

"Other rockfish" 583 mt  
 Bering Sea subarea:  
 Pacific ocean perch 2,210 mt  
 "Other rockfish" 314 mt  
 "Other red rockfish" 1657 mt

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

Therefore, in accordance with § 679.20(d)(1)(iii) NMFS is prohibiting directed fishing for these species in the specified areas and these closures will remain in effect through 2400 hrs, Alaska local time (A.l.t.), December 31, 2000.

In addition, the BSAI, Zone 1, annual red king crab allowance specified for the trawl rockfish fishery (§ 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish is 0 mt. The BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories, (§ 679.21(e)(3)(iv)(C)) is 0 mt. Therefore, in accordance with § 679.21(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI, directed fishing for rockfish by vessels using trawl gear in the entire BSAI and directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2000, for directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI, and for directed fishing for rockfish by vessels using trawl gear in Zone 1 in the BSAI, and the 1200 hrs, A.l.t., July 4, 2000, for directed fishing for rockfish by vessels using trawl gear in the entire BSAI.

Under authority of the interim 2000 harvest specifications (65 FR 60, January 3, 2000), NMFS closed directed fishing for Atka mackerel for gears other than jig in the Eastern Aleutian District and the Bering Sea subarea of the BSAI effective 1200 hrs, A.l.t., January 29, 2000, through 2400 hrs, A.l.t., September 1, 2000 (65 FR 4893, February 2, 2000); directed fishing for pollock by vessels, not participating in cooperatives, greater than 99 ft (30.2 m) LOA catching pollock for processing by the inshore component in the SCA of the BSAI effective 12 noon, A.l.t., January 30, 2000, until 1200 hrs, A.l.t., April 1, 2000 (65 FR 5284, February 3, 2000); and prohibited trawling within Steller sea lion critical habitat in the Central Aleutian District of the BSAI, effective 12 noon, A.l.t., February 10,

2000, until the directed fishery for Atka mackerel closes within the entire Central Aleutian District (65 FR xxx, February x, 2000). The amount of available TAC remaining for these fisheries under the final 2000 harvest specifications for groundfish, following the closures under the interim 2000 harvest specifications for groundfish, will be taken as incidental catch in directed fishing for other species. Thus, these closures remain effective under authority of final 2000 harvest specifications.

These closures supersede the closures announced in the interim 2000 harvest specifications (65 FR 60, January 3, 2000). While these closures are in effect, the maximum retainable bycatch 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 part 679. Refer to § 679.2 for definitions of areas. In the BSAI, "Other rockfish" includes *Sebastes* and *Sebastes* species except for Pacific ocean perch, shortraker, rougheye, sharpchin, and northern rockfish.

#### Classification

This action is required by § 679.20 and § 679.21 and is exempt from review under E.O. 12866.

This action responds to the TAC limitations and other restrictions on the fisheries established in the Final 2000 Harvest Specification for Groundfish for the BSAI. It must be implemented immediately to prevent overharvesting the 2000 TAC of several groundfish species in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The fleet is currently harvesting groundfish, and further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

Dated: February 14, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 000211039-0039-01; I.D. 111899A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2000 Harvest Specifications for Groundfish

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

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

**SUMMARY:** NMFS announces final 2000 harvest specifications, reserves, allocations, and apportionments for groundfish, Pacific halibut prohibited species catch (PSC) limits, and assumed Pacific halibut mortality rates for the groundfish fisheries of the Gulf of Alaska (GOA). This action is necessary to establish harvest specifications for GOA groundfish for the 2000 fishing year and to conserve and manage the groundfish resources in the GOA, and is intended to implement the goals and objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

**DATES:** The final 2000 harvest specifications are effective at noon on February 15, 2000 through 2400 hrs, Alaska local time (A.l.t.), December 31, 2000.

**ADDRESSES:** Copies of the Final Environmental Assessment (EA), the Final Regulatory Flexibility Analysis (FRFA) prepared for this action, and the Final Stock Assessment and Fishery Evaluation Report (SAFE report), dated November 1999, are available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, or by calling 907-271-2809.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-481-1780, fax 907-481-1781, 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 (Magnuson-Stevens Act). General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 600 and 50 CFR part 679.

NMFS announces for the 2000 fishing year: (1) Specifications of total allowable catch (TAC) amounts for each groundfish species category in the GOA, and reserves; (2) apportionments of reserves; (3) allocations of the sablefish TAC to vessels using hook-and-line and trawl gear; (4) apportionments of pollock TAC among regulatory areas, seasons, and allocations for processing between inshore and offshore components; (5) allocations for processing of Pacific cod TAC between inshore and offshore components; (6) Pacific halibut PSC limits; (7) fishery and seasonal apportionments of the Pacific halibut PSC limits; and (8) Pacific halibut assumed discard mortality rates. A discussion of each of these measures follows.

Regulations implementing the FMP establish the process of determining TACs for groundfish species in the GOA. Pursuant to § 679.20(a)(2), the sum of the TACs for all species must fall within the combined optimum yield (OY) range of 116,000–800,000 metric tons (mt) established for these species at § 679.20(a)(1)(ii).

The Council met from October 12 through 18, 1999, and developed recommendations for proposed 2000 TAC specifications for each species category of groundfish on the basis of the best available scientific information. The Council also recommended associated management measures pertaining to the 2000 fishing year. The Council proposed rolling over all the 1999 final specifications for 2000, pending an update of the preliminary 1999 SAFE report to include new information collected during 1999 and revised stock assessments to be incorporated in the final SAFE report. Pursuant to § 679.20(c)(1)(ii), the proposed 2000 harvest specifications for the GOA groundfish fishery were published in the **Federal Register** on December 13, 1999 (64 FR 69457), and comments were accepted through January 12, 2000. NMFS received one letter of comment on the proposed 2000 GOA specifications, which is responded to in the following text. Interim TAC and PSC amounts equal to one-fourth of the proposed amounts were published in the **Federal Register** on January 3, 2000 (65 FR 65). The interim TACs for pollock subsequently were revised by an emergency interim rule effective January 20, 2000 (65 FR 3892, January 25, 2000), that implemented revised final reasonable and prudent alternatives

(RFRPAs) to avoid the likelihood the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. The emergency interim rule implements three types of management measures for the pollock fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and GOA: (1) Measures to temporally disperse fishing effort, (2) measures to spatially disperse fishing effort, and (3) measures to provide full protection from pollock fisheries that compete with Steller sea lions for prey in waters immediately adjacent to rookeries and important haulouts.

The interim TACs were revised further under a second emergency interim rule effective January 20, 2000 (65 FR 4520, January 28, 2000), that established GOA groundfish and PSC limits for specified catcher vessels authorized to harvest BSAI pollock under the American Fisheries Act (AFA).

With the exception of the pollock harvest specifications implementing the RFRPAs and the AFA harvest limits, the final 2000 groundfish harvest specifications and PSC limits contained in this action supersede the interim 2000 specifications.

The Council met December 7 through 12, 1999, to review the best available scientific information concerning groundfish stocks, and to consider public testimony regarding 2000 groundfish fisheries. The best available scientific information is contained in the current SAFE report, dated November 1999. The SAFE report includes the most recent information concerning the status of groundfish stocks based on the most recent catch data, survey data, and biomass projections using alternative modeling approaches or assumptions. The Council's GOA Plan Team prepared the SAFE report and presented it to the Council and the Council's Scientific and Statistical Committee (SSC) and Advisory Panel (AP) at the December 1999 Council meeting. The Plan Team's recommendations for acceptable biological catch (ABC) levels and overfishing levels (OFL) are contained in the SAFE report along with the rationale supporting those recommendations.

For establishment of the ABCs and TACs, the Council considered the ecological, socioeconomic, and ecosystem information in the SAFE report, recommendations from its SSC and AP, as well as public testimony. The SSC adopted the OFL recommendations from the Plan Team,

which were provided in the SAFE report, for all groundfish species categories. The SSC also adopted the ABC recommendations from the Plan Team, which were provided in the SAFE report, for all of the groundfish species categories, except pollock in the combined Western, Central, West Yakutat (W/C/WYK) area.

The SSC did not adopt the Plan Team's recommendation of ABC for pollock in the W/C/WYK area of the GOA. The Plan Team's recommendation was to roll over the 1999 ABCs for the area in consideration of: (1) The pollock stock biomass level is in a downward trend, (2) projected year 2000 biomass will be at an all time low, and (3) high variability about the 1999 trawl survey abundance estimate. The SSC shared these concerns with the Plan Team, but recommended that the year 2000 ABC be explicitly based on the current stock assessment. The SSC recommended setting the 2000 ABC for the W/C/WYK area at an adjusted F45 percent exploitation strategy, resulting in an ABC of 93,540 mt for the area.

The Council adopted the SSC's ABC and AP's TAC recommendations for all species except sablefish. The SSC's ABC recommendation for sablefish area apportionments were based on the Plan Team's 5-year weighted average of hook-and-line survey relative abundance. The AP's recommendations were to set TAC equal to ABC in these areas. The Council recommended ABCs and TACs based on an alternative model for apportionment of ABC among management areas, which includes commercial fishery as well as survey data. The fishery and survey data were combined by computing a weighted average of the survey and fishery estimates, with the weight inversely proportional to the variability of each data source. 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 (WYK) District.

NMFS agrees with the Council's approach for the 2000 harvest specifications. 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 would need to be evaluated annually to assure that unbiased

information is included in stock distribution models.

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 Council recommended that the TACs be adjusted downward from the ABCs by amounts equal to the 2000 guideline harvest levels (GHL) established for Pacific cod by the State of Alaska (State) for a State-managed fishery in State waters. The effect of the State's GHL on the Pacific cod TAC is discussed in greater detail below.

The Council's recommended ABCs, listed in Table 1, reflect harvest amounts that are less than the specified overfishing amounts. The sum of 2000 ABCs for all groundfish is 448,010 mt, which is lower than the 1999 ABC total of 532,590 mt.

## 2000 Harvest Specifications

### *Specifications of TAC and Reserves*

The Council recommended TACs equal to ABCs for pollock, deep-water flatfish, rex sole, sablefish, shorttraker and rougheye rockfish, other slope rockfish, northern rockfish, Pacific ocean perch, pelagic shelf rockfish, thornyhead rockfish, demersal shelf rockfish, and Atka mackerel. The Council recommended TACs less than the ABC for Pacific cod, flathead sole, shallow-water flatfish, and arrowtooth flounder (Table 1).

The TAC for pollock has decreased in the combined W/C/WYK areas of the GOA from 94,590 mt in 1999 to 93,540 mt in 2000. It has increased from 6,330 mt in 1999 to 6,460 mt in 2000 in the SEO District of the Eastern GOA. The apportionment of TAC in the W/C/WYK area of the GOA reflects the current biomass distribution.

Under the January 25, 2000, emergency interim rule implementing the RFRPAs for Steller sea lions (65 FR 3892), the annual pollock TAC in the Western and Central GOA is divided into four seasonal apportionments. Thirty percent of the annual TAC in the Western and Central Regulatory Areas in the GOA is apportioned to the A season (January 20 through March 1) in the Western GOA, Shelikof Strait, and Statistical Areas 620 and 630 (outside of Shelikof Strait) in the Central GOA (§ 679.20(a)(5)(ii)); 15 percent to the B season (March 15 through May 31) in the Western GOA, Shelikof Strait, and Statistical Areas 620 and 630 (outside of Shelikof Strait) in the Central GOA; 30 percent to the C season (August 20 through September 15) in the Western GOA and Statistical Areas 620 and 630 in the Central GOA; and 25 percent to

the D season (October 1 through November 1) in the Western GOA and Statistical Areas 620 and 630 in the Central GOA (§ 679.23(d)(3)(i) through (iv)). The Shelikof area (defined at § 679.22(a)(3)(iii)(B)) apportionments during the A and B seasons are derived from the estimate of pollock biomass (489,900 mt) in the critical habitat of the Shelikof Strait divided by the pollock biomass (933,000 mt) estimated for the entire GOA multiplied by the A and B seasonal apportionments of pollock TAC (*i.e.*, 30 percent of the annual TACs (27,361 mt) in the A season and 15 percent of the annual TACs in the B season (13,680 mt) in the GOA (§ 679.22(a)(3)(iii)(C))). These specifications under the emergency rule expire July 19, 2000. NMFS anticipates that a final rule permanently implementing these management measures will be in effect prior to the expiration of the emergency rule. This final rule would revise the annual specifications to establish pollock harvest specifications for the remainder of 2000 consistent with the RFRPAs.

NMFS has concluded that these harvest specifications are not an irreversible or irretrievable commitment of resources that has the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives that might be developed as part of the biological opinion that is currently under development for the BSAI and GOA groundfish fishery management plans. This conclusion is based on the best scientific and commercial data available on population dynamics, fish stock dynamics, fishery management measures, the population dynamics of groundfish stocks in the Aleutian Islands, Bering Sea, and Gulf of Alaska, and interactions between these fisheries and the endangered western population of Steller sea lions. In reaching the conclusion that the year 2000 groundfish fisheries in the BSAI and GOA can proceed as approved at the levels contained in the final harvest specifications for the BSAI and GOA, and as dictated by the groundfish FMPs for the BSAI and GOA, NMFS considered factors pertinent to section 7(d) of the ESA.

Our concerns about the effect of these groundfish fisheries on the Steller sea lions' likelihood of survival and recovery in the wild has resulted from apparent competition between some of the fisheries and sea lions when and where sea lions forage. The total number or biomass of the groundfish species (*e.g.*, pollock, Pacific cod, Atka mackerel, and flatfish) has not been, and does not appear to be, an issue with

these fish stocks: the high recruitment rates, relatively short life-histories, and migratory patterns of these species throughout the BSAI and GOA should allow these species to recover relatively quickly. The substantial basis for this assumption comes from the scientific literature on sustainable harvest rates (*e.g.*, Beddington and Cooke, 1983; Clarke, 1991; Sissenwine and Shepard, 1987). The issue is whether the way these fisheries are managed allows the fish stocks to recover and become available again to foraging Steller sea lions before the fishery can compete with the sea lions.

The spatial and temporal distribution of the groundfish fisheries, as opposed to the allowable catch, has been the essence of concern for Steller sea lions, which was also expressed by the National Research Council in its 1996 review of these issues in the Bering Sea (National Research Council, Committee on the Bering Sea Ecosystem: The Bering Sea Ecosystem, 1996). The need for spatial and temporal distribution has also been the foundation for the development and implementation of management measures that avoid competition between the fisheries and foraging Steller sea lions.

The TAC-setting process, specified in the FMPs, is very conservative with respect to harvest rate by internationally accepted scientific standards (*e.g.*, Precautionary Approach to Capture Fisheries and Species Introductions, FAO, 1996; Code of Conduct for Responsible Fisheries, FAO, 1995). Harvesting of the TACs established by this process is not expected to deplete groundfish resources. Conducting a fishery in 2000 should not irreversibly or irretrievably alter the ability of these groundfish species to recover from the proposed harvest. A fishery in 2000 would not alter recruitment rates for any of these species and it would not alter their ability to redistribute throughout the area of concern in a way that would reduce their availability for foraging Steller sea lions. While the biological opinion will examine the TAC setting process, we do not believe that the 2000 TAC specifications will threaten the survival and recovery of Steller sea lions or diminish the value of designated critical habitat for sea lions. Groundfish species should be able to recover quickly enough after the 2000 harvest to effect reasonable and prudent alternatives that avoid the likelihood of jeopardizing Steller sea lions or adversely modifying critical habitat designated for them.

The conduct of this fishery, therefore, would not foreclose any of our options to develop and implement reasonable

and prudent alternatives that avoid the likelihood of jeopardizing the sea lions. NMFS intends to complete the comprehensive biological opinion, which will evaluate all activities that govern the groundfish fisheries authorized and managed under the current fishery management plans, prior to the start of the 2001 fisheries. These same activities are also being evaluated in the programmatic supplemental environmental impact statement that we currently are drafting.

The 2000 Pacific cod TAC is affected by the State's developing fishery for Pacific cod in State waters in the Central and Western GOA, as well as Prince William Sound. 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 GHLS in each regulatory area of the GOA so that the TAC for: (1) The Eastern GOA be

lower than the ABC by 1,340 mt, (2) the Central GOA be lower than the ABC by 8,385 mt, and (3) the Western GOA be lower than the ABC by 6,875 mt.

Subsequent to the Council's December 1999 meeting, harvests of Pacific cod in State waters of the Kodiak District in the Central GOA increased to over 90 percent of the 1999 GHL for the area. This results in an unanticipated increase in the 2000 GHL for the Kodiak District (*i.e.*, from 10 percent to 12.5 percent of the Central GOA ABC for a total of 21.75 percent of the Central GOA ABC). NMFS is adjusting the Council's recommended Pacific cod TAC downward for the Central GOA from 35,615 mt to 34,080 mt to reflect the increased 2000 GHLS in the Central GOA. These amounts reflect the increased percentages the State has established for GHLS in these areas. In the Western GOA, the State Pacific cod GHL has increased from 20 percent in 1999, to 25 percent in 2000. The Pacific cod GHL in the Central GOA has

increased from 19.25 percent in 1999 to 21.75 percent in 2000. The State's Pacific cod GHL of 1,340 mt for PWS is based on 25 percent of the 2000 Eastern GOA ABC.

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 GOA-wide "other species" TAC is 14,215 mt, which is 5 percent of the sum of the combined TAC amounts for the target species. The sum of the TACs for all GOA groundfish is 298,510 mt, which is within the OY range specified by the FMP. The sum of the TACs is lower than the 1999 TAC sum of 306,535 mt. NMFS has reviewed the Council's recommended TAC specifications and apportionments and hereby approves these specifications under § 679.20(c)(3)(ii). The 2000 ABCs, TACs, and OFLs are shown in Table 1. The initial TAC amounts shown for Pacific cod reflect the reserve of 20 percent of the TACs in this fishery.

TABLE 1.—2000 ABCs, TACs, INITIAL TACs (PACIFIC COD ONLY) AND OVERFISHING LEVELS OF GROUND FISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), SHELIKOF STRAIT, EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are in metric tons]

| Species                                  | Area <sup>1</sup> | ABC     | TAC     | Initial | TAC   | Overfishing |
|--|-------------------|---------|---------|---------|-------|-------------|
| Pollock: <sup>2</sup>                    |                   |         |         |         |       |             |
| Shumagin .....                           | (610)             | 29,290  | 29,290  | .....   | ..... | .....       |
| Chirikof .....                           | (620)             | 17,430  | 17,430  | .....   | ..... | .....       |
| Kodiak .....                             | (630)             | 22,930  | 22,930  | .....   | ..... | .....       |
| Shelikof .....                           | .....             | 21,550  | 21,550  | .....   | ..... | .....       |
| WYK .....                                | (640)             | 2,340   | 2,340   | .....   | ..... | .....       |
| Subtotal .....                           | W/C/WYK           | 93,540  | 93,540  | .....   | ..... | 130,760     |
| SEO .....                                | (650)             | 6,460   | 6,460   | .....   | ..... | 8,610       |
| Total .....                              | .....             | 100,000 | 100,000 | .....   | ..... | 139,370     |
| Pacific cod: <sup>3</sup>                |                   |         |         |         |       |             |
|  | W                 | 27,500  | 20,625  | 16,500  | ..... | .....       |
|  | C                 | 43,550  | 34,080  | 27,264  | ..... | .....       |
|  | E                 | 5,350   | 4,010   | 3,208   | ..... | .....       |
| Total .....                              | .....             | 76,400  | 58,715  | 46,972  | ..... | 102,000     |
| Flatfish <sup>4</sup> (deep-water) ..... |                   |         |         |         |       |             |
|  | W                 | 280     | 280     | .....   | ..... | .....       |
|  | C                 | 2,710   | 2,710   | .....   | ..... | .....       |
|  | WYK               | 1,240   | 1,240   | .....   | ..... | .....       |
|  | SEO               | 1,070   | 1,070   | .....   | ..... | .....       |
| Total .....                              | .....             | 5,300   | 5,300   | .....   | ..... | 6,980       |
| Rex sole <sup>4</sup> .....              |                   |         |         |         |       |             |
|  | W                 | 1,230   | 1,230   | .....   | ..... | .....       |
|  | C                 | 5,660   | 5,660   | .....   | ..... | .....       |
|  | WYK               | 1,540   | 1,540   | .....   | ..... | .....       |
|  | SEO               | 1,010   | 1,010   | .....   | ..... | .....       |
| Total .....                              | .....             | 9,440   | 9,440   | .....   | ..... | 12,300      |
| Flathead sole .....                      |                   |         |         |         |       |             |
|  | W                 | 8,490   | 2,000   | .....   | ..... | .....       |
|  | C                 | 15,720  | 5,000   | .....   | ..... | .....       |
|  | WYK               | 1,440   | 1,440   | .....   | ..... | .....       |
|  | SEO               | 620     | 620     | .....   | ..... | .....       |

TABLE 1.—2000 ABCs, TACs, INITIAL TACs (PACIFIC COD ONLY) AND OVERFISHING LEVELS OF GROUND FISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), SHELKOF STRAIT, EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

| Species                                     | Area <sup>1</sup> | ABC               | TAC    | Initial | TAC   | Overfishing |
|---|-------------------|-------------------|--------|---------|-------|-------------|
| Total .....                                 |                   | 26,270            | 9,060  | .....   | ..... | 34,210      |
| Flatfish <sup>5</sup> (shallow-water) ..... | W                 | 19,510            | 4,500  | .....   | ..... | .....       |
|   | C                 | 16,400            | 12,950 | .....   | ..... | .....       |
|   | WYK               | 790               | 790    | .....   | ..... | .....       |
|   | SEO               | 1,160             | 1,160  | .....   | ..... | .....       |
| Total .....                                 |                   | 37,860            | 19,400 | .....   | ..... | 45,330      |
| Arrowtooth flounder .....                   | W                 | 16,160            | 5,000  | .....   | ..... | .....       |
|   | C                 | 97,710            | 25,000 | .....   | ..... | .....       |
|   | WYK               | 23,770            | 2,500  | .....   | ..... | .....       |
|   | SEO               | 7,720             | 2,500  | .....   | ..... | .....       |
| Total .....                                 |                   | 145,360           | 35,000 | .....   | ..... | 173,910     |
| Sablefish <sup>6</sup> .....                | W                 | 1,840             | 1,840  | .....   | ..... | .....       |
|   | C                 | 5,730             | 5,730  | .....   | ..... | .....       |
|   | WYK               | 2,207             | 2,207  | .....   | ..... | .....       |
|   | SEO               | 3,553             | 3,553  | .....   | ..... | .....       |
| Subtotal .....                              | E                 | 5,760             | 5,760  | .....   | ..... | .....       |
| Total .....                                 |                   | 13,330            | 13,330 | .....   | ..... | 16,660      |
| Pacific <sup>7</sup> ocean perch .....      | W                 | 1,240             | 1,240  | .....   | ..... | 1,460       |
|   | C                 | 9,240             | 9,240  | .....   | ..... | 10,930      |
|   | WYK               | 840               | 840    | .....   | ..... | .....       |
|   | SEO               | 1,700             | 1,700  | .....   | ..... | .....       |
| Subtotal .....                              | E                 | .....             | .....  | .....   | ..... | 3,000       |
| Total .....                                 |                   | 13,020            | 13,020 | .....   | ..... | 15,390      |
| Short raker/rougheye <sup>8</sup> .....     | W                 | 210               | 210    | .....   | ..... | .....       |
|   | C                 | 930               | 930    | .....   | ..... | .....       |
|   | E                 | 590               | 590    | .....   | ..... | .....       |
| Total .....                                 |                   | 1,730             | 1,730  | .....   | ..... | 2,510       |
| Other rockfish <sup>10</sup> .....          | W                 | 20                | 20     | .....   | ..... | .....       |
|   | C                 | 740               | 740    | .....   | ..... | .....       |
|   | WYK               | 250               | 250    | .....   | ..... | .....       |
|   | SEO               | 3,890             | 3,890  | .....   | ..... | .....       |
| Total .....                                 |                   | 4,900             | 4,900  | .....   | ..... | 6,390       |
| Northern Rockfish <sup>12</sup> .....       | W                 | 630               | 630    | .....   | ..... | .....       |
|   | C                 | 4,490             | 4,490  | .....   | ..... | .....       |
|   | E                 | N/A               | N/A    | .....   | ..... | .....       |
| Total .....                                 |                   | 5,120             | 5,120  | .....   | ..... | 7,510       |
| Pelagic shelf rockfish <sup>13</sup> .....  | W                 | 550               | 550    | .....   | ..... | .....       |
|   | C                 | 4,080             | 4,080  | .....   | ..... | .....       |
|   | WYK               | 580               | 580    | .....   | ..... | .....       |
|   | SEO               | 770               | 770    | .....   | ..... | .....       |
| Total .....                                 |                   | 5,980             | 5,980  | .....   | ..... | 9,040       |
| Thornyhead rockfish .....                   | W                 | 430               | 430    | .....   | ..... | .....       |
|   | C                 | 990               | 990    | .....   | ..... | .....       |
|   | E                 | 940               | 940    | .....   | ..... | .....       |
| Total .....                                 |                   | 2,360             | 2,360  | .....   | ..... | 2,820       |
| Demersal shelf rockfish <sup>11</sup> ..... | SEO               | 340               | 340    | .....   | ..... | 420         |
| Atka mackerel .....                         | GW                | 600               | 600    | .....   | ..... | 6,200       |
| Other <sup>14</sup> species .....           | GW                | <sup>15</sup> N/A | 14,215 | .....   | ..... | N/A         |

TABLE 1.—2000 ABCs, TACs, INITIAL TACs (PACIFIC COD ONLY) AND OVERFISHING LEVELS OF GROUND FISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), SHELIKOF STRAIT, EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

| Species             | Area <sup>1</sup> | ABC     | TAC     | Initial | TAC | Overfishing |
|---------------------|-------------------|---------|---------|---------|-----|-------------|
| Total <sup>16</sup> |                   | 448,010 | 298,510 |         |     | 581,040     |

<sup>1</sup> Regulatory areas and districts are defined at § 679.2.

<sup>2</sup> Under the emergency interim rule (65 FR 3892, January 25, 2000) pollock is apportioned in the Western/Central Regulatory areas to the Shelikof Strait conservation area (defined at § 679.22(b)(2)(iii)(B)) in the A and B seasons only (§ 679.22(b)(2)(iii)) in accordance with § 679.22(b)(2)(iii)(C) and the remainder to the three statistical areas in the combined Western/Central Regulatory Area outside the Shelikof Strait based on the relative distribution of pollock biomass at 42 percent, 25 percent, and 33 percent in Regulatory areas 610, 620, and 630 respectively. During the C and D seasons pollock is apportioned based on the relative distribution of pollock biomass at 42 percent, 25 percent, and 33 percent in Regulatory Areas 610, 620, and 630 respectively. These seasonal apportionments are shown in Tables 3 and 4. In the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

<sup>3</sup> Pacific cod is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component. Component allocations of the initial TACs are shown in Table 5.

<sup>4</sup> "Deep-water flatfish" means Dover sole, Greenland turbot, and deepsea sole.

<sup>5</sup> "Shallow-water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rex sole, or arrowtooth flounder.

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

<sup>7</sup> "Pacific ocean perch" means *Sebastes alutus*.

<sup>8</sup> "Shortraker/rougheye rockfish" means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

<sup>9</sup> "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.

<sup>10</sup> "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* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth). In the Eastern GOA only, "slope rockfish" also includes northern rockfish, *S. polyspinus*.

<sup>11</sup> "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).

<sup>12</sup> "Northern rockfish" means *Sebastes polyspinus*.

<sup>13</sup> "Pelagic shelf rockfish" means *Sebastes ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

<sup>14</sup> "Other species" means sculpins, sharks, skates, squid, and octopus. The TAC for "other species" equals 5 percent of the TACs of target species.

<sup>15</sup> N/A means not applicable.

<sup>16</sup> The total ABC is the sum of the ABCs for target species.

### Apportionment of Reserves

Regulations 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 (§ 679.20(b)(2)). For the preceding 12 years, including 1999, NMFS reapportioned all of the reserves in the final harvest specifications except for Pacific cod. Beginning in 1997, NMFS retained the Pacific cod reserve. NMFS proposed reapportionment of all reserves for 2000, except for Pacific cod, in the proposed GOA groundfish specifications published in the **Federal Register** on December 13, 1999 (64 FR 69457). NMFS received no public comments on the proposed reapportionments. For 2000, NMFS has reapportioned all of the reserve for pollock, flatfish, and "other species." NMFS is retaining the Pacific cod reserve at this time to provide for a management buffer to account for excessive fishing effort and/or incomplete or late catch reporting. In recent years, unpredictable increases in

fishing effort and harvests, uncertainty of incidental catch needs in other directed fisheries throughout the year, and untimely submission and revision of weekly processing reports have resulted in early and late closures of the Pacific cod fishery. NMFS believes that retention of the Pacific cod reserve to provide for TAC management difficulties later in the year is a conservative approach that will lead to a more orderly fishery and provide greater assurance that incidental catch of Pacific cod may be retained throughout the year. Specifications of TAC shown in Table 1 reflect apportionment of reserve amounts for pollock, flatfish species, and "other species." Table 1 also lists the initial TACs for Pacific cod, which reflect the withholding of the Pacific cod TAC reserve.

### Allocations of the Sablefish TACs 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. In recognition of the trawl ban in the SEO District of the Eastern Regulatory Area, the Council recommended 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. In the SEO District, 100 percent of the sablefish TAC is allocated to vessels using hook-and-line gear. This recommendation results in an allocation of 288 mt to trawl gear and 1,919 mt to hook-and-line gear in the WYK District. Table 2 shows the allocations of the 2000 sablefish TACs between hook-and-line gear and trawl gear.

TABLE 2.—2000 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ALLOCATIONS THEREOF TO HOOK-AND-LINE AND TRAWL GEAR  
[Values are in metric tons]

| Area/district           | TAC    | Hook-and-line apportionment | Trawl apportionment |
|-------------------------|--------|-----------------------------|---------------------|
| Western .....           | 1,840  | 1,472                       | 368                 |
| Central .....           | 5,730  | 4,584                       | 1,146               |
| West Yakutat .....      | 2,207  | 1,919                       | 288                 |
| Southeast Outside ..... | 3,553  | 3,553                       | 0                   |
| Total .....             | 13,330 | 11,528                      | 1,802               |

**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 the emergency interim rule published January 25, 2000 (65 FR 3892), implementing the RFRPAs, the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four seasonal allowances of 30, 15, 30, and 25 percent, respectively (§ 679.20(a)(5)(ii)(B)). As established by § 679.23(d)(2), the A, B, C, and D season allowances are available from January 20 through March 1, from March 15 through May 31, from August 20 through September 15, and from October 1 through November 1 respectively.

To prevent localized depletions of pollock outside the Shelikof Strait conservation area (defined at § 679.20(b)(2)(iii)(B)), the emergency rule also establishes seasonal TACs of pollock within Shelikof Strait during the A and B seasons. The derivation of these harvest limits is explained here and listed in Tables 1 and 3.

The remainder of the A and B seasonal allowances of pollock TAC in the Western and Central Regulatory Areas are apportioned among statistical area 610, and statistical areas 620 and 630 outside Shelikof Strait conservation area in proportion to the distribution of pollock biomass as determined by the four most recent NMFS surveys. Pollock TACs in the Western and Central Regulatory Areas in the C and D seasons are apportioned among statistical areas 610, 620, and 630 in proportion to the distribution of pollock biomass as determined by the four most recent NMFS surveys. 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 Regional Administrator, Alaska Region, NMFS, provided that a revised seasonal allowance does not exceed 30 percent of the annual TAC apportionment (§ 679.20(a)(5)(ii)(C)). The WYK and SEO District pollock TACs of 2,340 mt and 6,460 mt, respectively, are not allocated seasonally.

Regulations at § 679.20(a)(6)(ii) 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 bycatch 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 biomass distribution of pollock in the Western and Central GOA, area apportionments, and seasonal apportionments for the A and B seasons are summarized in Table 3 and for the C and D seasons in Table 4, except that amounts of pollock for processing by the inshore and offshore component are not shown.

TABLE 3.—DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/C GOA); BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND SEASONAL ALLOWANCES OF ANNUAL TAC FOR THE A AND B SEASONS IN 2000

| Statistical area                  | Biomass percent | 2000 annual TAC | Seasonal allowances of annual TAC |         |
|-----------------------------------|-----------------|-----------------|-----------------------------------|---------|
|                                   |                 |                 | A (30%)                           | B (15%) |
| Shelikof .....                    | 52.5            | 21,550          | 14,366                            | 7,183   |
| Shumagin (610) .....              | 11.9            | 29,290          | 5,465                             | 2,732   |
| Chirikof <sup>1</sup> (620) ..... | 20.0            | 17,430          | 3,252                             | 1,626   |
| Kodiak <sup>1</sup> (630) .....   | 15.6            | 22,930          | 4,278                             | 2,139   |
| Total .....                       | 100.0           | 91,200          | 27,361                            | 13,680  |

<sup>1</sup> A and B seasonal allowances in the Chirikof and Kodiak Districts are outside the Shelikof Strait defined at § 679.20(b)(2)(iii)(B).

TABLE 4.—DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/ C GOA); BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND SEASONAL ALLOWANCES OF ANNUAL TAC FOR THE C AND D SEASONS IN 2000

| Statistical area     | Biomass percent | 2000 annual TAC | Seasonal allowances of annual TAC <sup>1</sup> |         |
|----------------------|-----------------|-----------------|--|---------|
|                      |                 |                 | C (30%)  | D (25%) |
| Shelikof .....       | .....           | 21,550          | Not Apportioned                                |         |
| Shumagin (610) ..... | 25              | 29,290          | 11,506   | 9,588   |
| Chirikof (620) ..... | 42              | 17,430          | 6,847  | 5,706   |
| Kodiak (630) .....   | 33              | 22,930          | 9,008  | 7,506   |
| Total .....          | 100             | 91,200          | 27,361   | 22,800  |

<sup>1</sup> Emergency interim regulations (65 FR 3892; January 25, 2000) for pollock in the GOA which specify A and B season dates and harvest limitations, expire July 19, 2000, before the C and D seasons are scheduled to begin. Therefore, the C and D seasons are not authorized unless either the emergency rule is extended, or proposed and final rulemaking is completed.

**Allocations for Processing of Pacific Cod TAC Between Inshore and Offshore Components**

Regulations at § 679.20(a)(6)(iii) 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 allocations of the Pacific cod initial TAC for 2000 are shown in Table 5. The Pacific cod reserves are not included in Table 5.

TABLE 5.—2000 ALLOCATION (METRIC TONS) OF PACIFIC COD INITIAL TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

| Regulatory area | Initial TAC | Component allocation |                |
|-----------------|-------------|----------------------|----------------|
|                 |             | Inshore (90%)        | Offshore (10%) |
| Western .....   | 16,500      | 14,850               | 1,650          |
| Central .....   | 27,264      | 24,538               | 2,726          |
| Eastern .....   | 3,208       | 2,887                | 321            |
| Total .....     | 46,972      | 42,275               | 4,697          |

**Pacific Halibut PSC Mortality Limits**

Under § 679.21(d), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear and may be established for pot gear.

As in 1999, the Council recommended that pot gear, jig gear, and the hook-and-line sablefish fishery be exempted from the non trawl halibut limit for 2000. The Council recommended these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (41 mt in 1999) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota program, which allows legal-sized halibut to be retained in the sablefish fishery. Halibut mortality for the jig gear fleet cannot be estimated because these vessels do not carry observers. However, halibut mortality is assumed to be very low given the small amount of fish harvested by this gear type (186 mt in 1999) and the assumed high survival rate of any halibut that are incidentally taken and discarded.

As in 1999, the Council recommended a hook-and-line halibut PSC mortality limit of 300 mt. Ten mt of this limit are

apportioned to the demersal shelf rockfish fishery in the Southeast Outside District. The fishery is defined at § 679.21(d)(3) and historically has been apportioned this amount in recognition of its small scale harvests. Observer data are not available to verify actual bycatch amounts given most vessels are less than 60 ft (18.3 m) LOA and are exempt from observer coverage. The remainder of the PSC limit is seasonally apportioned among the non-sablefish hook-and-line fisheries as shown in Table 6.

The Council continued to recommend a trawl halibut PSC mortality limit of 2,000 mt. The PSC limit has remained unchanged since 1989. Regulations at § 679.21(d)(3)(iii) authorize separate apportionments of the trawl halibut PSC limit between trawl fisheries for deep-water and shallow-water species. Regulations at § 679.21(d)(5) authorize seasonal apportionments of halibut PSC limits. For 2000, the Council recommended delaying the release of the third seasonal apportionment of trawl halibut PSC limits to July 4 to facilitate inseason management of

directed trawl fisheries, particularly rockfish.

NMFS concurs in the Council's recommendations described and listed in Table 6. The following types of information as presented in, and summarized from, the current 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:

*(A) Estimated Halibut Bycatch in Prior Years*

The best available information on estimated halibut bycatch is data collected by observers during 1999. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through December 25, 1999, is 2,127 mt, 348 mt, and 41 mt, respectively, for a total halibut mortality of 2,516 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries during all quarters of the 1999 fishing year. Trawling for the deep-water fishery complex was closed for the first quarter on March 24 (64 FR 14840, March 29, 1999), for the second



quarter on April 25 (64 FR 22815, April 28, 1999), for the third quarter on July 21 (64 FR 40293, July 26, 1999), and for the fourth quarter on October 16, 1999 (64 FR 56473, October 20, 1999). The shallow-water fishery complex was closed for the first quarter on March 20 (64 FR 14155, March 24, 1999), for the second quarter on April 1 (64 FR 16654, April 6, 1999), for the third quarter on July 4 (64 FR 35080, June 30, 1999), and for the fourth quarter on October 16, 1999 (64 FR 56473, October 20, 1999). The three seasonal apportionments of the hook-and-line halibut bycatch mortality limit resulted in closures of hook-and-line fisheries for groundfish other than sablefish and demersal shelf rockfish on April 24 (64 FR 22814, April 28, 1999), May 18 (64 FR 27476, May 20, 1999), and on September 1 (64 FR 46317, August 25, 1999).

*(B) Expected Changes in Groundfish Stocks*

At its December 1999 meeting, the Council adopted higher ABCs for rex sole, flathead sole, sablefish, shortraker and rougheye rockfish, northern rockfish, pelagic shelf rockfish, and thornyhead rockfish than those established for 1999. The Council adopted lower ABCs for pollock, Pacific cod, deep-water flatfish, shallow-water flatfish, arrowtooth flounder, Pacific ocean perch, other rockfish, and demersal shelf rockfish than those established for 1999. More information on these changes is included in the final SAFE report (November 1999) and in the Council and SSC minutes.

*(C) Expected Changes in Groundfish Catch*

The total of the 2000 TACs for the GOA is 298,510 mt, a decrease of 3 percent from the 1999 TAC total of 306,535 mt. Those fisheries for which the 2000 TACs are lower than in 1999 are pollock (decreased to 100,000 mt from 100,920 mt), Pacific cod (decreased to 58,715 mt from 67,835 mt), deep-water flatfish (decreased to 5,300 mt from 6,050 mt), other rockfish (decreased to 4,900 mt from 5,270 mt), demersal shelf rockfish (decreased to 340 mt from 560 mt), and other species (decreased to 14,215 mt from 14,600 mt). Those species for which the 2000

TACs are higher than in 1999 are rex sole (increased to 9,440 mt from 9,150 mt), flathead sole (increased to 9,060 mt from 9,040 mt), shallow-water flatfish (increased to 19,400 mt from 18,770 mt), sablefish (increased to 13,330 mt from 12,700 mt), Pacific ocean perch (increased to 13,020 mt from 12,590 mt), shortraker and rougheye rockfish (increased to 1,730 mt from 1,590 mt), northern rockfish (increased to 5,120 mt from 4,990 mt), pelagic shelf rockfish (increased to 5,980 mt from 4,880 mt), and thornyhead rockfish (increased to 2,360 mt from 1,990 mt).

*(D) Current Estimates of Halibut Biomass and Stock Condition*

The stock assessment for 1999 conducted by the IPHC indicates total exploitable biomass estimates of Pacific halibut in the BSAI and GOA management areas together to be 135,172 mt using an age-specific estimate for 2000. In the age-specific estimate, the assumption is that the selection of fish by the survey is based primarily on the age of the fish and reflects the availability of fish of different ages on the grounds.

New information used in the stock assessment in 1999 includes updated assessment methods and results, IPHC hook-and-line surveys, NMFS trawl survey catches of halibut, and updated information on removals of halibut from all sources. The only significant change to the assessment in 1999 was introducing an increase in the hook-and-line survey catchability, beginning with the 1993 survey data, to account for a change in bait used between the 1980s and 1990s. Estimates of exploitable biomass for 2000 are substantially lower than last year's (227,366 mt) because of the allowance for increased catchability, lower mean weights at age, and recent declines in recruitment. In IPHC management areas 2C and 3A the cumulative effect is a 35- and 40-percent reduction, respectively.

Recruitment has declined from the high levels of the 1985 to 1995 period, and size at age continues to decline. Numerical abundance is still quite high relative to the levels of 1975 or 1985, but biomass levels are not as high and the prospect is for a continuing decline as relatively strong year-classes pass out

of the stock and relatively weak ones enter (and grow more slowly). Additional information on the Pacific halibut stock assessment may be found in the final SAFE report (November 1999).

*(E) Other Factors*

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 were discussed in the proposed 2000 specifications (64 FR 69457, December 13, 1999). That discussion is not repeated here.

**Fishery and Seasonal Apportionments of the Halibut PSC Limits**

Under § 679.21(d)(5), NMFS seasonally apportionments the halibut PSC limits based on recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal apportionments of halibut PSC limits: (a) Seasonal distribution of halibut; (b) seasonal distribution of target groundfish species relative to halibut distribution; (c) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catches of target groundfish species; (d) expected bycatch rates on a seasonal basis; (e) expected changes in directed groundfish fishing seasons; (f) expected actual start of fishing effort; and (g) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The publication of the final 1999 groundfish and PSC specifications (64 FR 12094, March 11, 1999) summarizes Council findings with respect to each of the FMP considerations set forth here. The Council reiterated its findings with respect to these FMP considerations and recommended no change from the 1999 seasonal apportionments. Pacific halibut PSC limits, and apportionments thereof, are presented in Table 6. Regulations at § 679.21(d)(5)(iii) and (iv) specify that any overages or shortfalls in a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the 2000 season.

TABLE 6.—FINAL 2000 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC 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. The hook-and-line sablefish fishery is exempt from halibut PSC limits.]

| Trawl gear            |              | Hook-and-line gear    |            |                      |           |
|-----------------------|--------------|-----------------------|------------|----------------------|-----------|
| Dates                 | Amount       | Other than DSR        |            | DSR                  |           |
|                       |              | Dates                 | Amount     | Dates                | Amount    |
| Jan. 1–Mar. 31 .....  | 600 (30%)    | Jan. 1–May 17 .....   | 250 (86%)  | Jan. 1–Dec. 31 ..... | 10 (100%) |
| Apr. 1–July 3 .....   | 400 (20%)    | May 18–Aug. 31 .....  | 15 (5%)    | .....                | .....     |
| July 4–Sept. 30 ..... | 600 (30%)    | Sept. 1–Dec. 31 ..... | 25 (9%)    | .....                | .....     |
| Oct. 1–Dec. 31 .....  | 400 (20%)    | .....                 | .....      | .....                | .....     |
| Total .....           | 2,000 (100%) | .....                 | 290 (100%) | .....                | 10 (100%) |

Regulations at § 679.21(d)(3)(iii) authorize apportionments of the trawl halibut PSC limit to a deep-water species complex, comprised of sablefish, rockfish, deep-water flatfish, rex sole 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 apportionment for these two fishery complexes is presented in Table 7.

TABLE 7.—Final 2000 Apportionment of Pacific Halibut PSC Trawl 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–Mar. 31 .....  | 500           | 100        | 600   |
| Apr. 1–July 3 .....    | 100           | 300        | 400   |
| July 4–Sept. 30 .....  | 200           | 400        | 600   |
| Subtotal:              |               |            |       |
| Jan. 20–Sept. 30 ..... | 800           | 800        | 1,600 |
| Oct. 1–Dec. 31 .....   | .....         | .....      | 400   |
| Total .....            | .....         | .....      | 2,000 |

No apportionment between shallow-water and deep-water fishery complexes during the 4th quarter.

**Halibut Discard Mortality Rates**

The Council recommended that the revised halibut discard mortality rates recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 2000 groundfish fisheries. NMFS concurs in the Council’s recommendation. Most of the IPHC’s assumed halibut mortality rates were based on an average of mortality rates determined from NMFS observer data collected during 1997 and 1998. Rates for 1997 and 1998 were lacking for some fisheries, so rates from the most recent years were used. For fisheries 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 majority of the assumed mortality rates recommended for 2000 differ slightly from those used in 1999, except for the pot gear groundfish fisheries discard mortality rate that increased to 14 percent for 2000 from 6 percent in 1999. The Council recommended that a single discard mortality rate be used in 2000 for the catcher vessel and the catcher/processor vessel fleets in the trawl

flathead sole fishery. The recommended rates for hook-and-line targeted fisheries range from 11 to 17 percent, an increase from 1999. The recommended rates for most trawl targeted fisheries are unchanged or lower than those used in 1999 and range from 53 to 75 percent. The 2000 assumed halibut mortality rates are listed in Table 8.

TABLE 8.—2000 ASSUMED PACIFIC HALIBUT MORTALITY RATES 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:               |                |
| Pacific cod .....            | 17             |
| Rockfish .....               | 11             |
| Other species .....          | 17             |
| Trawl:                       |                |
| Midwater pollock .....       | 75             |
| Rockfish .....               | 66             |
| Shallow-water flatfish ..... | 69             |
| Pacific cod .....            | 63             |
| Deep-water flatfish .....    | 56             |
| Flathead sole .....          | 57             |
| Rex sole .....               | 53             |

TABLE 8.—2000 ASSUMED PACIFIC HALIBUT MORTALITY RATES 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 |
|---------------------------|----------------|
| Bottom pollock .....      | 61             |
| Arrowtooth Flounder ..... | 55             |
| Atka mackerel .....       | 57             |
| Sablefish .....           | 71             |
| Other species .....       | 66             |
| Pot:                      |                |
| Pacific cod .....         | 14             |
| Other species .....       | 14             |

**Small Entity Compliance Guide**

The following information satisfies the Small Business Regulatory Enforcement Fairness Act of 1996, which requires a plain language guide to assist small entities in complying with this rule. This rule’s primary management measures are to announce final 2000 harvest specifications and

prohibited species bycatch allowances for the groundfish fishery of the GOA. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2000 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska. This action affects all fishermen who participate in the GOA fishery. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

### Response to Comments

NMFS received one letter commenting on the 2000 specifications. This comment contained multiple issues that are paraphrased and responded to separately in the following text.

*Comment 1.* NMFS did not follow specified procedures in its regulations for promulgating the annual harvest specifications. Specifically, NMFS proposes 2000 harvest specifications based on a "roll over" from the year previous that are merely a place holder to start the fishery, implements interim specifications on the "roll over" TACs without prior notice and comment, and has failed to promulgate final harvest specifications before the start of the 2000 calendar year. The process is convoluted, promotes distrust in the government, and violates the law.

*Response.* The ABC and TAC for each species are based on the best available biological and socioeconomic information. The Council, its AP, and its SSC review current biological information about the condition of groundfish stocks in the BSAI and GOA at their October and December meetings. This information is compiled by the Council's BSAI Groundfish Plan Team and is presented in the proposed SAFE report for both groundfish FMPs in September and in a final SAFE report in November.

Regulations at § 679.20(c) require NMFS to publish the proposed harvest specifications "as soon as practicable after consultation with the Council \* \* \*". The proposed specifications will reflect as accurately as possible the projected changes in U.S. harvesting and processing capacity and the extent to which U.S. harvesting and processing will occur during the coming year." On December 13, 1999, NMFS published the proposed specifications in the **Federal Register** (64 FR 69464). These specifications were based on the best available scientific information after

consultation with the Council in October 1999. NMFS acknowledges that these were the same specifications as established for 1999. Although new surveys had been performed in 1999, the stock assessment data had not been analyzed and no new information was available that indicated any of the target species' ABC should be changed for conservation reasons.

NMFS published interim TAC specifications and PSC limits to authorize the fisheries from January 1 until they are superseded by the final specifications. The implementing regulations at § 679.20(c)(2) authorize one-fourth of each proposed initial total allowable catch (ITAC) and apportionment thereof, one-fourth of each PSC allowance, and the first seasonal allowance of pollock (and Atka mackerel in the BSAI) to be in effect on January 1 on an interim basis and to remain in effect until superseded by final specifications. NMFS published the interim specifications for the BSAI and GOA groundfish fisheries in the **Federal Register** on January 3, 2000 (65 FR 60 and 65 FR 65, respectively).

The Council recommended final groundfish harvest specifications to NMFS in mid-December 1999 that were based on the new information contained in the November 1999 SAFE report. In order for NMFS to complete notice-and-comment rulemaking before January 1, as the commenter suggested, NMFS seeks to provide as much opportunity for comment as possible and therefore must publish proposed specifications earlier than the final SAFE report becomes available. NMFS relies on the best information available when publishing the proposed specifications. NMFS must publish proposed specifications earlier than the final SAFE report becomes available. Therefore NMFS relies on the best information available at the time of the proposed specifications. Although the existing procedures condense the annual harvest specification process into a short period of time at the end of the year, procedures include multiple Plan Team meetings open to the public and multiple Council meetings in which public comment is solicited and provides adequate opportunity for the public to comment and participate effectively.

NMFS agrees that the process should be improved and has explored different options including changing the calendar dates of the fishing year or creating a framework process that would not require proposed or interim rulemaking. NMFS plans to explore other options for the development of a new process, in

consultation with the Council, as soon as practicable.

*Comment 2.* The proposed annual harvest specifications are based on the default harvest control rule set forth in Amendments 56/56 to the fishery management plans for the BSAI and GOA groundfish fisheries. These amendments violate national standard 1 and other overfishing provisions of the Magnuson-Stevens Act by allowing stocks that have declined below the biomass consistent with maximum sustainable yield (MSY) to remain indefinitely at the depleted biomass level. Furthermore, the agency must set the minimum stock size threshold (MSST) equal to the stock size consistent with MSY, so as to achieve the long-term OY. Because the annual harvest specifications do not reflect any MSST the agency should withdraw the proposed specifications.

*Response.* NMFS disagrees that promulgation of the proposed harvest specifications violate national standard 1 or other provisions of the Magnuson-Stevens Act. The control rules set forth in Amendments 56/56 (64 FR 10952; March 8, 1999) define OFL and constrain ABC for stocks managed under the FMPs for BSAI and GOA groundfish. In approving Amendments 56/56, NMFS considered public comments submitted on the proposed amendments and determined that these control rules are in compliance with national standard 1 and all other provisions of the Magnuson-Stevens Act. Comment 2 appears to presume that harvest control rules can, by themselves, force stock biomass to increase. In fact, harvest control rules are rules used to control harvest, not biomass. All harvest control rules "allow" a depleted stock to remain at a low abundance level indefinitely, because no harvest control rule can control the size of incoming year classes. However, the control rules adopted in Amendments 56/56 are explicitly designed to be precautionary, especially in the context of managing stocks whose biomass have fallen below reference levels.

For a stock that has been identified as overfished, the definition of optimum yield contained in section 3(28) of the Magnuson-Stevens Act states that the rebuilding target should be "a level consistent with producing the maximum sustainable yield." The question then becomes whether the rebuilding target, the biomass level to which a stock must be rebuilt once the stock is identified as being overfished, must equal the MSST, the biomass level at which a stock is identified as being overfished in the first place. The

question is answered by the statutory definition of OY, which clearly allows OY to be set as high as MSY unless relevant economic, social, or ecological factors warrant a lower level. If the law allows OY to be set as high as MSY in some cases, then setting an MSST equal to the MSY level would mean that natural variability alone will cause such stocks to be identified as "overfished" approximately 50 percent of the time even if OY were achieved exactly each year. National standard 1 reflects Congress' belief that it is possible to prevent overfishing while achieving OY. Equating MSST to the MSY level would imply the exact opposite.

Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish FMPs is being subjected to an inappropriate harvest rate, and that no stock managed under these FMPs is overfished. The annual specifications reflect the correct use of MSSTs and NMFS finds no reason to prepare new specifications.

*Comment 3.* Even if the agency's current interpretation of national standard 1 is accepted and MSSTs do not have to be set at MSY stock sizes, the proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the specifications do not identify MSSTs at all for individual stocks.

*Response.* NMFS disagrees. Every stock managed under Tiers 1–3 of the BSAI and GOA groundfish fishery management plans was evaluated with respect to its MSST in the most recent SAFE report dated November 1999. NMFS believes the proposed harvest specifications are consistent with the Magnuson-Stevens Act and the National Standard Guidelines, neither of which requires that MSSTs be identified in the final TAC specifications themselves. MSSTs are used in the process of developing the final TAC specifications and the TAC specifications use harvest control rules that are demonstrably related to the MSY-based management required by the Magnuson-Stevens Act. The control rules used to define OFL and the maximum permissible ABC restrict fishing at all stock sizes, not just at stock sizes below 5 percent of the MSY level. Not only is fishing restricted at all stock sizes, it is restricted in a conservative manner. Furthermore, in the event that a stock declines below its  $B_{MSY}$  level (Tiers 1–2) or  $B_{40\%}$  (Tier 3), the level of conservatism increases directly with the magnitude of the decline.

*Comment 4.* Rather than identifying MSY and OY for individual fish stocks,

as required by the Magnuson-Stevens Act, the BSAI and GOA groundfish FMPs manage stocks through default rules that are not related to MSY-based management. Because this management system is incompatible with the Magnuson-Stevens Act, NMFS must disapprove the proposed annual harvest specifications.

*Response.* NMFS disagrees. The Magnuson-Stevens Act does not require that MSY and OY be identified for individual fish stocks. The Magnuson-Stevens Act does require (paragraph 303(a)(3)) that each FMP "assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery\* \* \*," where "fishery" is defined (section (3)(13)) as "(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and (B) any fishing for such stocks."

A good estimate of the MSY for all stocks combined is not necessarily provided if MSY is determined for a single stock without regard to the effect that such fishing may have on other stocks. If, instead, MSY is determined for a stock assemblage with due regard to the effect that fishing on individual stocks may have on the other members of the assemblage, then it is irrelevant whether all of the individual stocks are simultaneously producing their individual MSYs. Such an "assemblage" MSY will necessarily be associated with an equilibrium level of abundance for each of the component stocks, and these abundance levels would inform the fishery manager as to whether individual stocks are being over- or underfished.

Further, the control rules specified in the BSAI and GOA groundfish fishery management plans are expressly related to MSY-based management. In Tiers 1 and 2, all of the reference points are defined in terms of MSY. In Tiers 3 through 6, proxies for MSY-related reference points are based on the scientific literature, the National Standard Guidelines, and the Technical Guidance report. In approving Amendment 56/56, NMFS has already determined that use of the present control rules does not violate the Magnuson-Stevens Act. NMFS believes that it has fully complied with the Magnuson-Stevens Act and that the proposed groundfish harvest specifications should not be disapproved.

*Comment 5.* The proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the OYs established for the groundfish fisheries do not take into account ecological factors and the protection of marine ecosystems in setting the annual TAC. To obey the statute, NMFS must identify the economic, social, and ecological factors relevant to a fishery, then evaluate them to determine the amount by which OY should be reduced below MSY. Because the proposed specifications do not document any consideration by NMFS of these factors in setting the TACs for the fisheries, the TACs should be reevaluated to consider these factors and modified if appropriate.

*Response.* The requirement to consider any relevant economic, social, or ecological factor in specifying OY has been in place since the Council adopted and NMFS approved Amendment 1 to the BSAI groundfish fishery management plan and Amendment 15 to the GOA groundfish fishery management plan (1981 and 1984, respectively). In approving these amendments, NMFS determined that any relevant economic, social, or ecological factors had been duly considered in specifying OY.

Amendment 1 to the Bering Sea groundfish fishery management plan established the 1.4 to 2.0 million mt OY range. The amendment states that, "The groundfish complex and its fishery are a distinct management unit of the Bering Sea. \* \* \*. This complex forms a large subsystem of the Bering Sea ecosystem with intricate interrelationships between predators and prey, between competitors, and between those species and their environment. Therefore, the productivity and MSY of groundfish should be conceived for the groundfish complex as a unit rather than for many individual species groups." When recommending the OY level, the Council considered the results of ecosystem simulations that included numerous ecosystem components (e.g., mammals, birds, demersal fish, semi-demersal fish, pelagic fish, squid, crabs, and benthos). The model considered their fluctuations in abundance caused by predation, natural mortality, environmental anomalies, and fishing. The simulations showed that the minimum sustainable exploitable biomass may have been higher than 2.0 million mt.

Under Amendment 15 to the GOA groundfish fishery management plan, the GOA OY is specified also as a range, 116,000–800,000 mt. The lower end of

the GOA OY range is equal to the lowest historical groundfish catch during the 21-year period 1965–1985. The upper end of the range is approximately equal to 97 percent of the mean MSY from the years 1983–1987.

In addition, in 1989 the Council began including a separate ecosystem consideration section in the annual SAFE document. In 1993 this section was expanded and devoted to both marine mammals and ecosystem consideration. In 1994, this section was expanded into a separate chapter of the SAFE and entitled "Ecosystem Considerations." NMFS further expanded the ecological advice given for the 2000 specification process by enhancing the document to include status and trend information on key ecosystem components in the BSAI and the GOA.

Recent examples of inclusion of ecosystem considerations in the 2000 SAFE Report are provided by the pollock and Atka mackerel chapters. The pollock chapter was modified to include a spatial and temporal analysis of the pollock fishery to facilitate discussion of its possible effects on Steller sea lions. The Atka mackerel chapter authors, adhering to advice supplied by Congress' Ecosystem Principles Advisory Panel and recognizing the importance of this species in the diet of Steller sea lions, explored alternative harvest strategies to determine an ABC that, in their view, was consistent with the Panel's advocated precautionary approach.

This information is used to identify stocks or ecosystem elements that may be at risk. The SSC uses this information to recommend adjustments to harvest strategies and alternative management measures in order to protect the marine environment. Furthermore, the EA accompanying the specifications outlines the impacts of fishing on the environment and describes mitigation measures incorporated in the specifications. NMFS believes that it has evaluated the marine environment using the best available scientific information and does not believe that the specifications should be reevaluated.

*Comment 6.* The annual harvest specifications allow overfishing to continue on overfished crab stocks because the proposed specifications promulgate a "roll over" from the 1999 harvest specifications.

*Response.* Overfishing is defined as any rate of fishing mortality in excess of the maximum fishing mortality threshold. Three Bering Sea crab stocks have been declared overfished: Bering Sea Tanner crab, Bering Sea Snow crab, and St. Matthews Blue King crab. All

other crab FMP stocks are not overfished or their status is unknown. Overfishing is not occurring for any Bering Sea crab stock that has been declared overfished. The maximum fishing mortality rate (MFMT) for all species of King crab is 0.2 and for all *Chionoecetes* species (including Tanner and Snow crab) the MFMT is 0.3. The St. Matthews Island Blue King crab and Eastern Bering Sea Tanner crab stocks are closed to directed commercial fishing. The current PSC limits on Bering Sea Tanner crab are 0.005 multiplied by the most recent survey abundance (numbers) with a cap of 1,000,000 crab in Zone 1 and 0.012 times the most recent survey abundance (numbers) with a cap of 3,000,000 crab in Zone 2. These bycatch caps are far below the maximum fishing mortality rate that defines overfishing. The 2000 GHF for Snow crab is 28.5 million lb (12,927.6 mt) or 10 percent of the mature biomass, which represents about 23.75 million crabs. The 2000 PSC limit is 4.5 million Snow crab for the entire year. A harvest in excess of about three times the 2000 GHF, or about 71.25 million crabs, would constitute overfishing. The 2000 GHF plus the PSC limit is about 28.25 million crabs, well below the overfishing level. Furthermore, the actual catch levels in Zones 1 and 2 are well below the caps.

It is true that NMFS proposed to "roll over" the 1999 PSC levels for the year 2000. However, it is incorrect to conclude that the action fails to recognize that many crab stocks are overfished or approaching an overfished condition. NMFS recognized that it is unlikely that the "roll over" would result in overfishing of any crab stock.

*Comment 7.* NMFS prepared an EA for this action that specifically "tiers off" the legally inadequate discussion of impacts and alternatives of the 1998 Supplemental Environmental Impact Statement (SEIS). Furthermore, the existence of a previous programmatic EIS does not eliminate the requirement to prepare another, action-specific EIS, if the impacts of the specific action are significant. The 2000 TAC specification have potentially significant environmental impacts that must be addressed in an EIS and an EA is therefore inadequate.

*Response.* NMFS recognizes that in a July 8, 1999, order, amended on July 13, 1999, the Court in *Greenpeace v. NMFS* Civ No. 98–0492 (W.D. Wash.) held that the 1998 SEIS did not adequately address aspects of the GOA and BSAI groundfish FMPs other than TAC setting, and therefore was insufficient in scope under the National Environmental Policy Act. In response to the Court's

order, NMFS is currently preparing a programmatic SEIS for the GOA and BSAI groundfish FMPs plans.

Notwithstanding the less expansive scope of the 1998 SEIS, NMFS believes that the discussion and analysis of impacts and alternatives in the 1998 SEIS, which focused on the issue of TAC setting, is directly applicable to the EA prepared in support of this action, the setting of TACs for the 2000 fishery. Consequently, the EA adopts the discussion and analysis in the 1998 SEIS.

Finally, NMFS believes that the 1998 SEIS's extensive discussion and analysis of the environmental impacts associated with various levels of TACs, coupled with the EA's additional discussion, provides ample support for its determination that the 2000 specifications will not have significant environmental impacts.

*Comment 8.* The Magnuson-Stevens Act requires that conservation and management measures contained in fishery management plans shall, to the extent practicable, minimize bycatch and the mortality of bycatch that cannot be avoided. The annual harvest specifications fail to take any steps to minimize bycatch and must contain a full analysis of bycatch minimization, must minimize bycatch to the extent practicable, and must establish an adequate standardized bycatch reporting methodology.

*Response.* NMFS disagrees that the annual harvest specifications are the proper venue for meeting statutory requirements to minimize bycatch and bycatch mortality to the extent practicable. The annual specifications rely on a frameworked process that does not involve changes to regulations. Changes to regulations that promote reduction in bycatch must be accomplished through separate fishery management plan amendments and/or regulatory amendments and are outside the scope of the 2000 harvest specifications. The annual harvest specifications do implement existing regulations intended to limit or reduce prohibited species incidental catch in that annual prohibited species limits and seasonal fishery bycatch allowances are specified with the intent to optimize the amount of groundfish harvest relative to available incidental catch constraints.

*Comment 9.* The existing groundfish fishery management plans do not comply with Magnuson-Stevens Act mandates to minimize bycatch to the extent practicable, or to minimize the mortality of bycatch that is unavoidable. Existing bycatch avoidance programs implemented prior to the passage of

these mandates cannot be used to satisfy the bycatch provisions of the Magnuson-Stevens Act.

*Response.* This comment is outside the scope of the annual harvest specifications. Notwithstanding that fact, NMFS disagrees that FMP measures to reduce bycatch or bycatch mortality that were implemented prior to the passage of these statutory provisions cannot be considered when assessing overall compliance of an FMP with the Magnuson-Stevens Act. Further, the Council and NMFS continue to assess, develop, and implement reasonable approaches to reduce bycatch to the extent practicable. This standard is not static and will continue to support the evolution of bycatch avoidance programs as the fishery and associated management measure changes.

*Comment 10.* The annual harvest specifications fail to prevent takes of endangered short-tailed albatross.

*Response.* NMFS disagrees. Regulations at § 679.24(e) and § 679.42(b)(2) contain specific seabird avoidance measures required for vessels using hook-and-line gear. Under terms of the 1999 biological opinion and incidental take statement prepared by the U.S. Fish and Wildlife Service, a take of up to four endangered short-tailed albatross is allowed during the 2-year period from 1999 through 2000 for the BSAI and GOA hook-and-line groundfish fisheries. To date, there have been no reported takes of endangered short-tailed albatross in this time period.

In February 1999, NMFS presented an analysis on seabird mitigation measures to the Council that investigated possible revisions to the currently required seabird avoidance methods that could be employed by the hook-and-line fleet to further reduce the take of seabirds. The Council took final action at its April 1999 meeting to revise the existing requirements for seabird avoidance measures. These revised seabird avoidance measures are expected to be effective as soon in 2000.

#### Classification

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

Pursuant to section 7 of the Endangered Species Act, NMFS has completed a consultation on the effects of the 1999 through 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 the western population of Steller sea lions or adversely modify its critical habitat. However, the Biological Opinion concluded that the pollock fisheries in the BSAI and the GOA would cause jeopardy and adverse modification of designated critical habitat.

The Biological Opinion, and subsequent revised documents, require that a suite of revised final RPAs be implemented to mitigate the adverse impacts of the pollock fisheries on the western population of Steller sea lions and its critical habitat. The revised final RPAs were implemented by NMFS through emergency rulemaking effective on January 20, 2000 and published in the *Federal Register* on January 25, 2000 (65 FR 3892). As discussed above, these final specifications are consistent with the RFRPAs as required by the Biological Opinion.

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 on December 23, 1999, and concluded that the proposed fisheries were not likely to cause jeopardy or adverse modification to designated critical habitat. However, in an order dated January 25, 2000, the District Court for the Western District of Washington concluded that NMFS must consult pursuant to section 7 of the ESA on the fishery management plans for the groundfish fisheries of the BSAI and GOA. *Greenpeace v. NMFS*, Civ. No. 98-49ZZ (W.D. Wash). Prior to the issuance of the court's order, NMFS had begun consultation to evaluate the cumulative effects of the BSAI and GOA groundfish fisheries over a multi-year period on candidate and listed species and critical habitat. NMFS is currently reviewing this ongoing consultation for compliance with the court's January 25, 2000, order and will continue consultation. NMFS has determined that publication of these fishery specifications will not result in an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable or prudent alternative measures which may be necessary.

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 U.S. Fish and Wildlife Service in March 1999. The conclusion continued the no jeopardy

determination and the incidental take statement expressing the requirement to immediately re-initiate consultations if incidental takes exceed four short-tailed albatross over 2 years' time (1999-2000).

NMFS has prepared a final EA for this action, which describes the impact on the human environment that would result from implementation of the final harvest specifications. In December 1998, NMFS issued an SEIS on the groundfish TAC specifications and PSC limits under the 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 action. The final EA for the 2000 harvest specifications incorporates by reference the 1998 SEIS. Additionally, given the foregoing conclusions that publication of the final specifications for the 2000 Alaska groundfish fisheries will not amount to an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures for the Alaska groundfish fisheries, NMFS finds that it is unnecessary to revise, amend, or supplement the environmental assessment and "finding of no significant impact" prepared for publication of the final specifications for the 2000 fisheries.

NMFS prepared an initial regulatory flexibility analysis (IRFA) pursuant to the Regulatory Flexibility Act that describes the impact the 2000 harvest specifications may have on small entities. The IRFA considered the impacts of a range of alternative harvest levels that included no action (*i.e.*, no harvest in 2000) and harvest levels equal to those proposed. NMFS solicited public comment on the IRFA. Although NMFS did not receive any public comments directly addressing the IRFA, NMFS and the Council have considered additional information on the fishery that became available in December. Based on that information, the Council recommended and NMFS hereby establishes final harvest specifications that have been revised from the preferred alternative identified in the proposed rule. NMFS has prepared an FRFA which analyzes the new TAC levels, recommended by the Council in December 1999, and based on updated survey and stock assessment information, for the final 2000 specifications. A copy of this analysis is

available from NMFS (see **ADDRESSES**). This action authorizes the BSAI groundfish fisheries to continue under final specifications set at 2000 levels until the TAC is harvested or until the fishery is closed due to attainment of a PSC limit, or for other management reasons. The 2000 TACs are based on the most recent scientific information as reviewed by the Plan Teams, SSC, AP, and Council and which were commented on through public testimony and comment from the October and December Council meetings and those comments sent to NMFS on the proposed specifications. This action also achieves OY while preventing overfishing. Small entities would receive the maximum benefits under this alternative, in that they will be able to harvest target species and species groups at the highest available

level based on stock status and ecosystem concerns.

Based on 1998 data, NMFS estimates that 1,122 vessels harvesting groundfish in the GOA operate as small entities.

The establishment of differing compliance or reporting requirements or timetables, and the use of performance rather than design standards, or exempting affected small entities from any part of this action would not be appropriate because of the nature of this action.

This action is necessary to establish harvest limits for the GOA groundfish fisheries for the 2000 fishing year. The groundfish fisheries in the GOA are governed by Federal regulations at 50 CFR part 679 that require NMFS, after consultation with the Council, to publish and solicit public comments on proposed annual TACs, PSC allowances, and seasonal allowances of the TACs. No recordkeeping and reporting

requirements are implemented with this final action. NMFS is not aware of any other Federal rules which duplicate, overlap or conflict with the final specifications.

This action is not subject to a 30-day delay in effectiveness because it relieves a restriction as contemplated under 5 USC 553(d)(1). This rule allows fishing to continue. Without this rule, fishermen who are already on the fishing grounds fishing on interim TAC would have to stop fishing and return to port.

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

Dated: February 14, 2000.

**Gary C. Matlock,**

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

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