

Interim Halibut PSC Limits

Under § 679.21(d), annual Pacific halibut PSC limits are established for trawl and hook-and-line gear and may be established for pot gear. The Council proposed to reestablish the 1999 halibut limits for 2000 because no new information was available. Consistent with 1999, the Council recommended exemptions for pot gear, jig gear, and the sablefish hook-and-line fishery from halibut PSC limits for 2000. The interim PSC limits are effective on January 1, 2000, and remain in effect until superseded by the final 2000 harvest specifications. The interim halibut PSC limits are: (1) 500 mt to trawl gear, (2) 72.5 mt to hook-and-line gear for fisheries other than sablefish and demersal shelf rockfish, and (3) 2.5 mt to hook-and-line gear for the demersal shelf rockfish fishery in the Southeast Outside District.

Regulations at § 679.21(d)(3)(iii) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to a deep-water species complex, comprised of rex sole, sablefish, rockfish, deep-water flatfish, and arrowtooth flounder, and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species." The interim 2000 apportionment for the shallow-water species complex is 417 mt and for the deep-water species complex is 83 mt.

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

Classification

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

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

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

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

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

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

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

In order for the GOA groundfish fishing season to begin on January 1 (see § 679.23), § 679.20(c)(2) requires NMFS to establish interim harvest specifications to be effective on January 1 and to remain in effect until superseded by the filing of final harvest specifications with the Office of the

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

Because these interim specifications are not required to be issued with prior notice and opportunity for public comment, the analytical requirements of the Regulatory Flexibility Act do not apply. Consequently, NMFS has not prepared a regulatory flexibility analysis.

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

Dated: December 27, 1999.

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