

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 971229312-7312-01; I.D. 042398C]

**Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Compensation for Collecting Resource Information**

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

**ACTION:** Emergency rule; extension of expiration date.

**SUMMARY:** This action extends an existing emergency rule by which a vessel owner or operator, who has collected resource information according to NMFS-approved protocol, may be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions. This emergency rule was intended to improve the types and amounts of scientific information available for use in stock assessments and management of the Pacific Coast groundfish fishery.

**DATES:** Effective January 4, 1999, the emergency rule published July 7, 1998, beginning at 63 FR 36614 is extended through July 2, 1999.

**ADDRESSES:** Copies of the environmental assessment/regulatory impact review are available from William Stelle, Jr., Administrator, Northwest Region, (Regional Administrator) NMFS, 7600 Sand Point Way NE., Seattle, WA 98115; or William T. Hogarth, Administrator, Southwest Region, (Regional Administrator) NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this emergency rule, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Katherine A. King at 206-526-6140.

**SUPPLEMENTARY INFORMATION:** NMFS is extending an emergency rule (63 FR 36614, July 7, 1998) which otherwise would expire on January 4, 1999. It allows owners or operators of vessels that collect resource information to be compensated with the opportunity to

harvest fish in excess of current vessel limits and/or outside other restrictions (hereinafter "compensated with fish"). NMFS is extending this rule under the Secretary's emergency rulemaking authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Section 305 (c)(3)(B). Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), prepared by the Pacific Fishery Management Council (Council) and under review by NMFS, includes provisions that would continue this measure on a permanent basis. This action is necessary to support the 1999 resource surveys until regulations implementing Amendment 11 to the PCGFMP, if approved, become effective.

The Magnuson-Stevens Act, as amended on October 11, 1996, authorizes the Secretary of Commerce (Secretary) to use the private sector to provide vessels, equipment, and services necessary to survey fishery resources and to pay for surveys through the sale of fish taken during the survey or, if the quality or amount of fish is not adequate, on a subsequent commercial fishing trip (sec. 402(e)). Section 303(b)(11) of the Magnuson-Stevens Act enables the Secretary to "reserve a portion of the allowable biological catch of the fishery for use in scientific research." A vessel that is chartered by NMFS to conduct resource surveys becomes a "scientific research vessel" as defined at 50 CFR 600.10, and it must not conduct commercial fishing on the same trip during which a resource survey is conducted.

**Background**

At its November 1997 meeting, the Council recommended that NMFS implement an emergency rule for 1998 that would allow owners or operators of vessels that collect resource information to be compensated with fish. At the time, the Council was in the developmental stages of Amendment 11, with the expectation that a portion of Amendment 11 would authorize the Council to allow small amounts of the allowable biological catches (ABC) of managed species to be reserved for use in scientific research and as compensation fish for that research. Because NMFS needed to use private vessels in its resource surveys in the summer and fall of 1998, emergency rule authorization was needed to make fish available as compensation for those vessels conducting the surveys before Amendment 11 could be approved. A proposed emergency rule with a request for public comments was published on May 15, 1998 (63 FR 27035). On July 1,

1998, the emergency rule in support of this action became effective (63 FR 36614, July 7, 1998). NMFS received one public comment, which was supportive of the action and resulted in no change to the emergency rule. This extension makes no change to the regulatory text for this rule, which is available at 50 CFR 660.350.

NMFS is committed to addressing concerns over the amount and accuracy of survey data used for stock assessment. However, Federal fiscal constraints have precluded gathering the information needed. The unavailability of the principal NOAA survey ship, Miller Freeman, has further restricted the agency's ability to gather data. To expand and improve information used in management of the groundfish fishery, the fishing industry, environmental groups, and NMFS actively explored ways to involve the fishing industry in gathering data. A result of this effort was the emergency rule to compensate a fishing vessel's owner or operator with fish for participating in collecting the resource information.

During 1998, compensation with fish was included as a component of contracts that NMFS awarded to commercial fishing vessels to conduct the annual slope survey. Implementation of these provisions has allowed NMFS to expand sampling and provide much needed data for groundfish stock assessments. Extending these provisions until Amendment 11 regulations become effective will allow NMFS to proceed with data collection programs during the winter and spring of 1999 that will provide additional data for groundfish stock assessment.

The process by which NMFS and the Council will approve the use of fish for compensation is described in the preamble of the emergency rule (63 FR 36614, July 7, 1998). In addition, detailed discussion on the compensation process for vessels conducting resource surveys, including the issuance of exempted fishing permits, the selection of commercial vessels, the adjustment of the ABCs to account for compensation fishing, and the retention of samples are included in the preamble to the emergency rule and is not restated in this extension.

**Classification**

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

This emergency rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). Notwithstanding any other

provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. The collection of this information has been approved by OMB under OMB control number 0648-0203 for Federal fishing permits. The public reporting burden for applications for exempted fishery permits is estimated at 1 hour per response; the burden for reporting by exempted fishing permittees is estimated at 30 minutes per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to OMB, Washington, DC 20503 (ATTN: NOAA Desk Officer).

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

Dated: December 28, 1998.

**Gary C. Matlock,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 981222314-8321-02; I.D. 121698B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 1999 Harvest Specifications

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

**ACTION:** Interim 1999 harvest specifications for groundfish and associated management measures.

**SUMMARY:** NMFS issues interim 1999 total allowable catch (TAC) amounts for each category of groundfish and specifications for prohibited species bycatch allowances for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to conserve and manage the groundfish resources in the GOA and is intended to implement the goals and objectives of the Fishery

Management Plan for Groundfish of the Gulf of Alaska (FMP).

**DATES:** Effective 0001 hrs, Alaska local time (A.l.t.), January 1, 1999, until the effective date of the final 1999 harvest specifications for GOA groundfish, which will be published in the **Federal Register**.

**ADDRESSES:** The preliminary 1999 Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1998, is available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, telephone 907-586-7237. The Final Supplemental Environmental Impact Statement as well as an Environmental Assessment prepared for this action and the final 1999 GOA groundfish specifications may be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska 99801-21668, Attn: Lori Gravel.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

#### SUPPLEMENTARY INFORMATION:

##### Background

Federal regulations at 50 CFR part 679 that implement the FMP 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.

The Council met October 7 to 12, 1998, to review scientific information concerning groundfish stocks. At that meeting, the Council adopted the preliminary SAFE Report for the 1999 GOA groundfish fisheries. The preliminary SAFE Report, dated September 1998, provides an update on the status of stocks. Copies of the preliminary SAFE Report are available for public review from the Council (see ADDRESSES). The Council recommended a preliminary total TAC of 327,046 metric tons (mt) and a preliminary total acceptable biological catch of 548,650 mt for the 1999 fishing year.

Under § 679.20(c)(1)(ii), NMFS published in the December 30, 1998 **Federal Register**, the proposed initial harvest specifications for groundfish and associated management measures in the GOA for the 1999 fishing year. That action discusses in detail the 1999 specification process, as well as 1999 proposed specifications, reserves, apportionments for groundfish, and PSC limits.

This action provides interim harvest specifications and apportionments

thereof of GOA groundfish for the 1999 fishing year that will become available on January 1, 1999, and remain in effect until superseded by the final 1999 harvest specifications. NMFS notes that the Council, at its December 1998 meeting, requested NMFS to implement, by emergency interim rule, conservation measures to mitigate impacts of the GOA pollock fishery on Steller sea lions and their critical habitat. Prior to the opening of the 1999 pollock trawl fisheries, NMFS will implement measures necessary to ensure that the pollock trawl fisheries do not jeopardize the continued existence, or adversely modify the critical habitat, of Steller sea lions. NMFS will revise the pollock interim specifications accordingly.

##### Establishment of Interim TACs

Regulations at § 679.20(c)(2) require that one-fourth of each proposed TAC and apportionment thereof (not including the reserves and the first seasonal allowance of pollock), one-fourth of the proposed halibut prohibited species catch (PSC) amounts, and the proposed first seasonal allowance of pollock become available for harvest at 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications.

On December 16, 1998, NMFS approved portions of Amendment 51 to the FMP, which allocate 100 percent of the pollock TAC and 90 percent of the Pacific cod TAC to vessels catching pollock and Pacific cod for processing by the inshore component. Ten percent of the Pacific cod TAC is allocated to vessels catching Pacific cod for processing by the offshore component.

The reserves for the GOA are 20 percent of the TAC amounts for pollock, Pacific cod, flatfish species, and the "other species" category. The GOA groundfish TAC amounts have been fully utilized since 1987. NMFS expects this trend to continue in 1999, and, with the exception of Pacific cod, has proposed reapportioning all the reserves to TAC.

The Pacific cod fishery in the GOA has become increasingly difficult to manage. The increased number of participants, unexpected increases in harvest rates, and unexpected shifts to other management areas and targets in the GOA have resulted in overharvests of Pacific cod in some areas. Therefore, NMFS proposed to initially reserve 20 percent of the Pacific cod TACs in the GOA as a management buffer to prevent exceeding the Pacific cod TAC.

With the exception of Pacific cod, the interim TAC amounts contained in Table 1 to this part reflect the