

action complies with the Fishery Management Plan for the Tilefish Fishery (FMP) and is intended to continue the rebuilding program in the FMP by taking into account previous overages of the tilefish quota.

DATES: Effective November 1, 2006, through October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Brian R. Hooker, Fishery Policy Analyst, (978) 281-9220.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 50 CFR 648.290(c) state that any overages of the quota for any tilefish limited access category that occur in a given fishing year will be subtracted from the quota for that category in the following fishing year. This same section also states that, if the tilefish harvest attributed to the open access Incidental permit category exceeds 5 percent of the total allowable landings (TAL) for a given fishing year,

the trip limit for the Incidental category may be reduced the following year. In both of these instances, § 648.290(c) specifies that, if an adjustment is required, a notification of adjustment of the quota will be published in the **Federal Register**.

The tilefish TAL for FY 2007 remains unchanged from FY 2006 at 1.995 million lb (905 mt). The FMP requires that the TAL be divided between the three limited access tilefish permit categories after the TAL is reduced by 5 percent to account for incidental tilefish landings (open-access Incidental permit category) as follows: Sixty-six percent (1,250,865 lb (466,875 kg)) to Full-time Tier 1; 15 percent (284,288 lb (106,108 kg)) to Full-time Tier 2; and 19 percent (360,098 lb (163,338 kg)) to Part-time vessels.

Based upon vessel reports and other information available as of October 20, 2006, FY 2006 tilefish landings for limited access Part-time permit category

were 453,033 lb (205,492 kg), resulting in an overage of 92,935 lb (42,155 kg). This overage amount is being deducted from the FY 2007 Part-time permit category quota through this action, which results in an adjusted quota of 267,163 lb (121,183 kg) for this category in FY 2007. Adjustments to the remaining permit categories are not needed, and the FY 2007 quotas for these categories, therefore, remain status quo, including the Incidental trip limit for tilefish for FY 2007, which will remain at its default value of 300 lb (136 kg).

The FY 2006 tilefish Part-time permit category quota, the FY 2006 tilefish Part-time permit category landings, and the resulting overage of the FY 2006 tilefish Part-time permit category quota are presented in Table 1. The resulting adjusted FY 2007 tilefish Part-time permit category commercial quota is presented in Table 2.

TABLE 1. TILEFISH PART-TIME CATEGORY 2006 LANDINGS AND OVERAGE

Permit Category	2006 Quota		2006 Landings		2006 Overage	
	Lb	kg ¹	Lb	Kg ¹	Lb	Kg ¹
Part-time	360,098	163,338	453,033	205,492	92,935	42,155

¹ Kilograms are as converted from pounds, and may not necessarily add due to rounding.

TABLE 2. TILEFISH PART-TIME CATEGORY ADJUSTED FY 2007 QUOTA

Permit Category	2007 Initial Quota		2007 Adjusted Quota	
	Lb	Kg ¹	Lb	Kg ¹
Part-time	360,098	163,338	267,163	121,183

¹ Kilograms are as converted from pounds, and may not necessarily add due to rounding.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment, as notice and comment would be impracticable and unnecessary. The regulations under § 648.290(c) requires the Regional Administrator to subtract any overage of the quota for any tilefish limited access category from the quota for that category in the following fishing year. Accordingly, the action being taken by this temporary rule is nondiscretionary. The procedure being followed by this action was subject to public comment, but there is no discretion to modify this action based on public comment at this time. The rate of harvest of tilefish by the Part-time permit category is updated weekly on the internet at [http://](http://www.nero.noaa.gov)

www.nero.noaa.gov. Accordingly, the public is able to obtain information that would provide some advanced notice of a potential action as a result of a tilefish quota being exceeded during FY 2006. Further, the potential for this action was considered and open to public comment during the development of the tilefish FMP. Therefore, any negative effect the waiving of public comment may have on the public is mitigated by these factors.

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

Dated: October 24, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060606148-6274-02; I.D. 112805A]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Revision to the Final 2006 and 2007 Harvest Specifications for Groundfish

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

ACTION: Final rule.

SUMMARY: NMFS announces revised final 2006 and 2007 harvest specifications for the "other species" complex in the Gulf of Alaska (GOA) by

reducing the total allowable catch (TAC) for the complex to 4,500 metric tons (mt) annually. This rule also revises the 2006 and 2007 "other species" harvest sideboard limitations for non-exempt American Fisheries Act (AFA) catcher vessels and non-AFA crab vessels. The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective at 1200 hrs, Alaska local time (A.l.t.), November 30, 2006 through 2400 hrs, A.l.t., December 31, 2007.

ADDRESSES: Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh or from the Alaska Region Web site at <http://www.fakr.noaa.gov>. Copies of the 2005 Stock Assessment and Fishery Evaluation report for the groundfish resources of the GOA, dated November 2005, are available from the North Pacific Fishery Management Council (Council), 605 West 4th Avenue, Suite 306, Anchorage, AK 99510-2252, phone 907-271-2809, or from its website at <http://www.fakr.noaa.gov/npfmc>.

FOR FURTHER INFORMATION CONTACT: Tom Pearson, Sustainable Fisheries Division, Alaska Region, 907-481-1780 or e-mail at tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan for Groundfish of the GOA (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600, 679, and 680.

On February 13, 2006, the Secretary of Commerce approved Amendment 69 to the FMP. A final rule implementing the amendment was published in the **Federal Register** on March 13, 2006 (71 FR 12626). Amendment 69 and its implementing rule modify the TAC calculation for the "other species" complex from a fixed 5 percent of the sum of target species annual TACs to an amount less than or equal to this percentage. The intent of this adjustment is to prevent overfishing of species within the "other species" complex. The TAC for the "other species" complex will continue to be established during the annual harvest specification process set forth in

regulations at § 679.20. Under this process, the Council recommends a TAC consistent with the provisions set forth under Amendment 69 that then is forwarded to the Secretary of Commerce for review and approval.

The final 2006 and 2007 harvest specifications for groundfish in the GOA were published in the **Federal Register** on March 3, 2006 (71 FR 10870). Under these specifications, the 2006 and 2007 TACs for the "other species" complex are 13,856 mt and 12,229 mt, respectively. These TACs are equal to 5 percent of the sum of the target species TACs. In December 2005, the Council recommended that the "other species" TAC be reduced to 4,500 mt pending the approval of Amendment 69. This final rule implements the Council's recommendation for the "other species" TAC and revises the 2006 and 2007 harvest specifications accordingly.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the TAC for each target species and for the "other species" category, the sum of which must be within the optimum yield range of 116,000 mt to 800,000 mt. Section 679.20(c)(1) further requires NMFS to publish and solicit public comment on the proposed harvest specifications. The proposed revisions of the 2006 and 2007 TAC for the "other species" complex in the GOA were published in the **Federal Register** on July 11, 2006 (71 FR 39046). Comments were invited and accepted through August 10, 2006. No comments were received regarding the proposed reduction to the TAC for the "other species" complex. Therefore, NMFS is implementing the Council's recommendation to reduce the TAC for the "other species" complex in 2006 and 2007 to 4,500 mt. This adjustment reduces the total GOA 2006 TAC to 291,948 mt, a difference of 9,356 mt. Similarly, the total GOA 2007 TAC is reduced to 273,911 mt, a difference of 7,729 mt.

The Council's recommendation in December 2005 was based on the GOA Plan Team's 4,000 mt estimate of the annual incidental catch of "other species" in the targeted groundfish and Pacific halibut fisheries, the Council Advisory Panel's recommendation, and public testimony. A 4,500 mt TAC for the "other species" complex allows for incidental catch needs and a small directed fishery for "other species" of approximately 500 mt in each year.

As a result of lowering the TAC for "other species," NMFS is also proportionately lowering the 2006 and 2007 "other species" harvest sideboard limitations for non-exempt AFA catcher

vessels and non-AFA crab vessels. For 2006 and 2007, the "other species" harvest sideboard limitation for non-exempt AFA catcher vessels is reduced to 40 mt from 125 mt in 2006 and 110 mt in 2007. For 2006 and 2007, the "other species" harvest sideboard limitation for non-AFA crab vessels is reduced to 79 mt from 244 mt in 2006 and 215 mt in 2007. There are no changes from the proposed rule to reduce the 2006 and 2007 TACs for the "other species" complex in the GOA (July 11, 2006, 71 FR 39046).

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary management measure is to reduce the 2006 and 2007 TAC for the "other species" complex in the GOA to 4,500 mt. This action is necessary to revise the TACs for the "other species" complex and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the GOA fishery. NMFS will announce closures to directed fishing in the **Federal Register**.

Classification

A FRFA was prepared to evaluate the impacts of the 2006 and 2007 final harvest specifications on directly regulated small entities following Secretarial approval of Amendment 69 to the GOA FMP. This FRFA is intended to meet the statutory requirements of the Regulatory Flexibility Act (RFA). A copy of the FRFA is available from NMFS (see **ADDRESSES**). The reason for the action, a statement of the objective of the action, and the legal basis are discussed in the FRFA and in the preamble of this final rule and are not repeated here. No comments were received on the IRFA or the economic impacts of this rule.

The 2006 and 2007 harvest specifications establish harvest limits for the groundfish species and species groups in the GOA. Entities directly impacted are those fishing for groundfish in the exclusive economic zone or in parallel fisheries in State of Alaska waters (in which harvests are counted against the Federal TAC). An estimated 782 small catcher vessels and 18 small catcher processors may be directly regulated by these harvest specifications in the GOA. The catcher vessel estimate in particular is subject to various uncertainties. It may provide an underestimate because it does not count vessels that fish only within State of

Alaska waters. This may be offset by upward biases introduced by the use of preliminary price estimates (which do not fully account for post-season price adjustments) and by a failure to account for affiliations, other than AFA cooperative affiliations, among entities. For these reasons the catcher vessel estimate must be considered an approximation.

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities. This analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the final action.

The FRFA prepared for this final action examined the status quo, or no action alternative, in relation to reducing the TAC for the "other species" complex to 4,500 mt. A TAC of 4,500 mt exceeds the estimated annual incidental catch needs in the groundfish and Pacific halibut fisheries while allowing for a limited (approximately 500 mt annually) directed fishery for the "other species" complex and the development of markets for these species.

The EA/Regulatory Impact Review/FRFA prepared for Amendment 69 examined a range of TAC setting alternatives. Alternative 1 would have

been the status quo, or no action alternative, and the TAC for the "other species" complex would continue to be set at 5 percent of the sum of other targeted species TACs. This alternative was not selected for because it would not meet the conservation objectives. If the TAC were set at this level (and fully harvested) it would most likely not be sustainable. If a single species in the complex were targeted to the exclusion of other species in the complex that targeted species would likely experience overfishing. Alternative 3 would have set the TAC at a level anticipated to meet incidental catch needs in other directed fisheries. This alternative was not selected because, while it would have allowed retention of up to 20 percent of marketable "other species," it would have precluded the possibility of future development of directed fisheries targeting "other species." Alternative 2, the alternative selected by the Council and implemented by this final rule, gave the Council the greatest amount of flexibility to recommend a TAC up to 5 percent of the sum of the target species TACs. This allows the Council to recommend a TAC sufficient to meet incidental catch needs in other directed fisheries while allowing for the

development of sustainable fisheries targeting "other species." The FRFA prepared for Amendment 69 determined that any of the alternatives considered would not adversely impact small entities.

The FRFA prepared for this final rule specifically examined the impacts of setting the TAC for the "other species" complex at 4,500 mt, as recommended by the Council, versus 5 percent of the sum of targeted species TACs that was in effect at the time the final 2006 and 2007 harvest specifications for groundfish in the GOA were implemented in March 2006. The FRFA concluded that the final action does not appear to create adverse impacts on directly regulated small entities.

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

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; and 3631 *et seq.*

Dated: October 24, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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