

**§ 191.1 Scope.**

\* \* \* \*

(b) This part does not apply to—

(1) Offshore gathering of gas in State waters upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream;

(2) Pipelines on the Outer Continental Shelf (OCS) that are producer-operated and cross into State waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting RSPA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the Administrator, or designee, for approval to operate under RSPA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9.

(3) Pipelines on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator; or

(4) Onshore gathering of gas outside of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

## **PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; MINIMUM FEDERAL SAFETY STANDARDS**

■ 1. The authority citation for Part 192 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

■ 2. Amend § 192.1 by revising paragraph (b) to read as follows:

**§ 192.1 Scope of part.**

\* \* \* \*

(b) This part does not apply to—

(1) Offshore gathering of gas in State waters upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream;

(2) Pipelines on the Outer Continental Shelf (OCS) that are producer-operated

and cross into State waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting RSPA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the Administrator, or designee, for approval to operate under RSPA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9.

(3) Pipelines on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator;

(4) Onshore gathering of gas outside of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

(5) Onshore gathering of gas within inlets of the Gulf of Mexico except as provided in § 192.612; or

(6) Any pipeline system that transports only petroleum gas or petroleum gas/air mixtures to—

(i) Fewer than 10 customers, if no portion of the system is located in a public place; or

(ii) A single customer, if the system is located entirely on the customer's premises (no matter if a portion of the system is located in a public place).

## **PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE**

■ 1. The authority citation for Part 195 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

■ 2. Amend § 195.1 by revising paragraph (b), by removing paragraphs (b)(5) and (b)(6) and by adding new paragraphs (b)(5), (b)(6), and (b)(7) to read as follows:

**§ 195.1 Applicability.**

\* \* \* \*

(b) This part does not apply to —

(1) \* \* \*

(5) Transportation of hazardous liquid or carbon dioxide in offshore pipelines in State waters which are located upstream from the outlet flange of each facility where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated,

or otherwise processed, whichever facility is farther downstream;

(6) Transportation of hazardous liquid or carbon dioxide in Outer Continental Shelf pipelines which are located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator;

(7) Pipelines on the Outer Continental Shelf (OCS) that are producer-operated and cross into State waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting RSPA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the Administrator, or designee, for approval to operate under RSPA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9.

\* \* \* \*

Issued in Washington, DC on July 29, 2003.

**Samuel G. Bonasso,**

*Acting Administrator.*

[FR Doc. 03–19752 Filed 8–4–03; 8:45 am]

BILLING CODE 4910–60–P

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 660**

[I.D. 032703B]

RIN 0648–AN79, 0648–AP54, 0648–AP55

### **Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries, Amendment 8; Crustacean Fisheries, Amendment 10; Bottomfish and Seamount Groundfish Fisheries, Amendment 6; Precious Corals Fisheries, Amendment 4**

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

**ACTION:** Notice of agency decision.

**SUMMARY:** NMFS announces the approval of four supplemental amendments to Amendment 4 to the Fishery Management Plan (FMP) for the Precious Coral Fisheries of the Western Pacific Region (Amendment 4); Amendment 6 to the FMP for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (Amendment 6); Amendment 8 to the

FMP for the Pelagic Fisheries of the Western Pacific Region (Amendment 8); and Amendment 10 to the FMP for the Crustacean Fisheries of the Western Pacific Region (Amendment 10). The supplemental amendments make the four FMPs consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act of 1996 (SFA).

**DATES:** This agency decision is effective July 3, 2003.

**ADDRESSES:** Copies of the supplemental FMP amendments, including the Environmental Assessment may be obtained from Ms. Kitty Simonds, Executive Director, Western Pacific Regional Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Paul Dalzell, Western Pacific Fishery Management Council, at 808-522-8220.

**SUPPLEMENTARY INFORMATION:** On July 3, 2003, NMFS approved supplemental amendments to FMP Amendment 4, Amendment 6, Amendment 8, and Amendment 10 to address portions of previously submitted amendments that were disapproved by NMFS in 1999 because of inconsistency with the Magnuson-Stevens Act, as amended by the SFA. Generally, the amendments pertain to overfishing definitions and control rules for the bottomfish and seamount groundfish, pelagics, and crustacean FMPs; bycatch provisions for fisheries operating under the bottomfish and seamount groundfish and pelagic FMPs; and definitions for "fishing communities" in Hawaii under the bottomfish and seamount groundfish, pelagics, crustaceans, and precious corals FMPs. The supplemental FMP amendments do not revise the existing management regime; therefore, rulemaking is not required. Additional background information may be found in the preamble to the Notice of Availability for the supplemental FMP amendments (68 FR 16754, April 7, 2003) and is not presented here.

### Comments and Responses

*Comment 1:* NMFS received comments urging the Secretary of Commerce to enforce the conservation measures in the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve).

*Response:* The supplemental FMP amendments do not contain management measures that affect management of the Reserve. The specification of status determination criteria for overfishing established for

the four FMPs governing the fisheries in the western Pacific region, including American Samoa, Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands, do not have an impact on Executive Order 13178 and Executive Order 13196, which created the Reserve. These criteria, which are consistent with NMFS' national guidelines, do not in themselves require that fishing take place or that it takes place at any particular level. NMFS recognizes that the Executive Orders are currently in effect, including Reserve Preservation Areas and certain other conservation measures that either completely prohibit fishing or allow fishing in accordance with restrictions that are applicable in the Reserve.

*Comment 2:* One commenter stated that the supplemental amendments provided incorrect information about the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, specifically that they quoted Section 7(a)(1)(C) of Executive Order 13178 while failing to note that section had been revised by Executive Order 13196, giving it a different meaning.

*Response:* NMFS concurs that the supplemental FMP amendments could provide a better description of the Executive Orders. Clarification is provided here. Consistent with Executive Order 13196, Section 7(a)(1)(C) of Executive Order 13178 specifies that:

"(C) The annual level of aggregate take under all permits of any particular type of fishing may not exceed the aggregate level of take under all permits of that type of fishing as follows:

(1) Bottomfishing the annual aggregate level for each permitted bottomfisher shall be that permittee's individual average taken over the 5 years preceding December 4, 2000, as determined by the Secretary, provided that the Secretary, in furtherance of the principles of the reserve, may make a one-time reasonable increase to the total aggregate to allow for the use of two Native Hawaiian bottomfishing permits;

(2) All other commercial fishing the annual aggregate level shall be the permittee's individual take in the year preceding December 4, 2000, as determined by the Secretary.

*Comment 3:* One commenter stated that the overfishing criteria specified in the crustaceans FMP are not consistent with the Executive Orders establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, specifically Section 7 (a)(1)(C) of Executive Order 13178. The commenter believes that the proper interpretation of that section is that lobster fishing is prohibited within the Reserve, and

recommends that the discussion of overfishing and control rules for the commercial lobster fishery be removed from the supplemental amendments unless it is clear that they pertain only to areas outside the Reserve.

*Response:* The preferred alternative of status determination criteria in the supplemental FMP amendments do not introduce any inconsistencies or conflicts with the Executive Orders that established the Reserve. These criteria do not in themselves mandate that commercial lobster fishing take place or that it takes place at any particular level. They only describe how overfishing would be defined, as expressed in terms of the two thresholds: the minimum stock size threshold and the maximum fishing mortality threshold. These definitions are consistent with NMFS' national guidelines

*Comment 4:* One commenter stated that the environmental assessments for the three supplemental FMP amendments did not consider a wide enough range of alternatives with respect to the overfishing criteria (including alternative proxies that could be used in those criteria) and the target and rebuilding control rules and associated reference points.

*Response:* The preferred alternative (control rules and thresholds) in the supplemental FMP amendments is scientifically sound and consistent with the applicable guidelines. NMFS scientists assisted the Council in developing status determination criteria (overfishing definitions), guided by the "Technical Guidance on the Use of Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act." (NOAA Technical Memo NMFS-F/SPO-31, August 1998). NMFS recognizes that relatively few alternatives were considered, but finds that the range was adequate given the number of reasonable alternatives that were available. That number is relatively small because of the limited data that are available for the stocks. For example, in the case of the Bottomfish and Seamount Groundfish FMP, for which the commenter was specifically concerned about the failure to consider alternative proxies other than catch-per-unit-effort (CPUE), the data-poor nature of the stocks in much of the region means that very few proxies for biomass other than CPUE would be practical.

*Comment 5:* One commenter stated that a programmatic environmental impact statement on the associated fisheries should be prepared in order to ensure that, in the face of existing uncertainties, the fishery management

regimes for these fisheries are conducted in an environmentally sound manner.

*Response:* A final environmental impact statement (FEIS) for the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region was completed in March 2001. A supplemental pelagic fisheries EIS has been proposed to cover additional issues, such as the potential development of a pelagic squid fishery based in Hawaii. Draft EISs for the Council's Bottomfish, Crustaceans, and Precious Corals Fishery Management Plans are either under review by NMFS or under preparation. NMFS will consider the need for a programmatic EIS apart from these supplemental amendments.

*Comment 6:* One commenter stated that the definitions of "overfished" and "overfishing" should be broadened to account for adverse effects from ecosystem overfishing and control rules and other management procedures should be developed that require consistent, rigorous, and systematic evaluation of potential adverse effects of fishing activities.

*Response:* The recommendation to expand the definitions of "overfished" and "overfishing" is acknowledged, but these supplemental FMP amendments are not the appropriate place to implement such changes. In NMFS' National Standard Guidelines, stock or stock complex is used synonymously for "fishery"; that is, as one or more stocks of fish that can be treated as a unit for the purposes of conservation and management and that are identified on the basis of geographic, scientific, technical, recreational, or economic characteristics. The guidelines make the terms operational by requiring that FMPs specify, to the extent possible, objective and measurable status determination criteria, including control rules, for each stock or stock complex. The criteria must specify both a maximum fishing mortality threshold (MFMT) and a minimum stock size threshold (MSST), or reasonable proxies thereof. NMFS finds that the supplemental FMP amendments satisfy these requirements.

*Comment 7:* One commenter stated that the supplemental amendments do not include a suitable discussion of seamount groundfish species; specifically, what it means exactly that armorhead will serve as an indicator species for the other seamount groundfish species.

*Response:* Seamount groundfish management unit species in the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the

Western Pacific Region (Bottomfish FMP) include only alfonsoin (*Beryx splendens*), raftfish (*Hyperoglyphe japonica*), and armorhead (*Pseudopentaceros richardsoni*), and of these three species armorhead dominated the historical catch by number, weight, and value. Armorhead is the primary target species in this fishery, which has been closed since 1986. Regarding indicator species, NMFS will manage this fishery on the basis of established reference points for the armorhead (indicator species or key target species) and, to the extent possible, manage the other minor species based on the indicator species.

*Comment 8:* One commenter stated that using a single natural mortality rate of 0.3 for the entire bottomfish species complex would likely be inaccurate for many of the species; additional alternatives should be considered.

*Response:* The supplemental FMP amendments for the bottomfish FMP specify that a single natural mortality rate (M) will be used to assess the status of multi-species stock complexes in cases where individual species cannot be assessed, but it does not specify that a natural mortality rate of 0.3 will be used. Instead, the latest available estimate will be used, and the range of M among species within a stock complex will be taken into consideration.

*Comment 9:* Several commenters questioned the use of multi-species complexes. One commenter stated that individual species should not be combined into complexes for the purpose of allowing fishing on those complexes or assessing the effects of fishing on them. One commenter stated that the use of the mixed stock exception in the national standard guidelines is an inappropriate manner in which to manage marine fish species, that it is contrary to the requirements of the Magnuson-Stevens Act, and that it should not be considered in the amendments. One commenter stated that consideration should be given to breaking down the bottomfish complex into at least three components based on families or other applicable subdivisions as an interim step towards generating individual species status determination criteria.

*Response:* The overfishing criteria and control rules will be applied to individual species whenever possible, and only where it is not possible will they be applied to indicator species or multi-species complexes. The fishery that targets the bottomfish species complexes fishes simultaneously for many different species. Although catch data by species are available, NMFS

does not have fishing effort data on a species-by-species basis. Since fishing effort cannot be partitioned among the various species, a multi-species approach to the overfishing assessment will be used, consistent with the National Standard Guidelines.

*Comment 10:* One commenter stated that the supplemental amendment for bottomfish and seamount groundfish provides an unclear definition of the minimum stock size threshold (MSST); specifically, no information is given to clarify the meaning of the phrase " $c = \max(1-M, 0.5)$ ."

*Response:* In the specifications of the MSST and MFMT,  $c$  is a scalar that modifies  $B_{msy}$ . The phrase " $c = \max(1-M, 0.5)$ " means that  $c$  is equal to whichever is greater,  $1-M$  or  $0.5$ , where  $M$  is the natural mortality rate or instantaneous natural mortality rate. If  $M$  is greater than or equal to  $0.5$ , then  $c$  is equal to  $0.5$ ; if  $M$  is less than  $0.5$ , then  $c$  is equal to  $1-M$ .

*Comment 11:* One commenter stated that the supplemental amendments need to specify objective and measurable status determination criteria, not merely a framework for doing so.

*Response:* NMFS finds that the supplemental FMP amendments do more than establish a framework for specifying objective and measurable status determination criteria; they actually specify those criteria, including the MSST and the MFMT, and they do so largely following the default recommendations in NMFS' "Technical Guidance on the Use of Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act."

*Comment 12:* One commenter stated that for the pelagic stocks, since the fishing mortality rate associated with maximum sustainable yield ( $F$  at  $MSY$ ), the biomass associated with  $MSY$  ( $B$  at  $MSY$ ), and the natural mortality rate ( $M$ ) can be directly estimated for some species, the supplemental amendments should state where this information is available and propose a range of values for public consideration.

*Response:* Although  $M$ ,  $F$  at  $MSY$ , and  $B$  at  $MSY$  have been estimated and are currently available for some of the pelagic stocks, the Council has determined that rather than specifying such values in the Pelagics FMP and treating them as constants, the preferred method is to use the best available estimate of each of them at the time of a given assessment. NMFS agrees that this is a sound approach, both because they are in fact variables that are subject to change and because our ability to

estimate them is likely to improve with time. The latest available values will be published in the Stock Assessment and Fishery Evaluation report, which for the pelagics fisheries is the Council's Annual Report on Pelagic Fisheries in the Western Pacific. To give an idea of the range of values that is likely to be used in the assessments, the supplemental FMP amendments refer to previous estimates that have been made.

*Comment 13:* Several commenters stated that the supplemental amendments should include additional information on stock status; methods of assessment, including a discussion of the methodologies to be used in estimating biomass for the crustacean stocks; potential sources of error, bias, and uncertainty; and the potential consequences of such information (or lack thereof) on management of fisheries at low stock levels.

*Response:* The supplemental FMP amendments do not provide detailed information regarding available information on stock status; methods of assessment (including assessment of biomass for crustacean stocks); potential sources of error, bias, and uncertainty; and the potential consequences of such information on management of fisheries at low stock levels. The supplemental amendments focus on establishing a control rule framework within which stock assessments would be performed rather than describing the operational aspects of stock assessment. By prescribing assessment methods and information sources in only general terms, the supplemental amendments implicitly allow flexibility in those methods and information sources. As stated in the supplemental FMP amendments, the best available information will be used in the stock assessments. The sources of error, bias, and uncertainty associated with a given assessment will be identified and evaluated to the extent necessary at the time of the assessment, as will their implications in terms of the overfishing thresholds and other reference points and the possible need for management action, as prescribed by the control rules.

*Comment 14:* Several commenters questioned the use of catch-per-unit-effort (CPUE) as a proxy in the status determination criteria. One commenter stated that the various sources of bias related to CPUE make its use as a measure of fishing mortality rate and stock biomass unacceptable, and that before any fisheries on these stocks are initiated or expanded, NMFS should develop reliable methods for assessing stock status and fishing mortality rate. One commenter stated that the

supplemental amendments for the bottomfish and pelagics FMPs should include a full discussion of the use of CPUE as a proxy for status determination criteria, including how it will be estimated, how CPUE or fishing effort will be used to estimate an unfished biomass, optimum yield (OY) or MSY level, how the use of CPUE will avoid the pitfalls or make the adjustments presented in the Technical Guidance, and consideration of alternative proxies.

*Response:* NMFS agrees that using CPUE as an indicator of stock biomass is associated with some uncertainty and biases. However, the same is true with all stock assessment methods; there is no practical way to directly measure stock biomass. As indicated in the supplemental FMP amendments, the CPUE estimates will be standardized for all identifiable biases, as will the fishing effort estimates that will be used as proxies for fishing mortality.

*Comment 15:* One commenter stated that because the supplemental amendments for bottomfish and seamount groundfish and for pelagics do not specify an OY and the supplemental amendment for crustaceans does not specify a biomass at the OY level, the supplemental amendments are inconsistent with the requirements of the Magnuson-Stevens Act and the National Standard Guidelines.

*Response:* OY has already been specified in each of the FMPs (bottomfish/seamount groundfish, precious corals, crustaceans, and pelagics). The supplemental FMP amendments for the bottomfish and pelagics fisheries do not modify the existing specifications; that is, they do not specify target controls rules that would be associated with those OY specifications. The Council has determined that it would be preferable to continue to manage the fisheries using the existing qualitative OY specifications rather than specifying new OY control rules and associated reference points (e.g., that would be expressed in terms of target harvest levels, target fishing mortality, or target biomass). One reason cited is the lack of information available to quantitatively determine OY and its associated fishing mortality rate with any useful degree of precision. Because of that lack of information, specification of a target control rule could unnecessarily constrain the FMPs' existing definitions of OY. The Council has determined that it would be preferable not to specify an OY control rule at this time rather than to specify one that is likely to be poorly related to actual OY. Although NMFS

finds that the specification of OY control rules can, in some cases, be useful in satisfying the objectives associated with National Standard 1, especially for fisheries in which the relevant social, economic, and ecological factors can be readily identified and measured, they are not necessary and are not always appropriate. NMFS finds that the existing specifications of OY in the bottomfish and pelagics FMPs satisfy the requirements of the Magnuson-Stevens Act.

*Comment 16:* One commenter stated that the supplemental amendment for the crustaceans FMP provides no information on how biomass (B) will be computed, so it is not possible to analyze the interplay of the coefficient  $r$ , which is a fishing mortality rate that would yield a 10-percent risk of the Spawning Potential Ratio (SPR) reaching as low as 20 percent, in the target control rule. There is also insufficient information to analyze the precautionary nature of the target control rule. With no information provided on the MFMT, it is impossible to tell how the target control rule operates. There is no information explaining or justifying the appropriateness of a 20 percent SPR level to serve as a threshold for recruitment overfishing, a level that was established in 1990, in light of the new 1996 requirements of the Magnuson-Stevens Act and its accompanying guidance.

*Response:* In this case, the target control rule is directly associated with Optimum Yield, the target yield under the Magnuson-Stevens Act. The OY target reference points are a function of  $M$ ,  $B$ , and  $B$  at MSY and are precautionary in the sense that they are MSY reference points (i.e.,  $F_{msy}$ ), scaled to account for social and economic factors, as well as biological, environmental, and model parameter uncertainty. The coefficient  $r$ , as specified in the control rule (see; Supplemental FMP Amendments on Overfishing Provisions on Page 56, Section 4.3, Fig. 6), is equivalent to  $F_{risk-averse}/F_{msy}$ .  $F_{risk-averse}$  is defined as the fishing mortality that results in a 10-percent chance of the SPR falling below 20 percent, based on a risk-averse stock assessment model. Because of the risk-averse nature of the assessment model,  $F_{risk-averse}$  is assumed equivalent to the optimum fishing mortality,  $F_{OY}$ , and less than  $F_{msy}$ . The current assessment model assumes higher than estimated levels of process and measurement error, as well as conservative estimates of demographic parameters, which when considered together, represent a

worst-case scenario (DiNardo, G.T. and J.A. Wetherall, 1999, "Accounting for Uncertainty in the Development of Harvest Strategies for the Northwestern Hawaiian Islands Lobster-trap Fishery", ICES J. Mar. Sci., 56:943–951). Additional sources of error or uncertainty that influence  $F_{\text{risk-averse}}$  and ultimately  $r$ , could be easily incorporated using this approach.

**Comment 17:** One commenter stated that the supplemental amendments fail to consider a broad range of bycatch minimization alternatives and bycatch reporting alternatives.

**Response:** NMFS agrees that a large number of bycatch minimization tools and bycatch reporting tools exist, and that not all such tools were considered in the supplemental FMP amendments. Some were not considered because they are already being implemented under the existing management regime, as described in sections 4.1 and 4.2 of the supplemental amendment document for bycatch provisions. A relatively small number of alternatives that focused on those areas were then considered. Discussion of the reasons for eliminating alternatives from the broader pool of potential alternatives would have been desirable. However, NMFS finds that the range of alternatives considered is adequate given the existing bycatch patterns and bycatch reporting methodologies in the affected fisheries. The agency recognizes that achieving consistency with the bycatch-related provisions of the Magnuson-Stevens Act is an ongoing process that will require periodic identification of areas in which bycatch might be further reduced and bycatch reporting might be further improved, followed by consideration of a range of reasonable alternatives for each of those areas.

**Comment 18:** One commenter stated that the supplemental amendments fail to provide bycatch minimization and assessment measures that are consistent with the requirements of the Magnuson-Stevens Act, in part because some of the measures would be implemented only at the discretion of NMFS or the Council.

**Response:** A central purpose of the supplemental FMP amendments is to describe the existing situation with respect to bycatch patterns, bycatch minimization measures, and bycatch reporting measures. NMFS finds that the supplemental amendments accomplish this purpose. The amendments also serve the purpose of identifying weaknesses in the bycatch reporting systems and identifying areas in which bycatch or bycatch mortality might be successfully further reduced. However, identification of such weaknesses and

areas for improvement does not in itself mean that management action is required. The need to minimize bycatch and bycatch mortality and to establish a standardized bycatch reporting methodology must be balanced against other requirements of the Magnuson-Stevens Act, including the need to achieve OY (National Standard 1), the need to consider efficiency in the utilization of fishery resources (National Standard 5), and the need to minimize costs (National Standard 7). For similar reasons, the fact that some of the management actions under the preferred alternative will be taken at the discretion of the Council and/or NMFS does not mean that the actions are inconsistent with National Standard 9. NMFS finds that the existing bycatch-related management measures in the bottomfish and pelagics FMPs, combined with the additional actions that would be taken under the supplemental amendments, which include outreach to fishermen, research into fishing gear and method modifications, research into market development for discarded species, and improvement of information systems, satisfy the requirements of the Magnuson-Stevens Act. At the same time, NMFS recognizes the need to continue to reduce bycatch and bycatch mortality, and to continue to improve, where cost-effective, the standardized bycatch reporting methodologies.

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

Dated: July 31, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 03–19932 Filed 8–4–03; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021122286–3036–02; I.D. 073003A]

#### Fisheries of the Exclusive Economic Zone off Alaska; Pelagic Shelf Rockfish in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pelagic shelf rockfish in the

Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of pelagic shelf rockfish in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 31, 2003, through 2400 hrs, A.l.t., December 31, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2003 TAC of pelagic shelf rockfish for the Central Regulatory Area was established as 3,480 metric tons (mt) by the final 2003 harvest specifications for groundfish in the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 TAC for pelagic shelf rockfish in the Central Regulatory Area will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,450 mt, and is setting aside the remaining 30 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pelagic shelf rockfish in the Central Regulatory Area of the GOA.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 TAC for pelagic shelf rockfish in the Central Regulatory Area of the GOA, and therefore reduce the public's ability to use and enjoy the fishery resource.