

Mandates Reform Act of 1995. It will not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This final rule is the least burdensome alternative that achieves this objective of U.S. policy.

List of Subjects in 46 CFR Part 310

Federal Aid Programs, Reporting and recordkeeping requirements, Schools, Seamen.

Interim Rule Adopted as Final Without Change

■ Accordingly, MARAD adopts the interim final rule amending 46 CFR part 310 that was published in the **Federal Register** on May 20, 2004 (69 FR 29079) as a final rule without change.

By Order of the Maritime Administrator.

Dated: December 9, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041202339-4339-01; I.D. 112204D]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 2005 Harvest Specifications for Groundfish

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

ACTION: Temporary rule; interim specifications.

SUMMARY: NMFS issues interim 2005 total allowable catch (TAC) amounts for each category of groundfish, American Fisheries Act (AFA) sideboard limits, and prohibited species catch (PSC) amounts for the groundfish fishery of the Gulf of Alaska (GOA). The intended effect is to conserve and manage the groundfish resources in the GOA.

DATES: The interim harvest specifications are effective from 0001 hrs, Alaska local time (A.l.t.), January 1, 2005, until the effective date of the final 2005 and 2006 harvest specifications for groundfish of the GOA, which will be published in the **Federal Register**.

ADDRESSES: Copies of the Environmental Assessment (EA)

prepared for this action are available from the NMFS Alaska Region homepage at <http://www.fakr.noaa.gov>. The final 2003 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2003, is available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, telephone (907) 271-2809, or from its homepage at <http://www.fakr.noaa.gov/npfmc>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

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

Proposed Steller Sea Lion Protection Measures Revisions

In June 2004, the Council unanimously recommended revisions to the Steller sea lion protection measures in the GOA to alleviate some of the economic burden on coastal communities while maintaining protection for Steller sea lions and their critical habitat. These revisions would adjust pollock and Pacific cod fishing closures near four Steller sea lion haulouts and would revise seasonal management of pollock harvest. NMFS concluded in an Endangered Species Act, section 7, informal consultation, dated August 26, 2004, that fishing under the proposed revisions is not likely to adversely affect Steller sea lions beyond those effects already considered in the 2001 Biological Opinion on the Steller sea lion protection measures and its June 19, 2003, supplement (see **ADDRESSES**). To implement these provisions, NMFS published a proposed rule on September 21, 2004 (69 FR 56384), inviting comments through October 21, 2004. The final rulemaking is expected before the beginning of the 2005 fishing year. If adopted, the pollock harvest management revisions would affect the annual specifications by extending the pollock A and C season dates from January 20 through February 25 to January 20 through March 10 and by

providing clarification as to how the Regional Administrator would rollover under harvested amounts of pollock between seasons.

The Council met in October 2004 to review scientific information concerning groundfish stocks, including the 2003 SAFE report and the EA (see **ADDRESSES**), and to recommend proposed 2005 and 2006 specifications. The Council recommended and NMFS proposed a total acceptable biological catch (ABC) of 514,864 mt and a TAC of 264,265 mt for the 2005 fishing year and a total ABC of 514,240 mt and a TAC of 253,867 mt for the 2006 fishing year. The proposed TAC amounts for each species were based on the best available biological and socioeconomic information.

Under § 679.20(c)(1)(ii), NMFS published in the **Federal Register** proposed harvest specifications for groundfish in the GOA for the 2005 and 2006 fishing years (December 7, 2004; 69 FR 70605). That document contains a detailed discussion of the proposed 2005 and 2006 TACs, groundfish reserves, apportionments of TAC, ABC amounts, overfishing levels (OFLs), PSC amounts, and apportionments of the GOA groundfish fishery.

This action provides interim harvest specifications and apportionments for the 2005 fishing year that will become available on January 1, 2005, and will remain in effect until superseded by the final 2005 and 2006 harvest specifications. Background information concerning the 2005 groundfish harvest specification process, upon which this interim action is based, is provided in the above mentioned proposed specification document.

Establishment of Interim TACs

Section 679.20(c)(2)(i) requires that one-fourth of each proposed TAC and apportionment (not including the reserves and the first seasonal allowance of pollock and Pacific cod) and one-fourth of the halibut PSC amounts become effective at 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications. As stated in the proposed specifications (December 7, 2004; 69 FR 70605), no harvest of groundfish is authorized before the effective date of this action implementing the interim harvest specifications.

Section 679.20(a)(6)(i) and (ii) allocates 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.

The reserves for the GOA are 20 percent of the TAC amounts for pollock, Pacific cod, flatfish species, and the "other species" category (§ 679.20(b)(2)). The GOA groundfish TAC amounts have been utilized fully since 1987, and NMFS expects this trend to continue in 2005. Therefore, NMFS has proposed reapportioning all the reserves to TAC. The interim TAC amounts contained in Table 1 reflect the reapportionment of reserves to the TAC.

Interim 2005 Groundfish Harvest Specifications and Apportionments

Table 1 provides interim TAC amounts, the first seasonal allowance of pollock in the combined Western and Central Regulatory Areas, the first seasonal allowance of Pacific cod in the Western and Central Regulatory Areas, interim TAC allocations of Pacific cod to the inshore and offshore components, and interim sablefish TAC apportionments to hook-and-line and trawl gear. These interim TAC amounts and apportionments become effective at 0001 hours, A.l.t., January 1, 2005.

TABLE 1—INTERIM 2005 TAC AMOUNTS OF GROUND FISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)^{1,2}; THE FIRST SEASONAL ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS; THE FIRST SEASONAL ALLOWANCES OF PACIFIC COD; INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR

(Interim TAC amounts have been rounded to nearest mt)

Species	Area	Interim TAC (mt)
Pollock ^{3,4}	W (610)	3,747
	C (620)	9,027
	C (630)	3,091
	W/C	15,865
Subtotal	WYK (640)	320
	SEO (650)	1,630
	Total	17,815
Pacific cod ⁵	Inshore W	8,588
	Offshore W	954
	Inshore C	13,733
	Offshore C	1,526
	Inshore E	835
	Offshore E	93

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(Interim TAC amounts have been rounded to nearest mt)

Species	Area	Interim TAC (mt)
Total		25,729
Flatfish, Deep-water ⁶	W	78
	C	743
	WYK	470
	SEO	228
Total		1,519
Rex sole	W	420
	C	1,835
	WYK	335
	SEO	573
Total		3,163
Flathead sole	W	500
	C	1,250
	WYK	748
	SEO	98
Total		2,596
Flatfish, Shallow-water ⁷	W	1,125
	C	3,250
	WYK	508
	SEO	302
Total		5,185
Arrowtooth flounder	W	2,000
	C	6,250
	WYK	625
	SEO	625
Total		9,500
Sablefish ^{8,9,10}	H/L W	N/A (482)
	TRW W	121
	H/L C	N/A (1,179)
	TRW C	295
	TRW WYK	64
	H/L WYK	N/A (446)
Total	H/L SEO	N/A (761)
		3,346
Pacific ocean perch ¹¹	W	622
	C	2,063
	WYK	201
	SEO	389

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(Interim TAC amounts have been rounded to nearest mt)

Species	Area	Interim TAC (mt)
Total		3,275
Shortraker/rougheye ¹²	W	64
	C	164
	E	102
	Total	330
Rockfish, northern ¹³	W	183
	C	968
	E	N/A
Total		1,150
Rockfish, other ^{14,15}	W	10
	C	75
	WYK	33
	SEO	50
Total		268
Rockfish, pelagic shelf ¹⁶	W	92
	C	753
	WYK	53
	SEO	220
Total		1,118
Rockfish, demersal shelf SEO ¹⁷	SEO	113
Thornyhead rockfish	W	102
	C	253
	E	130
Total		485
Big and longnose ¹⁸	C	821
Skates		
Other Skates ¹⁹	GW	927
Total		1,748
Atka mackerel	GW	150

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(Interim TAC amounts have been rounded to nearest mt)

Species	Area	Interim TAC (mt)
Other species ²⁰		3,146
GOA Total Interim TAC		80,532

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

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

³The first seasonal allowance of pollock TAC in the W/C combined area is set at 25% of the annual TAC for the area which is 15,865 mt. Within the W/C area pollock is apportioned between Statistical Areas 610, 620, and 630 based on an adjusted estimate of the relative distribution of pollock biomass in the area which is approximately 23.63% in Area 610 (3,747 mt), 56.9% in Area 620 (9,027 mt), and 19.48% in Area 630 (3,091 mt). In the Eastern Regulatory Area, pollock is not divided into less than annual allowances, and one-fourth of the TAC is available on an interim basis.

⁴The 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).)

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

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

⁷“Shallow-water flatfish” means flatfish not including “deep-water flatfish”, flathead sole, rex sole, or arrowtooth flounder.

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

⁹The sablefish hook-and-line 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 hook-and-line gear fishery as contained in the final specifications for groundfish. Under § 679.7(f)(3), retention of sablefish caught with hook-and-line gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 2005, IFQ permits and IFQ cards will not be valid prior to the effective date of the 2005 final specifications. Thus, fishing for sablefish with hook-and-line gear will not be authorized under these interim harvest 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.

¹⁰Sablefish 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 polypsinis*.

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

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

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

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

¹⁸Big skate means “*Raja binoculata*” and longnose skates means “*Raja rhina*”.

¹⁹Other skates mean big and longnose skates in the W and E GOA and “*Bathyrhaja*” spp. Gulfwide.

²⁰“Other species” includes sculpins, sharks, squid, and octopus. The TAC for “other species” equals 5 percent of the TAC amounts of target species.

Interim 2005 Halibut PSC Limits

Under § 679.21(d), annual halibut PSC limits are established for trawl and hook-and-line gear and may be established for pot gear. The Council recommended and NMFS proposed to reestablish the 2004 halibut mortality limits for 2005 because no new information was available. Consistent with 2004, the Council recommended and NMFS proposed exemptions for pot gear, jig gear, and the sablefish hook-and-line fishery from halibut PSC limits for 2005. The fishery specific interim PSC allowances for halibut are in effect at 0001 hours, A.l.t., January 1, 2005, and remain in effect until superseded by the final 2005 harvest specifications. The interim halibut PSC limits are (1) 500 mt to trawl gear, (2) 72.5 mt to hook-and-line gear for fisheries other than demersal shelf rockfish, and (3) 2.5 mt to hook-and-line gear for the demersal shelf rockfish fishery in the Southeast Outside District.

Section 679.21(d)(3)(iii) authorizes apportionments of the trawl halibut PSC limit as bycatch allowances to a deep-water species complex, comprised of rex sole, sablefish, rockfish, deep-water flatfish, and arrowtooth flounder, and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and “other species.” The interim 2005 apportionment for the shallow-water species complex is 409 mt, and for the deep-water species complex is 91 mt.

Interim 2005 Non-exempt American Fisheries Act (AFA) Catcher Vessel Groundfish and PSC Sideboard Limits

Section 679.64 established groundfish harvesting and processing sideboard limits on AFA catcher/processors and catcher vessels in the GOA. These sideboard limits are necessary to protect the interests of fishermen and processors who do not directly benefit from the AFA from fishermen and processors who have received exclusive harvesting and processing privileges under the AFA. In the GOA, listed AFA catcher/processors are prohibited from fishing for any species of fish (§ 679.7(k)(1)(ii)) and from processing any groundfish harvested in Statistical Area 630 of the GOA (§ 679.7(k)(1)(iv)). The Council recommended and NMFS concurs that certain AFA catcher vessels in the GOA be exempt from groundfish sideboard limits. Section 679.64(b)(2)(ii) exempts AFA catcher vessels in the GOA less than 125 ft (38.1 m) length overall (LOA) whose annual Bering Sea and Aleutian Islands management area pollock landings totaled less than 5,100

mt and that made 40 or more GOA groundfish landings from 1995 through 1997.

For non-exempt AFA catcher vessels in the GOA, sideboard limits are based upon their traditional harvest levels of TAC in groundfish fisheries covered by

the GOA FMP. Section 679.64(b)(3)(iii) establishes the groundfish sideboard limits in the GOA based on the retained catch of non-exempt AFA catcher vessels of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period.

These amounts are listed in Table 2. All catch of sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or as incidental catch, will be deducted from the sideboard limits in Table 2.

TABLE 2—INTERIM 2005 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH HARVEST SIDEBOARD LIMITS

Species	Apportionments and allocations by area/season/ processor/gear	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2005 Interim TAC (mt)	2005 Non-Exempt AFA Catcher vessel sideboard limit (mt)
Pollock	Shumagin (610)	0.6112	2,290	
	Chirikof (620)	0.1427	9,027	1,288
	Kodiak (630)	0.2438	3,091	754
	WYK (640)	0.3499	320	112
	SEO (650)	0.3499	1,630	570
Pacific cod	W inshore	0.1423	8,588	1,222
	W offshore	0.1026	954	98
	C inshore	0.0722	13,733	992
	C offshore	0.0721	1,526	110
	E inshore	0.0079	835	7
	E offshore	0.0078	93	1
Flatfish deep-water	W	0	78	0
	C	0.067	743	50
	E	0.0171	699	12
Rex sole	W	0.001	420	0
	C	0.0402	1,835	74
	E	0.0153	908	14
Flathead sole	W	0.0036	500	2
	C	0.0261	1,250	33
	E	0.0048	846	4
Flatfish shallow-water	W	0.0156	1,125	18
	C	0.0598	3,250	194
	E	0.0126	810	10
Arrowtooth flounder	W	0.0021	2,000	4
	C	0.0309	6,250	193
	E	0.002	1,250	2
Sablefish	W trawl gear	0	121	0
	C trawl gear	0.072	295	21
	WYK trawl gear	0.0488	64	3
Pacific ocean perch	W	0.0623	622	39
	C	0.0866	2,063	179
	E	0.0466	590	27
Shortraker/Rougheye	W	0	64	0
	C	0.0237	164	4
	E	0.0124	102	1
Other rockfish	W	0.0034	10	0
	C	0.2065	75	15
	E	0	83	0
Northern rockfish	W	0.0003	183	0
	C	0.0366	968	35
Pelagic shelf rockfish	W	0.0001	92	0
	C	0	753	0
	E	0.0067	273	2
Thornyhead rockfish	W	0.0308	102	3
	C	0.0308	253	8
	E	0.0308	130	4

TABLE 2—INTERIM 2005 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH HARVEST SIDEBOARD LIMITS—Continued

Species	Apportionments and allocations by area/season/ processor/gear	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2005 Interim TAC (mt)	2005 Non-Exempt AFA Catcher vessel sideboard limit (mt)
Demersal shelf rockfish	SEO	0.002	113	0
Big and longnose skates	C	0.009	821	7
Other skates	Gulfwide	0.009	927	8
Atka mackerel	Gulfwide	0.0309	150	5
Other species	Gulfwide	0.009	3,146	28

In accordance with § 679.64(b)(4), PSC bycatch limits for the non-exempt AFA catcher vessels in the GOA are based on the ratio of aggregate retained

groundfish catch by non-exempt AFA catcher vessels in each PSC target category from 1995 through 1997, relative to the retained catch of all

vessels in that fishery from 1995 through 1997. These amounts are shown in Table 3.

TABLE 3—INTERIM 2005 NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH (PSC) SIDEBOARD LIMITS FOR THE GOA.

(Values are in mt)

PSC species	Target fishery	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	2005 Interim PSC limit	2005 non-exempt AFA catcher vessel PSC limit
Halibut (mortality in mt)	shallow water targets	0.340	409	139
	deep water targets	0.070	91	6

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category apportioned to a fishery or, with respect to pollock and Pacific cod, to an inshore or offshore component allocation will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA regulatory area or district (§ 679.20(d)(1)(iii)).

The Regional Administrator has determined that the following TAC amounts in Table 4 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2005 fishing year.

TABLE 4—INCIDENTAL CATCH NEEDED TO SUPPORT OTHER DIRECTED FISHERIES IN THE GOA IN 2005

(Amounts are in mt)

Target	Regulatory Area	Gear/Component	Amount
Atka mackerel	entire GOA	all	150
Thornyhead rockfish	entire GOA	all	485
Shortraker/Rougheye rockfish	entire GOA	all	330
Other rockfish	entire GOA	all	168
Sablefish	entire GOA	trawl	480
Pollock	entire GOA	all/off-shore	0

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 immediately prohibiting directed fishing for those

species, areas, gear types, and components listed in Table 4. These closures will remain in effect until superceded by the final 2005 harvest specifications.

Section 679.64(b)(5) provides for management of AFA catcher vessel groundfish harvest limits and PSC bycatch limits using directed fishing closures and PSC closures according to procedures set out at §§ 679.20(d)(1)(iv), 679.21(d)(8), and 679.21(e)(3)(v). 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 2 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2005 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels in the GOA for the species and specified areas in Table 5. These closures will remain in effect until superceded by the final 2005 harvest specifications.

TABLE 5—2005 NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD LIMIT DIRECTED FISHING CLOSURES IN THE GOA

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

Classification

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

Because this action is a final action by NMFS, analyses required under the Magnuson-Stevens Act must be completed and considered by the agency prior to promulgation of the interim harvest specifications.

Section 679.20(c)(2) requires NMFS to specify harvest specifications to be effective January 1 and to remain in effect until superceded by the final specifications. Without interim harvest specifications in effect on January 1, the groundfish fisheries would not be able to open, resulting in disruption within

the fishing industry. NMFS cannot publish interim harvest specifications until proposed specifications are completed because the interim harvest specifications are derived from the proposed specifications, as required by § 679.20(c)(2).

The proposed specifications are based on the preliminary recommendations of the Plan Team, which were reviewed by the Scientific and Statistical Committee and Council in October 2004, in projecting 2005 biomass amounts, as identified in the 2003 SAFE report, for the proposed 2005 and 2006 ABC, overfishing levels, and TAC amounts. The Plan Team recommendations incorporate the most current data available from a number of sources, including current-year industry catch levels, and current-year trawl and hydro-acoustic surveys. These data are not available in time for Council review prior to the October Council meeting, as the surveys are conducted during the summer months, and industry catch levels reflect current year activity. These updated data sources represent the best available scientific information. These data provide the basis for the proposed and interim harvest specifications.

The proposed specifications, as required by § 679.20(c)(1)(i)(A), must be published as soon as practicable after consultation with the Council, which occurs at the Council's October meeting. Because the interim harvest specifications are derived from the proposed specifications, the proposed specifications publication requirement, along with the requirement of National Standard 2 of the Magnuson-Stevens Act to use the best scientific information available, prevents NMFS from publishing the interim harvest specifications in sufficient time to have a public comment period and to have the interim harvest specifications effective on January 1.

As stated above, disruption of the fishing industry and consequent impacts to fishing communities and to the public would occur if the interim harvest specifications were not effective January 1. Additionally, the public is provided an opportunity to comment on the proposed specifications, from which these interim harvest specifications are

derived. For these reasons, good cause exists under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this action as such procedures would be impracticable and contrary to the public interest.

Likewise, the Assistant Administrator finds good cause to waive the 30-day delay in effectiveness date of the interim harvest specifications. Section 679.20(c)(2) requires NMFS to establish interim harvest specifications to be effective on January 1 and to remain in effect until superceded by the publication of final harvest specifications by the office of the **Federal Register**. NMFS interprets § 679.20(c)(2) as requiring the filing of interim harvest specifications with the Office of the **Federal Register** before any harvest of groundfish is authorized. The interim harvest specifications are based on the proposed 2005 specifications.

The interim harvest specifications rely on data used to propose the 2005 specifications, and those data are not available until after the summer surveys are conducted (see above). Without interim harvest specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, resulting in disruption of the fishing industry. These reasons constitute good cause pursuant to U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness date.

Because these interim harvest specifications are not required to be issued with prior notice and opportunity for comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act do not apply. Consequently, no regulatory flexibility analysis has been prepared for this action.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105 277, Title II of Division C; Pub L. 106 31, Sec. 3027; Pub L. 106 554, Sec. 209; and Pub. L. 108–199, Sec. 803.

Dated: December 7, 2004.

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