

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD) +Elevation in feet (NAVD)	
				Existing	Modified

\*Elevation in feet

Maps are available for inspection at City Hall, 17160 Southwest Upper Boones Ferry Road, Durham, Oregon 97281.

Send comments to The Honorable Gerry Schirado, Mayor, City of Durham, P.O. Box 23483, Durham, Oregon 97281.

Oregon .....	Tigard (City), .....	Ash Creek .....	Confluence with Fanno Creek .....	*160	*160
			Just upstream of Oak Street .....	*169	*170
	Washington County	Fanno Creek .....	At Burlington Northern Railroad .....	*126	*126
			At Southwest Scholls Ferry Road .....	*162	*164
		Summer Creek .....	At confluence with Fanno Creek .....	*157	*158
			Just upstream of 135th Avenue .....	*175	*176
		Tualatin River .....	At confluence with Fanno Creek .....	*126	*125
			Approximately 1.6 miles upstream of confluence with Fanno Creek.	*127	*127

\*Elevation in feet

Maps are available for inspection at the Engineering Department, City Hall, 13125 Southwest Hall Boulevard, Tigard, Oregon 97223.

Send comments to The Honorable James Griffith, Mayor, City of Tigard, 13125 Southwest Hall Boulevard, Tigard, Oregon 97223.

Oregon .....	Beaverton (City), ...	Fanno Creek .....	Just upstream of Southwest Scholls Ferry Road.	*163	*165
	Washington County		Approximately 850 feet upstream of Southwest Scholls Ferry Road.	*196	*198

\*Elevation in feet

Maps are available for inspection at the Community Development Department, City Hall, 4755 Southwest Griffith Drive, Beaverton, Oregon 97076.

Send comments to The Honorable Rob Drake, Mayor, City of Beaverton, P.O. Box 4755, Beaverton, Oregon 97076.

Oregon .....	Washington County	Ash Creek .....	Just upstream of Southwest Hall Boulevard.	*170	*171
			Just upstream of Hemlock Street .....	*181	*181
		Fanno Creek .....	Just upstream of Scholls Ferry Road .....	*193	*197
			Approximately 200 feet upstream of Beaverton-Hillsdale Highway.	*244	*243

\*Elevation in feet

Maps are available for inspection at the Department of Land Use and Transportation, 155 North First Avenue, Suite 350, MS 12, Hillsboro, Oregon 97124.

Send comments to The Honorable Tom Brian, Chairman, Washington County Board of Commissioners, 155 North First Avenue, Suite 300, Hillsboro, Oregon 97124.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: July 20, 2004.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

[FR Doc. 04-17033 Filed 7-26-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

**[Docket No. 040713206-4206-01; I.D. 070704F]**

**RIN 0648-AR77**

### **Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to the Annual Harvest Specifications Process for the Groundfish Fisheries of the Gulf of Alaska and the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule that would implement Amendment 48 to the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and Amendment 48 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (BSAI) (Amendments 48/48). If approved, Amendments 48/48 would revise the administrative process used to establish annual harvest specifications for the groundfish fisheries of the GOA and the BSAI and would update the FMPs by revising the description of the groundfish fisheries and participants, revising the name of the BSAI FMP, revising text to simplify wording and correct typographical errors, and revising the description of the North Pacific Fishery Management

Council (Council) Groundfish Plan Teams' responsibilities. This action is necessary to manage fisheries based on the best scientific information available, to provide for adequate prior public review and comment to the Secretary of Commerce (Secretary) on Council recommendations, to provide for additional opportunity for Secretarial review, to minimize unnecessary disruption to fisheries and public confusion, and to promote administrative efficiency. The proposed rule would revise regulations to implement the new harvest specifications process in Amendments 48/48 and would revise the name of the BSAI FMP. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMPs, and other applicable laws.

**DATES:** Written comments must be received by September 10, 2004.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

- Mail to P.O. Box 21668, Juneau, AK 99802;
- Hand Delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, AK;
- E-mail to [4848PR-0648-AR77@noaa.gov](mailto:4848PR-0648-AR77@noaa.gov) and include in the subject line of the e-mail comments the document identifier: 48/48 Proposed Rule. E-mail comments, with or without attachments, are limited to 5 megabytes.
- FAX to 907-586-7557; or
- Webform at the Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the instructions at that site for submitting comments.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendments 48/48 and the proposed rule may be obtained from the same mailing address above or from the NMFS Alaska Region website at [www.fakr.noaa.gov](http://www.fakr.noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Melanie Brown, 907-586-7228 or [melanie.brown@noaa.gov](mailto:melanie.brown@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the Exclusive Economic Zone of the GOA and the BSAI are managed under the FMPs. The Council prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations

implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The Council has submitted Amendments 48/48 for Secretarial review and a notice of availability (NOA) of the FMP amendments was published in the **Federal Register** on July 14, 2004 (69 FR 42128) with comments on the FMP amendments invited through September 13, 2004. A complete description of the amendments is in the NOA. This proposed rule describes the FMP amendments and proposed implementing regulations.

Comments may address the FMP amendments, the proposed rule, or both, but must be received by September 13, 2004, to be considered in the approval/disapproval decision on the FMP amendments. All comments received by that time, whether specifically directed to the FMP amendments or the proposed rule, will be considered in the approval/disapproval decision on the FMP amendments.

### Background

Amendments 48/48 were unanimously recommended by the Council in October 2003. If approved by NMFS, these amendments would revise the administrative process used to establish annual harvest specifications for the groundfish fisheries of the BSAI and GOA. Harvest specifications establish specific limits on the commercial harvest of groundfish and are used to manage the groundfish fisheries. Harvest specifications include total allowable catch (TAC), acceptable biological catch, overfishing levels, and prohibited species catch (PSC) amounts, and apportionments thereof, which have been recommended by the Council. The current regulations authorize annual harvest specifications that are applicable January 1 through December 31. The goals in revising the harvest specifications process are to: (1) manage fisheries based on the best scientific information available, (2) provide for adequate prior public review and comment to the Secretary on Council recommendations, (3) provide for additional opportunity for Secretarial review, (4) minimize unnecessary disruption to fisheries and public confusion, and (5) promote administrative efficiency.

The current harvest specifications process involves proposed, interim, and final rulemaking. Each October, the Council recommends proposed harvest specifications for the next year. NMFS reviews the Council's recommendations and publishes a notice of proposed

specifications in the **Federal Register** for public comment in December. In November, new biological information regarding the groundfish target species becomes available and is used to develop the Council's final harvest specifications recommendations for the fishing year starting in January. The Council makes its final harvest specifications recommendations to NMFS in December. NMFS reviews these recommendations and publishes a notice of final specifications in the **Federal Register** in February or March of the following year.

Starting in January of the new fishing year, groundfish fisheries are managed using interim harvest specifications, pending publication of the final harvest specifications. These interim harvest specifications remain in place until superseded by final harvest specifications in approximately February or March each year. The interim harvest specifications are required by § 679.20(c)(2) to be 25 percent or the first seasonal apportionment of the proposed TAC amounts for most groundfish target species and 25 percent of the proposed PSC amounts.

A number of statutory requirements must be met by NMFS to implement annual harvest specifications. National standard 2 in section 301(a)(2) of the Magnuson-Stevens Act requires management of the groundfish fisheries to be based on the best scientific information available. Each year in October, proposed harvest specifications for the following year are developed based on either TAC amounts used in the current year for some species or on projections from the Stock Assessment and Fishery Evaluation (SAFE) reports written the previous year. The SAFE reports written in the previous year often comprise the best scientific information available in October for supporting the harvest specifications for the following year. The new SAFE reports completed in November are used by the Council to recommend final harvest specifications in mid-December, usually after publication in the **Federal Register** of the proposed harvest specifications.

The proposed and final specifications process normally requires six months to complete, yet only two weeks exist between the time the new final SAFE reports are available (mid-December) and the start of the fishing year on January 1. The Council's Groundfish Plan Teams develop the SAFE reports in November for the following fishing year based on the summer survey data and new analysis. These November SAFE reports are reviewed and approved by

the Council in December and used as the scientific basis for its recommended harvest specifications. Because of this time constraint, the proposed harvest specifications are completed before the new information supporting the final harvest specifications is available. The proposed harvest specifications and supporting information available for public review and comment can differ from the final harvest specifications and their supporting information.

For some species, the harvest specifications change little among years, such as TAC amounts for certain long-lived target groundfish species in the GOA. For other species, harvest specifications can change greatly between the proposed and final harvest specifications for various reasons. In some cases, adjustments are made based on the new information developed in the November SAFE reports. In the BSAI, the need to maximize the harvest of a particular groundfish species can cause changes between proposed and final TACs for a number of groundfish species to maintain the overall harvest at or below the 2 million metric ton optimal yield specified at § 679.20(a)(1)(i). Because the proposed harvest specifications and supporting information can differ from the final harvest specifications and supporting information, the current specifications process may not provide adequate opportunity in some cases for prior public review and comment on the annual harvest specifications or on the supporting information used for the annual harvest specifications.

Subject to certain exceptions, the Administrative Procedure Act (APA) requires prior public review and comment on a proposed rule, including public review and opportunity for comment on the information used as the basis for the proposed rule (see 5 U.S.C. 553). Prior public review and comment on the interim specifications have been routinely waived for "good cause" pursuant to 5 U.S.C. 553(b)(B). However, recent case law has raised legal concerns under the APA regarding this practice of annual waiver of notice and comment because of generic data collection and timing constraints. See *Natural Resources Defense Council v. Evans*, 316 F.3d 904 (9th Cir. 2003). In addition, as a practical consideration, the interim harvest specifications also may provide inadequate TAC and PSC amounts for those fisheries that are prosecuted in the early part of the year (i.e., rock sole).

Amendments 48/48 would provide a process that allows for prior public review and comment on the annual harvest specifications and supporting

information and would allow the groundfish fisheries to be managed based on the best available scientific information. Each year in October, the Council would recommend to NMFS proposed harvest specifications for up to two years. The rationale for providing for up to two years of harvest specifications is further explained later in this document.

In consideration of the current stock assessment survey schedules, regulatory procedures, and quality of stock assessment information for the GOA and BSAI target species, the proposed harvest specifications process would authorize specifications that would be effective for up to 24 months. NMFS would review the recommendations and publish in the **Federal Register** proposed harvest specifications in November or early December, including detailed descriptions of what the final harvest specifications are likely to be and the new information anticipated to support them. In November, the new SAFE reports would be forwarded to the Council by the Council's Groundfish Plan Teams. The Council would consider the new SAFE reports, public comments on the proposed harvest specifications, and public testimony and then develop recommendations for the final harvest specifications in December. NMFS would review those recommendations and public comments on the proposed harvest specifications, and specifically determine if the final harvest specifications are a logical outgrowth of the proposed harvest specifications. If the final harvest specifications recommendations are consistent with applicable law and are a logical outgrowth of the proposed harvest specifications, the final harvest specifications may be published without additional public review and comment.

If the final harvest specifications recommendations are not a logical outgrowth of the proposed harvest specifications, an additional publication of proposed harvest specifications may be needed to provide an additional opportunity for prior public review and comment under the APA. In May or June of the following year, the final harvest specifications would be published based on the additional proposed harvest specifications and after consideration of public comment. Alternatively, depending on the particular circumstances, NMFS may find "good cause" to waive the publication of proposed harvest specifications for prior public review and comment. In this case, the final harvest specifications likely would become effective in March.

To provide opportunity for a potential additional public comment period after the Council's final harvest specifications recommendation in December, the groundfish fisheries in the new fishing year would be managed on the specifications that had been published previously. Each year, the latter January through June portion of the harvest specifications would be superseded by the new annual harvest specifications. This proposed specification process would eliminate the need for the interim harvest specifications. Having harvest specifications effective into the second fishing year would allow time for NMFS to complete an additional public review and comment period, if needed, while preventing disruption of the fisheries.

To provide consistency between the groundfish FMPs for the harvest specifications process and to provide flexibility during the harvest specifications process, Amendments 48/48 would allow specifications to be effective for up to two fishing years. The stock assessment models used for determining the harvest specifications would use two-year projections for biomass and acceptable biological catch. The frequency of fishery resource surveys also affects whether specifications should be done on a more or less frequent basis. Allowing specifications to be effective for up to two years would fit well with the frequency of stock projections that must be used for the harvest specifications, and would provide the Council and NMFS the flexibility to adjust the specifications time periods in response to potential changes in the frequency of stock assessment surveys or other stock assessment data or administrative issues.

The Council recommended that harvest specifications for the hook-and-line gear and pot gear sablefish individual fishing quota (IFQ) fisheries be limited to the succeeding fishing year to ensure those fisheries are conducted concurrent with the halibut IFQ fishery. Having the sablefish IFQ fisheries concurrent with the halibut IFQ fishery would reduce the potential for discards of halibut and sablefish in these fisheries. The sablefish IFQ fisheries would remain closed at the beginning of each fishing year, until the final harvest specifications for the sablefish IFQ fisheries are in effect. The trawl sablefish fishery would be managed using harvest specifications for up to two years with the remaining target species in the BSAI and with GOA pollock, Pacific cod, and the "other species" complex.

## Regulation Revisions

Amendment 48 to the BSAI FMP would revise the title of the FMP. The GOA FMP title is a more concise description of the document compared to the title used for the BSAI FMP. Definitions at § 679.2 describe the BSAI as the “Bering Sea and Aleutian Islands management area.” Consistency between the names of the groundfish FMPs and with the groundfish fishery regulations would reduce confusion for users of the documents. The BSAI FMP title would be revised to “The Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.” In § 679.1(b), the title of the BSAI FMP would be revised to reflect the new title that would result from approval of Amendment 48 to the BSAI FMP.

Sections 679.20 and 679.21 would be revised to implement the new administrative process for harvest specifications under Amendments 48/49. In §§ 679.20(c)(1) and (c)(3), and § 679.21(d)(1)(i), (e)(1)(ii), (e)(1)(iii), and (e)(6)(i), the revisions would allow proposed and final harvest specifications to remain in effect for up to two fishing years. These revisions would allow flexibility for harvest specifications to be effective for more than 12 months, allowing time to comply with APA rulemaking requirements and ensuring that management would be based on the best scientific information available.

Section 679.20(c)(1) would be further revised to remove the requirement to address the U. S. harvesting and processing capacity in the proposed harvest specifications. This was necessary when foreign groundfish fishing occurred before the 1990s. Harvesting and processing groundfish in Alaskan waters is performed exclusively by U. S. owned and operated vessels and processors under the Magnuson-Stevens Act and the American Fisheries Act (AFA). Amendments 48/49 would remove references to allocations to foreign fishing in the FMPs and this revision would make the regulations consistent with the FMPs.

The proposed rule would allow NMFS to specify the length of the public comment period for the proposed harvest specifications when the proposed specifications are published. Current regulations require a public comment period of 30 days (§§ 679.20(c)(1), 679.21(d)(2), and 679.21(e)(6)(ii)). The proposed rule would afford NMFS the discretion to specify a comment period of appropriate length under the circumstances present

when the proposed specifications are published.

The proposed rule would rescind provisions for interim harvest specifications at § 679.20(c)(2) on April 1, 2005. However, as NMFS implements the new harvest specification process, interim harvest specifications would be needed in the first year until the new harvest specifications are effective. The use of interim harvest specifications until April 1, 2005, would ensure no disruption to the groundfish fisheries until the final harvest specifications are effective. Once the new process is in place, interim harvest specifications would no longer be needed, and therefore, the applicable regulatory provision would be rescinded on April 1, 2005.

The species listed for seasonal allowances for the final harvest specifications under §§ 679.20 (c)(1)(ii), (c)(1)(iii), (c)(3)(ii) and (c)(3)(iii) would be revised by the proposed rule. The Steller sea lion protection measures (68 FR 204, January 2, 2003) require the seasonal apportionment of the harvest of Pacific cod, pollock, and Atka mackerel in the BSAI and of Pacific cod and pollock in the GOA. The current regulations reference seasonal harvest specifications only for pollock in the BSAI and GOA. The proposed rule would add Pacific cod and Atka mackerel seasonal allowances to the BSAI harvest specifications and Pacific cod seasonal allowances to the GOA harvest specifications. Paragraphs (c)(1)(ii) and (c)(1)(iii) also would be revised to be consistent with (c)(3)(ii) and (c)(3)(iii) so that proposed and final harvest specifications contents would be consistent.

The proposed rule would revise §§ 679.20(c)(5), 679.20(c)(6), and 679.62(a)(3) to remove references to interim harvest specifications. Interim harvest specifications would not be used once the new harvest specifications process is effective. This revision would be effective April 1, 2005, when the regulations for interim harvest specifications at § 679.20(c)(2) are no longer effective.

## Classification

NMFS has not yet determined whether the amendments that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making that determination, NMFS will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) to evaluate alternative regulatory actions that would change the way the annual harvest specifications are established for the GOA and BSAI groundfish fisheries. The IRFA examines the impacts of the alternative actions on small fishing entities, and addresses the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996. The IRFA requirements are given at 5 U.S.C. 603.

The current harvest specifications process provides a very short period of time in which to develop and implement annual harvest specifications. The key biomass survey data become available in September and October. The fishing year begins on the following January 1. This leaves only a short time to evaluate the survey data and update fishery models, obtain peer review of this work, receive review and comment from the Council's SSC and AP, develop the Council's recommendations, provide for public notice and comment, publish a final rule, and meet the APA requirement for a 30-day delay of effectiveness.

The goals in revising the harvest specifications process are to: (1) manage fisheries based on the best scientific information available, (2) provide for adequate prior public review and comment to the Secretary on Council recommendations, (3) provide for additional opportunity for Secretarial review, (4) minimize unnecessary disruption to fisheries and public confusion, and (5) promote administrative efficiency.

The entities directly regulated by this action are those that commercially harvest federally managed groundfish in the BSAI and GOA. These entities include the groundfish catcher vessels and catcher/processor vessels active in these areas. They also include organizations to whom direct allocations of groundfish are made. In the BSAI, this includes the CDQ groups and the AFA fishing cooperatives.

Pursuant to the Small Business Administration criteria and NMFS guidelines, fishing vessels, including catcher vessels and catcher/processors, are considered “small entities” if they gross less than \$3.5 million in a year, when all their affiliated elements are taken together. Catcher vessel gross revenues are measured at the ex-vessel level. Catcher/processor revenues are the first wholesale value of the processed product. About 832–838 catcher vessels, 30–33 catcher/processors, and six CDQ groups were

estimated to be small entities under this criterion.

The proposed regulatory amendments do not impose new recordkeeping or reporting requirements on the regulated small entities.

The EA/RIR/IRFA did not reveal any federal rules that duplicate, overlap or conflict with the proposed action.

Four alternatives to the preferred alternative were considered. Alternative 1 would require NMFS to publish proposed specifications, followed by interim and final specifications, under the status quo schedule. This alternative is the most constraining of the alternatives with respect to small businesses' access to the decision-making process. Alternative 1 may result in larger harvests than Alternatives 2 through 4, and thus, potentially higher average revenues for small entities. This alternative fails to achieve the objectives of the proposed action in that it does not provide opportunity for prior public review and comment on interim specifications and does not guarantee meaningful opportunity for public comment on the proposed specifications to the Secretary. For this reason, this alternative was not chosen.

Alternative 2 would eliminate interim harvest specifications, and would require NMFS to issue proposed and final harvest specifications before the start of the fishing year. This alternative would introduce an additional year's lag between the time fishery survey data become available and the time harvest specifications based on those data are implemented. This alternative would improve opportunities for small businesses' access to the decision making process. However, the alternative may result in reductions in groundfish harvests and revenues and with increased year-to-year variation in harvests. These changes could reduce small entities' revenues, but disproportionate impacts on small entities are not identified. These potential adverse effects to small entities outweigh the benefits from an enhanced rulemaking process. The potential for revenue reductions caused this alternative to be rejected.

Alternative 3 would postpone the start of the fishing year by six months to provide enough time for proposed and final harvest specifications. An option to this alternative would postpone the start of the fishing year for most species by six months, but would not change the fishing year for sablefish IFQ fisheries. This option would protect the IFQ management of the sablefish fisheries. This alternative would have revenue impacts very similar to those

for Alternative 5, but was not preferred to Alternative 5 due to the administrative problems for managers and fishermen that might be associated with a change in the fishing year.

Alternative 4 would use stock assessment projections to prepare biennial harvest specifications, while setting PSC limits annually. This alternative would improve opportunities for small business access to the decision making process. The two options for this alternative are likely to result in larger potential reductions in harvests and revenues than Alternative 2, and more potential for year-to-year variation in harvests. The changes could reduce small entities' revenues, but disproportionate impacts on small entities are not identified. The potential adverse effects outweigh the enhanced rulemaking process in the alternative. This is no better for directly regulated small entities than Alternative 5.

Alternative 5 is the preferred alternative. Under this alternative, harvest specifications would be set for up to two years. Harvest specifications would be superseded by new harvest specifications typically published between March and June of the second year. This alternative would provide increased opportunities for notice and comment under the APA. This alternative would introduce relatively modest lags between biological surveys and subsequent harvest specifications, thus creating relatively modest adverse revenue impacts compared to Alternatives 2 and 4. If a second proposed rule is required, the revenue effects would be similar to Alternative 3; if not, they may be similar to those for Alternative 1.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 20, 2004.

**Rebecca Lent,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

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

2. In § 679.1, the introductory heading of paragraph (b) is revised to read as follows:

#### § 679.1 Purpose and scope.

\* \* \* \* \*

(b) *Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.* \* \*

\*

\* \* \* \* \*

3. In § 679.20, paragraphs (c)(1), (c)(3), (c)(5), (c)(6), and the introductory paragraph to (c)(2) are revised to read as follows:

#### § 679.20 General limitations.

\* \* \* \* \*

(c) *Annual specifications.* --(1) *Proposed specifications.*--(i) *Notification.* As soon as practicable after consultation with the Council, NMFS will publish proposed specifications for the groundfish fisheries in the BSAI and the GOA.

(ii) *Public comment.* NMFS will accept public comment on the proposed specifications established by this section and by § 679.21 for a period specified in the notice of proposed specifications published in the **Federal Register**.

(iii) *GOA.* The proposed specifications will specify for up to 2 fishing years the annual TAC for each target species and the "other species" category and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock and Pacific cod.

(iv) *BSAI.* The proposed specifications will specify for up to 2 fishing years the annual TAC for each target species and the "other species" category and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC (including pollock, Pacific cod, and Atka mackerel CDQ), and CDQ reserve amounts.

(2) *Interim specifications.* (Applicable until April 1, 2005.) Interim harvest specifications will be in effect on January 1 and will remain in effect until superseded by the filing of the final specifications by the Office of the **Federal Register**. Interim specifications will be established as follows:

\* \* \* \* \*

(3) *Final specifications.*--(i) *Procedure and notification.* NMFS will consider comments received on the proposed specifications and, after consultation with the Council, will publish a notice of final specifications in the **Federal Register** unless NMFS determines that the final specifications would not be a logical outgrowth of the notice of

proposed specifications. In that event, NMFS will either:

(A) Publish a revised notice of proposed specifications in the **Federal Register** for public comment, and after considering comments received on the revised proposed specifications, publish a notice of final specifications in the **Federal Register**; or

(B) Publish a notice of final specifications in the **Federal Register** without an additional opportunity for public comment based on a finding that good cause pursuant to the Administrative Procedure Act justifies waiver of the requirement for a revised notice of proposed specifications and opportunity for public comment thereon.

(ii) *GOA*. The final specifications will specify for up to 2 fishing years the annual TAC for each target species and the "other species" category and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock and Pacific cod.

(iii) *BSAI*. The final specifications will specify for up to 2 fishing years the annual TAC for each target species and the "other species" category and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC (including pollock, Pacific cod, and Atka mackerel CDQ), and CDQ reserve amounts.

\* \* \* \* \*

(5) *BSAI Pacific cod gear allocations*. (Effective April 1, 2005.) The proposed and final specifications will specify the allocation of BSAI Pacific cod among gear types as authorized under paragraph (a)(7) of this section.

(6) *BSAI Atka mackerel allocations*. (Effective April 1, 2005.) The proposed and final specifications will specify the allocation of BSAI Atka mackerel among gear types and HLA fisheries as authorized under paragraph (a)(8) of this section.

\* \* \* \* \*

4. In § 679.21, paragraphs (d)(1)(i), (d)(2), and (e)(6), and introductory paragraphs to (e)(1)(ii) and (e)(1)(iii), are revised to read as follows:

#### § 679.21 Prohibited species bycatch management.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) *Proposed and final limits and apportionments*. NMFS will publish in the **Federal Register** proposed and final halibut PSC limits, and apportionments thereof, in the notification required under § 679.20.

\* \* \* \* \*

(2) *Public comment*. NMFS will accept public comment on the proposed halibut PSC limits, and apportionments thereof, for a period specified in the notice of proposed halibut PSC limits published in the **Federal Register**. NMFS will consider comments received on proposed halibut PSC limits and, after consultation with the Council, will publish notification in the **Federal Register** specifying the final halibut PSC limits and apportionments thereof.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(ii) *Red king crab in Zone 1*. The PSC limit of red king crab caught by trawl vessels while engaged in directed fishing for groundfish in Zone 1 during any fishing year will be specified for up to 2 fishing years by NMFS, after consultation with the Council, based on abundance and spawning biomass of red king crab using the criteria set out under paragraphs (e)(1)(iii)(A) through (C) of this section. The following table refers to the PSC limits for red king crab that you must follow in Zone 1:

\* \* \* \* \*

(iii) *Tanner crab (*C. bairdi*)*. The PSC limit of *C. bairdi* crabs caught by trawl vessels while engaged in directed fishing for groundfish in Zones 1 and 2 during any fishing year will be specified for up to 2 fishing years by NMFS under paragraph (e)(6) of this section, based on total abundance of *C. bairdi* crabs as indicated by the NMFS annual bottom trawl survey, using the criteria set out under paragraphs (e)(1)(iii)(A) and (B) of this section.

\* \* \* \* \*

(6) *Notification--(i) General*. NMFS will publish in the **Federal Register**, for

up to 2 fishing years, the annual red king crab PSC limit, and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final PSQ reserve amounts, the proposed and final bycatch allowances, the seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, as required by paragraph (e) of this section.

(ii) *Public comment*. Public comment will be accepted by NMFS on the proposed annual red king crab PSC limit and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, for a period specified in the notice of proposed specifications published in the **Federal Register**.

\* \* \* \* \*

5. In § 679.62, paragraph (a)(3) is revised to read as follows:

#### § 679.62 Inshore sector cooperative allocation program.

(a) \* \* \*

(3) *Conversion of quota share percentage to TAC allocations*. (Effective April 1, 2005) Each inshore pollock cooperative that receives a quota share percentage for a fishing year will receive an annual allocation of Bering Sea and/or Aleutian Islands pollock that is equal to the cooperative's quota share percentage for that subarea multiplied by the annual inshore pollock allocation for that subarea. Each cooperative's annual pollock TAC allocation may be published in the proposed and final BSAI harvest specifications notice.

\* \* \* \* \*

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