supplemental Environmental Impact Statement (SEIS) for Steller sea lions and is in the process of preparing a PSEIS for Alaska Groundfish Fisheries and an SEIS for Essential Fish Habitat Identification and Conservation in Alaska, with records of decisions on September 1, 2004 and August 13, 2004, respectively. The EA for the 2004 TAC specifications has an extensive appendix on ecosystem considerations for 2004 which are increasingly drawn upon by individual stock assessment authors in the preparation of the EA that supports the annual harvest specifications. This takes into account the best and most recent scientific information available.

Trawl closures have been implemented to protect benthic habitat or reduce PSC. Some of the trawl closures are in effect year-round while others are seasonal. In general, year-round trawl closures have been implemented to protect vulnerable benthic habitat. Seasonal closures are

used to reduce PSC by closing areas where and when PSC rates had historically been high. Additional measures to protect the declining western stocks of the Steller sea lion began in 1991 with restrictions based on rookery and haulout location and in 2003 the current spatial and temporal protection measures were implemented (68 FR 204, January 2, 2003). The Council is also in the process of developing habitat areas of particular concern (HAPC) which are areas of special importance that may require additional protection from adverse effects. The Council accepted proposals for initial HAPC designations through January 10, 2004. Although designed to protect Steller sea lions and benthic habitat these protection measures will also protect fur seals from fishing effects.

Comment 2. NOAA Fisheries should “undertake a systematic review of rockfish management, and incorporate the recommendations of the nation’s leading fisheries biologists in the American Fisheries Society (AFS) Policy Statement 31d: Management of Pacific Rockfish.” In particular, this policy statement recommends:

- Collection of catch information on a single-species basis
- Management targets on a single-species basis, including species taken as bycatch
- Accurate studies of discards at sea, and reduction of rockfish discards
- Adequate fishery-independent surveys
- Marine protected areas (MPAs) to protect habitat and promote recovery of the stocks
- Reductions on fishing mortality

Response. NMFS recognizes the importance of these policy recommendations and is either already complying with or moving towards these management goals. Although the AFS policy statement (Parker et al. 2000) pertains to all “Pacific rockfish” in U.S. waters, including Alaska, it is important to recognize the specific

policy recommendations above were largely influenced by the particular management structure and declining stocks off the coast of Washington, Oregon, and California (Parker *et al.* 2000), which differs considerably from the status of stocks and management procedures of rockfish and managed in the EEZ off Alaska. NMFS recognizes the importance of collecting catch information, establishing management targets on a single species basis, and performing accurate studies of discards at sea. For example, all of the species within the former "other red rockfish" category are now managed with single-species harvest quotas. Data for these quotas are collected using observer data, shoreside processor landings data, and processor weekly production report data. Observer data is used to estimate discard amounts of these and other species and is included in the stock assessment methodology.

NMFS has conducted fishery independent surveys in the Aleutian Islands since 1990, and additional cooperative U.S.-Japanese surveys occurred in the 1980s. In general, rockfish stocks are difficult to survey with standard trawl gear and survey designs because of the patchiness of their distributions and, in some cases, the roughness of the habitat in which they live. These factors have combined to produce rockfish biomass estimates with high coefficients of variation and substantial year-to-year variability in biomass estimates. NMFS is exploring new survey methodology that uses hydroacoustic information to locate patches of rockfish, which can then be used to influence the location of trawl tows. Some field work evaluating this method was conducted in the summer of 2003 near the Pribilof Islands, with the goal of evaluating the potential for improving estimates of eastern Bering Sea Pacific ocean perch and northern rockfish. Additional work must be done to evaluate this approach before it is adopted.

The AFS recommendation for reductions in fishing mortality is largely directed towards U.S. west coast rockfish stocks, as the AFS policy statement indicates that the Council "has taken a conservative approach to rockfish management and no species are considered overfished in Alaska" (Parker *et al.* 2000). Since the publication of the AFS policy statement on Pacific rockfish in 2000, management of BSAI rockfish has become more conservative due to the diminished use of multispecies assemblages.

Establishment of MPAs will require knowledge of the spatial distribution patterns for rockfish, particularly the

pelagic larval stage. The creation of MPAs that are inconsistent with the mobility of rockfish would likely greatly reduce the effectiveness (Walters and Bonfil 1999), and little is known about the spawning locations or the extent of larval drift of Alaskan rockfish. Again, the reference to promoting recovery of stocks in the AFS recommendation for MPAs is directed towards west coast rockfish, as no species or species assemblage of rockfish in the EEZ off Alaska is currently overfished. As a management tool for reducing fishing mortality, it is unclear whether closed areas would simply redirect the same amount of fishing effort into smaller spatial areas, thereby exacerbate the potential for localized depletions. The use of MPAs to protect habitat is recognized, and the Council has recently solicited proposals for closure areas that would protect HAPC.

Comment 3. No real conservation measures have been put into place to address the shortcomings of conventional fisheries management with regard to rockfish species.

Response. Several changes have been implemented to improve fisheries management of rockfish species, particularly in the BSAI. First, application of harvest quotas across the "other red rockfish" species complex no longer is being conducted, thus eliminating the possibility of disproportionate harvests across species within the complex. In fact, all species that formerly comprised the "other red rockfish" complex are now managed with single-species harvest quotas, consistent with the AFS policy recommendations. This conservation measure has required substantial changes in the way fishery observers classify some rockfish, such as shorttraker and rougheye rockfish. Associated with this change are improvements in assessment methodology that use more information to establish harvest recommendations, as discussed in the response to comment 2.

Second, only Pacific ocean perch is open to directed fishing in the BSAI, other rockfish species are closed to directed fishing. Retained catch of these species by vessels is limited by maximum retainable allowances, which constrain the amount of incidental catch that can be retained by a vessel as a percentage of the target species. Prior to 1998, the incidental catch allowance was applied to all rockfish in aggregate and was 15 percent of the target species. Since 1998, shorttraker/rougheye were assigned their own maximum retainable allowance, which was lowered to 7 percent for deep water target fisheries

and 2 percent for shallow water target fisheries. This conservation measure was put into place to reduce the likelihood of exceeding the ABC for rockfish complexes.

Comment 4. NMFS has failed to respond to the SSC's April 2003 discussion on whether a more conservative harvest rate (F50 percent) would be desirable for rockfish species in the GOA and BSAI, and the specific request that the agency evaluate the harvest strategy for rockfish during the TAC setting process.

Response. An evaluation of the optimal rate for various rockfish species is dependent upon stock and recruitment data, and thus can only be applied to stocks for which age-structured models exist. In the BSAI, this includes Pacific ocean perch and northern rockfish. An analysis of this type was conducted for BSAI Pacific ocean perch and presented to the SSC and Council in December 2003, but the lack of contrast in estimated spawner stock size for BSAI northern rockfish precluded any informative analysis using this method. An analysis of optimal harvest rates for GOA stocks for which age-structured data exist is pending.

Including the analysis on BSAI Pacific ocean perch presented to the SSC in December 2003, several studies have now been concluded that suggest that an F₄₀ percent harvest rate is not unduly aggressive for rockfish managed in the EEZ off Alaska (Dorn 2002, Ianelli and Heifetz 1995).

Comment 5. The SAFE authors reviewed an uncertainty correction factor for rockfish species that created higher ABCs. This is incongruous with the challenge posed to NMFS to assess whether current harvest strategy is sufficiently conservative.

Response. The uncertainty correction factor applied explicitly accounts for uncertainty in recruitment and stock size, and was part of a general process of evaluating potentially more conservative harvest rates for rockfish. The uncertainty correction factor applied was identical to that used in the PSEIS. Although the control rule for applying the uncertainty correction factor did not result in a reduction of the F_{abc} level, it did not cause an increase in the F_{abc} level. For further information on rockfish, please see the following publications.

Dorn, M.W. 2002. Advice on west coast rockfish harvest rates from Bayesian meta-analysis of stock-recruitment relationships. *N. Am. J. Fish. Aquat. Sci.* 22:280-300.

Gharrett, A.J. 2003. Population structure of rougheye, shorttraker, and

- northern rockfish based on analysis of mitochondrial DNA variation and microsatellites: completion. Juneau Center of Fisheries and Ocean Sciences, University of Alaska-Fairbanks. 136 pp.
- Ianelli, J.N. and J. Heifetz. 1995. Decision analysis of alternative harvest policies for Gulf of Alaska Pacific ocean perch fishery. *Fish. Res.* 24:35–63.
- Matala, A.P., A.K. Gray, J. Heifetz, and A.J. Gharrett. In press. Population structure of Alaskan shortraker rockfish, *Sebastes borealis*, inferred from microsatellite variation. *Env. Biol. Fish.*
- Parker, S.J. et al. 2000. Management of Pacific rockfish. *Fisheries* 25 (3): 22–30.
- Walters, C.J. and R. Bonfil. 1999. Multispecies spatial assessment models for the British Columbia groundfish trawl fishery. *Can. J. Fish. Aquat. Sci.* 56:601–628.

Comment 6. The TAC setting process is lengthy and does not provide for sufficient opportunities to make meaningful public comment.

Response. Currently, numerous opportunities exist for public input including the September and November Plan Team meetings and the October and December Council meetings, as well as opportunity to submit comments to NMFS on the proposed specifications. Nonetheless, NMFS and the Council agree that these opportunities could be enhanced further.

In October, the Council approved a new process for establishing harvest specifications in future years under BSAI and GOA FMP Amendments 48/48. Objectives for the revised process include providing enhanced opportunity for informed public comment. The Council's preferred alternative is to establish harvest specifications for 18 months (Year 1 and first half of Year 2) for BSAI and GOA groundfish. The new process would better assure that proposed harvest specifications and corresponding analysis, which are made available for public review and comment, provide the basis from which final harvest specifications are established.

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This rule's primary management measures are to announce final 2004 harvest specifications and PSC allowances for the groundfish fishery of the GOA. This action is necessary to

establish harvest limits and associated management measures for groundfish during the 2004 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish of the GOA. This action effects all fishermen who participate in the GOA fishery. The specific amounts of OFL, ABC, TAC and PSC amounts are provided in tabular form to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region, NMFS. Affected fishermen should keep themselves informed of such closures.

Classification

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

A FRFA was prepared for the final 2004 harvest specifications to address the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Fairness Act of 1996.

The proposed rule for the GOA specifications was published in the **Federal Register** on December 5, 2003 (68 FR 68002). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and was described in the classification section of the proposed rule. The IRFA is available on the NMFS Alaska Region Web site at <http://www.fakr.noaa.gov/sustainablefisheries/specs04/GOA63earirirfa1003.pdf>. The public comment period for the GOA proposed specifications ended on January 5, 2004. No comments were received on the economic impacts of this final rule.

The final 2004 harvest specifications establish harvest limits for the groundfish species and species groups in the GOA. This action is necessary to allow groundfish fishing in 2004. In all the waters off of Alaska, these specifications may affect from 832 to 838 small catcher vessels, 30 to 33 small catcher/processors, and six small CDQ groups. In the GOA, 96 small non-pelagic trawling entities would experience reductions in rockfish, shallow water flatfish, and flathead sole revenues, estimated to be on the order of about 2 percent of overall gross revenues.

The analysis examined four alternatives to the preferred. Alternative 1 would have set TACs in the GOA to produce fishing mortality rates, F , that are equal to $\max F_{ABC}$, the maximum permissible value under the FMP (2,000,000 mt for OY). While this alternative would have a smaller adverse impact on small entities than the preferred, this alternative was

rejected because the associated harvest limits are above biologically acceptable levels. Alternative 3, which sets TACs based on half the maximum levels, and Alternative 4, which sets TACs based on a five year average, were both rejected because they do not use the best and most recent scientific information on status of groundfish stocks or take into account socioeconomic benefits to the nation. Alternative 5, the no action alternative, was rejected because it would set TACs in the GOA equal to zero. Alternatives 3, 4, and 5 would also cause negative impacts to small entities.

The action does not impose new recordkeeping or reporting requirements on small entities. The analysis did not reveal any Federal rules that duplicate, overlap or conflict with the proposed action.

Under the provisions of 5 U.S.C. 553(d)(1), an agency can waive a delay in the effective date of a substantive rule if it relieves a restriction. Unless this delay is waived, fisheries that are currently closed (*See SUPPLEMENTARY INFORMATION*) because the interim TACs were reached would remain closed until the final specifications became effective. Those closed fisheries are restrictions on the industry that can be relieved by making the final specifications effective on publication. Another relief from a restriction would be the elimination of discards of sablefish caught incidentally to Pacific halibut. If the final specifications are not effective by February 29, 2004, which is the start of the Pacific halibut season as specified by the IPHC, the longline sablefish fishery will not begin concurrently with the Pacific halibut season. This would cause disruption to the fishing industry, as both longline sablefish and Pacific halibut are managed under the same IFQ program, and as stated above, require sablefish that is caught with Pacific halibut to be discarded.

Under the provisions of 5 U.S.C. 553(d)(3), an agency can waive a delay in the effective date for good cause found and published with the rule. For all other fisheries not currently closed because the interim TACs were reached, the possibility exists for their closures prior to the expiration of a 30-day delayed effectiveness period because their interim TACs or PSC allowances could be reached. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing-up fishing vessels, allowing them to move

from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace. The interim specifications currently in effect are not sufficient to allow directed fisheries to continue predictably, resulting in unnecessary closures and disruption within the fishing industry and the potential for regulatory discards. The final specifications establish increased

TACs and PSC allowances to provide continued directed fishing for species that would otherwise be prohibited under the interim specifications. These final specifications were developed as quickly as possible, given plan team review in November 2003, Council consideration and recommendations in December 2003, and NOAA Fisheries review and development in January-February 2004.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub L. 106-31, 113 Stat. 57; 16 U.S.C. 1540(f).

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