

Prior to the beginning of the 2000 fishing year, NMFS will implement fishery closures based on these interim specifications if the Regional Administrator, Alaska Region, NMFS, determines that interim TAC amounts are required as incidental catch to support other anticipated groundfish fisheries or if the PSC allowance for a fishery has been reached. NMFS may implement other closures at the time the final 2000 harvest specifications are implemented or during the 2000 fishing year, as necessary for effective management.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under E.O. 12866.

NMFS has prepared an EA for this action which describes the impact on the human environment that would result from implementation of the interim specifications. In December 1998, NMFS issued a Supplemental Environmental Impact Statement (SEIS) on the groundfish TAC specifications and PSC limits under the BSAI and Gulf of Alaska (GOA) groundfish FMPs. In July 1999, the District Court for the Western District of Washington held that the 1998 SEIS did not adequately address aspects of the BSAI and GOA FMPs. Notwithstanding the deficiencies the court noted in the 1998 SEIS, NMFS believes that the discussion of impacts and alternatives in the 1998 SEIS is directly applicable to this interim action and the EA for the interim 2000 harvest specifications, which "tiers off" (incorporates by reference) the 1998 SEIS.

Pursuant to section 7 of the Endangered Species Act (ESA), NMFS has completed a consultation on the effects of the 1999 to 2002 pollock and Atka mackerel fisheries on listed species, including the Steller sea lion, and designated critical habitat. The Biological Opinion prepared for this consultation, dated December 3, 1998, concluded that the Atka mackerel fisheries in the BSAI are not likely to jeopardize the continued existence of Steller sea lions or adversely modify their designated critical habitat. However, the Biological Opinion concluded that the pollock fisheries in the BSAI and the GOA would cause jeopardy and adverse modification.

NMFS is developing a proposed rule to implement permanent reasonable and prudent alternatives (RPAs) to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. Emergency measures

which implemented RPAs for 1999, are in effect until December 31, 1999 (July 21, 1999, 64 FR 39087). Regulations implementing permanent RPAs must be effective prior to the start of the BSAI and GOA pollock fisheries which are scheduled to open on January 20, 2000, or NMFS will be obligated under the ESA to close all fishing for pollock until such measures can be implemented.

NMFS has also completed consultations on the effects of the 2000 BSAI groundfish fisheries on listed species, including the Steller sea lion and salmon, and on designated critical habitat. These consultations were completed December 23, 1999 and December 22, 1999 respectively.

A biological opinion on the BSAI hook-and-line groundfish fishery and the BSAI trawl groundfish fishery for the ESA listed short-tailed albatross was issued by the United States Fish and Wildlife Service in March 1999. The conclusion continued the no jeopardy determination and the incidental take statement expressing the requirement to immediately reinstate consultations if incidental takes exceed four short-tailed albatross over two years' time (1999–2000).

In order for the BSAI groundfish fishing season to begin on January 1 (see § 679.23), § 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. 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 fishing industry. NMFS anticipates that the interim specifications will be in effect for only a short period of time before they are superseded by the final specifications. The proposed specifications were published as a proposed rule in the **Federal Register** on December 13, 1999 (64 FR 69464). Regulations at § 679.20(c)(2)(ii) require that the interim TACs be established at specified fractional amounts of the proposed harvest specifications. Accordingly, the opportunity for public comment on the proposed specifications provides opportunity for comment on these interim specifications. The Assistant Administrator for Fisheries, NOAA (AA), finds for good cause under 5 U.S.C. 553(b)(B) that the need to establish interim TAC limitations and other restrictions on fisheries in the BSAI, effective on January 1, 2000, makes it impracticable and contrary to the public interest to provide prior

notice and opportunity for public comment on this rule. Likewise, the AA finds for good cause under 5 U.S.C. 553(d)(3) that the need to establish interim TAC levels and other management measures in the BSAI, effective on January 1, 2000, makes it impractical and contrary to the public interest to delay the effective date of the limits and measures for 30 days.

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.

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

Dated: December 27, 1999.

Penelope D. Dalton,

*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. 991223348–9348–01; I.D. 122199B]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 2000 Harvest Specifications

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

ACTION: Interim 2000 harvest specifications for groundfish and associated management measures.

SUMMARY: NMFS issues interim 2000 total allowable catch (TAC) amounts for each category of groundfish and specifications for prohibited species bycatch allowances 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 fishing industry. This action is necessary to conserve and manage the groundfish resources of the GOA, and is intended to implement the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: Effective 0001 hrs, Alaska local time (A.l.t.), January 1, 2000, until the effective date of the final 2000 harvest

specifications for GOA groundfish, which will be published in the **Federal Register**.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared for this action and the Preliminary 2000 Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1999, are available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, (907-586-7237).

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

SUPPLEMENTARY INFORMATION:

Background

Federal regulations at 50 CFR part 679 implement the FMP and 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. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 600.

The Council met October 12 to 18, 1999, to review scientific information concerning groundfish stocks. At that meeting the Council adopted the preliminary SAFE Report for the 2000 GOA groundfish fisheries. The preliminary SAFE Report, dated September 1999, provides an update on the status of stocks. Copies of the preliminary SAFE Report are available for public review from the Council (see **ADDRESSES**). The Council recommended a proposed total TAC of 306,535 metric tons (mt) and a proposed total acceptable biological catch (ABC) of 532,590 mt for the 2000 fishing year.

The proposed TAC amounts for each species are based on the best available biological and socio-economic information.

In accordance with § 679.20(c)(1), NMFS published in the **Federal Register** proposed harvest specifications and associated management measures for groundfish in the GOA for the 2000 fishing year (December 13, 1999, 64 FR 69457). That document discusses in detail the 2000 specification process, as well as 2000 proposed specifications, reserves, apportionments for groundfish, and prohibited species catch (PSC) limits.

This action provides interim harvest specifications and apportionments thereof of GOA groundfish for the 2000 fishing year that will become available on January 1, 2000, and remain in effect until superseded by the final 2000 harvest specifications.

Establishment of Interim TACs

Regulations at § 679.20(c)(2) require that one-fourth of each proposed TAC and apportionment thereof (not including the reserves and the first seasonal allowance of pollock), one-fourth of the proposed halibut PSC amounts, and the proposed first seasonal allowance of pollock become available for harvest at 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest 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 to vessels catching Pacific cod for processing by the offshore component.

Regulations at § 679.20(b)(2) establish reserves for the GOA at 20 percent of the TAC amounts for pollock, Pacific cod, flatfish species, and the "other species" category. The GOA groundfish TAC amounts have been utilized fully since 1987. NMFS expects this trend to continue in 2000, and, with the exception of Pacific cod, has proposed reapportioning all the reserves to TAC. With the exception of Pacific cod, the interim TAC amounts contained in Table 1 reflect the reapportionment of reserves back to the TAC.

Interim 2000 GOA Groundfish Harvest Specifications and Apportionments

Table 1 provides interim TAC amounts, 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, 2000.

Under separate rulemaking, NMFS will establish apportionments of pollock TAC among the Western and Central Regulatory Areas of the GOA in order to permanently implement reasonable and prudent alternatives (RPAs) to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. Final regulations implementing the RPAs must be effective before the start of the GOA pollock fisheries on January 20, 2000, or NMFS will be obligated under the Endangered Species Act (ESA) to close all fishing for pollock until such measures can be implemented.

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Table 1--Interim 2000 TAC Amounts of Groundfish 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}. Interim Sablefish TAC Apportionments to Hook-and-Line (H/L) and Trawl (TRW) Gear.

Species	Area	Interim TAC
		(mt)
Pollock ^{3,4}		
Subtotal	W/C	23,120
	WYK (640)	528
	SEO (650)	1,582
Total		25,230
Pacific cod ⁵		
Inshore	W	4,253
Offshore	W	473
Inshore	C	7,728
Offshore	C	859
Inshore	E	229
Offshore	E	25
Total		13,567
Flatfish, Deep-water ⁶		
	W	60
	C	685
	WYK	430
	SEO	337
Total		1,512
Rex sole		
	W	298
	C	1,373
	WYK	212
	SEO	405
Total		2,288
Flathead sole		
	W	500
	C	1,250
	WYK	318
	SEO	192
Total		2,260

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Species	Area	Interim TAC
		(mt)
Flatfish, Shallow-water ⁷		
	W	1,125
	C	3,237
	WYK	62
	SEO	268
Total		4,692
Arrowtooth flounder		
	W	1,250
	C	6,250
	WYK	625
	SEO	625
Total		8,750
Sablefish ^{8,9,10}		
H/L	W	N/A(364)
TRW	W	91
H/L	C	N/A(1,118)
TRW	C	280
TRW	E	66
H/L	WYK	N/A(456)
H/L	SEO	N/A(800)
Total		3,175
Pacific ocean perch ¹¹		
	W	462
	C	1,690
	WYK	205
	SEO	790
Total		3,147
Shortraker/rougheye ¹²		
	W	40
	C	242
	E	115
Total		397

Table 1--Interim 1999 TAC Amounts of Groundfish for the Combined Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYak), Southeast Outside (SEO), and Gulfwide (GW) Districts of the Gulf of Alaska (GOA)^{1,2}. Interim Sablefish TAC Apportionments to Hook-and-Line (H/L) and Trawl (TRW) Gear.--Continued

Species	Area	Interim TAC
		(mt)
Rockfish, northern ¹³		
	W	210
	C	1,037
	E	N/A
Total		1,247
Rockfish, other ^{14,15, 17}		
	W	5
	C	162
	WYK	117
	SEO	1,033
Total		1,317
Rockfish, pelagic shelf ¹⁶		
	W	132
	C	843
	WYK	185
	SEO	60
Total		1,220
Rockfish, demersal shelf SEO ¹⁷		
	SEO	140
Thornyhead rockfish		
	W	65
	C	175
	E	257
Total		497
Atka mackerel		
	GW	150
Other species ¹⁸		3,650
GOA Total Interim TAC		73,239

(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 except for Pacific cod. (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 NMFS is not apportioning pollock in the Central and Western Regulatory areas until permanent RPAs can be implemented that would avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. 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))

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, or 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, and 5 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)(ii), retention of sablefish caught with H/L gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 2000, IFQ permits and IFQ cards will not be valid before the effective date of the 2000 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 (vermilion), S. babcocki (redbanded), and S. reedi (yellowmouth). In the Eastern GOA only, "slope rockfish" also includes northern rockfish, S. polyspinous.

¹⁶ "Pelagic shelf rockfish" means Sebastes 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" means sculpins, sharks, skates, squid, and octopus. The TAC for "other species" equals 5 percent of the TAC amounts of target species.

Interim Halibut PSC Limits

Under § 679.21(d), annual Pacific halibut PSC limits are established for trawl and hook-and-line gear and may be established for pot gear. The Council proposed to reestablish the 1999 halibut limits for 2000 because no new information was available. Consistent with 1999, the Council recommended exemptions for pot gear, jig gear, and the sablefish hook-and-line fishery from halibut PSC limits for 2000. The interim PSC limits are effective on January 1, 2000, and remain in effect until superseded by the final 2000 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 sablefish and 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 allowance 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 2000 apportionment for the shallow-water species complex is 417 mt and for the deep-water species complex is 83 mt.

NMFS will implement fishery closures for those fisheries where insufficient TAC exists to support a directed fishery. The closures will be implemented for the beginning of the 2000 fishing year.

Classification

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

NMFS has prepared an EA for this action, which describes the impact on the human environment that would result from implementation of the interim specifications. In December 1998 NMFS issued a Supplemental Environmental Impact Statement (SEIS) for the groundfish TAC specifications and PSC limits under the Bering Sea and Aleutian Islands (BSAI) and GOA groundfish FMPs. In July 1999, the District Court for the Western District of Washington held that the 1998 SEIS did not adequately address aspects of the BSAI and GOA FMPs. Notwithstanding the deficiencies the court noted in the 1998 SEIS, NMFS believes that the discussion of impacts and alternatives in the 1998 SEIS is directly applicable to this interim action and the draft EA

for the interim 2000 harvest specifications, which "tiers off" (incorporates by reference) the 1998 SEIS.

Pursuant to section 7 of the ESA, NMFS completed a consultation on the effects of the 1999 to 2002 pollock and Atka mackerel fisheries on listed species, including the Steller sea lion and designated critical habitat. The Biological Opinion prepared for this consultation, dated December 3, 1998, concluded that the Atka mackerel fisheries in the BSAI are not likely to jeopardize the continued existence of Steller sea lions or adversely modify their designated critical habitat. However, the Biological Opinion concluded that the pollock fisheries in the BSAI and the GOA would cause jeopardy and adverse modification.

NMFS has identified measures that would avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat and is developing a proposed rule to permanently implement those measures. Emergency measures, which implemented RPAs for 1999, are in effect until December 31, 1999 (July 21, 1999, 64 FR 39087). Regulations implementing the permanent RPAs must be effective prior to the start of the BSAI and GOA pollock fisheries on January 20, 2000, or NMFS will be obligated under the ESA to close all fishing for pollock until such measures can be implemented.

NMFS also completed consultations on the effects of the 2000 BSAI groundfish fisheries on listed species, including the Steller sea lion and salmon, and on designated critical habitat. These consultations were completed December 23, 1999 and December 22, 1999 respectively.

A Biological Opinion on the BSAI hook-and-line groundfish fishery and the BSAI trawl groundfish fishery for the ESA-listed short-tailed albatross was issued by the United States Fish and Wildlife Service in March 1999. The conclusion continued the no jeopardy determination and the incidental take statement expressing the requirement to immediately reinstate consultations if incidental takes exceed four short-tailed albatross over a 2-year period (1999–2000).

In order for the GOA groundfish fishing season to begin on January 1 (see § 679.23), § 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. Without interim specifications in effect on January 1, the groundfish fishery would not be able to open on that date, which would result in unnecessary closures and disruption within the fishing industry and would run counter to investment-backed expectations. NMFS anticipates that the interim specifications will be in effect for only a short period of time before they are superseded by the final specifications. The proposed specifications were published as a proposed rule in the **Federal Register** on December 13, 1999 (64 FR 69457). Regulations at § 679.20(c)(2)(i) require that the interim TACs and apportionments thereof be established at specified fractional amounts of the proposed specifications and apportionments thereof. Accordingly, the opportunity for public comment on the proposed specifications provides opportunity for public comment on the interim specifications. The Assistant Administrator for Fisheries, NOAA (AA), finds for good cause under 5 U.S.C. 553(b)(B) that the need to establish interim TAC limitations and related management measures for fisheries in the GOA, effective on January 1, 2000, makes it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this rule. For these same reasons, the AA finds for good cause under 5 U.S.C. 553(d)(3) that the need to establish interim TAC limitations and related management measures effective on January 1, 2000, makes it impractical and contrary to the public interest to delay their effective date for 30 days.

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, NMFS has not prepared a regulatory flexibility analysis.

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

Dated: December 27, 1999.

Penelope D. Dalton,

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

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