

SUMMARY: This document delays the compliance dates of Federal motor vehicle safety standards for platform lifts and vehicles equipped with platform lifts. In December 2002, NHTSA published a final rule that established Federal motor vehicle safety standards for platform lifts and vehicles equipped with platform lifts. In October 2004, the agency published an amendment to these standards in response to petitions for reconsideration of the December 2002 final rule. Since that time, the agency has received several telephone calls on the inability of vehicle manufacturers to comply with the vehicle standards by the compliance date. We are also aware of some confusion within the industry as to the applicability of the standards. Additionally, in response to the October 2004 final rule, we received several petitions for reconsideration. As established in the December 2002 final rule, the standards are to become

effective December 27, 2004. This notice delays the compliance date for the platform lift standard for a period of three months and the vehicle standard for a period of six months. The delay in compliance dates will prevent a gap between the cessation of production of vehicles with pre-standard lifts and the beginning of production of vehicles with post-standard (compliant) lifts. The delay will also allow the agency to address issues of applicability in advance of the compliance dates.

DATES: *Effective date:* This final rule becomes effective December 27, 2004.

Comments must be received by NHTSA not later than February 22, 2005, and should refer to this docket and the notice number of this document.

ADDRESSES: You may submit comments [identified by the DOT DMS Docket Number above] by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Web Site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Analyses and Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. William Evans, Office of Crash Avoidance Standards, at (202) 366-2272, facsimile (202) 366-7022.

For legal issues, you may call Mr. Chris Calamita, Office of the Chief Counsel, at (202) 366-2992, facsimile (202) 366-3820.

You may send mail to any of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

On December 27, 2002, the agency published in the **Federal Register** (67 FR 79416) a final rule establishing Federal Motor Vehicle Safety Standard (FMVSS) No. 403, *Platform lift systems for motor vehicles*, and FMVSS No. 404, *Platform lift installation on motor vehicles* (final rule). These two new standards provide practicable, performance-based requirements and compliance procedures to ensure the safety of platform lifts and vehicles equipped with those lift systems.

FMVSS No. 403 establishes requirements for platform lifts that are designed to carry passengers who rely on wheelchairs, scooters, canes, and other mobility aid devices in entering and exiting motor vehicles. The standard requires that these lifts meet minimum platform dimensions and maximum size limits for platform protrusions and gaps between the platform and either the vehicle floor or the ground. The standard also requires handrails, a threshold warning signal, and retaining barriers. Performance tests are specified for wheelchair retention on the platform, lift strength, and platform slip resistance requirements. A set of interlocks is prescribed to prevent accidental movement of a lift and the vehicle on which a lift is installed.

FMVSS No. 404 establishes requirements for vehicles equipped with platform lifts. Vehicle manufacturers must install lifts certified as meeting FMVSS No. 403. The vehicle standard requires that the lifts be installed according to the lift manufacturer's instructions and must continue to meet all of the applicable requirements of FMVSS No. 403. The standard also requires that specific information is made available to lift users.

The December 27, 2002 final rule established a compliance date of December 27, 2004 for both FMVSS Nos. 403 and 404.

On October 1, 2004, in response to petitions for reconsideration, the agency revised the standards by amending the definitions of certain operational functions, the requirements for lift lighting on public lifts, the interlock requirements, compliance procedures for lifts that manually deploy/stow, the environmental resistance requirements, the edge guard requirements, the wheelchair test device specifications, and the location requirements for public lift controls (69 FR 58843). The October 2004 final rule did not amend the compliance date for the standards.

II. Industry Response

The agency has received several telephone requests from vehicle manufacturers to delay the compliance date of FMVSS No. 404. Specifically, several over-the-road coach and bus manufacturers have stated that compliant lifts have not been available to allow for the production of FMVSS No. 404-compliant vehicles by the compliance date. While lift manufacturers have informed the agency that they will be able to produce compliant lifts by the compliance date, vehicle manufacturers will need additional time to incorporate these lifts in their vehicle production.

Additionally, some lifts relied upon by specialty or niche vehicle manufacturers (*i.e.*, street "trolley" and motor home manufacturers) will no longer be produced. These companies stated that the lack of compliant lifts has been a recent development and that additional time is required to find replacement lifts.

The agency has also received numerous inquiries regarding the applicability of the standards. There appears to be some confusion as to the applicability to lifts manufactured prior to the compliance date, aftermarket installation of lifts to vehicles manufactured prior to the compliance date, and aftermarket installation of lifts to vehicles manufactured after the compliance date.

III. Petitions for Reconsideration

Petitions for reconsideration of the October 2004 final rule were received from a school bus manufacturer, Blue Bird Body Company (Blue Bird); two school bus manufacturer associations, School Bus Manufacturers Technical Council (SBMTC) and Manufacturers Council of Small School Buses (Manufacturers Council); a mobility industry association, Adaptive Driving

Alliance (Driving Alliance); and a vehicle systems manufacturer, Safety Systems and Controls, Inc. (Safety Systems).

A majority of the comments focused on the transfer of the lighting requirements from FMVSS No. 403, the equipment standard to FMVSS No. 404, the vehicle standard. As originally established in December 2002, the agency structured the lighting requirements so that a platform lift system would be a complete, self-contained system ready for installation upon delivery to the vehicle manufacturer. FMVSS No. 403 required a lift manufacturer to provide the hardware and instructions necessary to install lighting in a manner that complies with the requirements of the standard. In response to petitions for reconsideration of the December 2002 final rule, the agency moved the responsibility for the lighting requirements from the platform lift manufacturer to the vehicle manufacturer. We explained that vehicle manufacturers have traditionally provided lift lighting. Additionally, the manufacturers of vehicles that are required by FMVSS No. 404 to be equipped with lighted platform lifts already must comply with American with Disabilities Act¹ (ADA) lighting standards.

In their petitions for reconsideration, Blue Bird, SBMTC, and Manufacturers Council stated that not all vehicles required to have lighted platform lifts are subject to the ADA requirements, notably school buses. Petitioners requested that the lighting requirements be shifted back to FMVSS No. 403. They further stated that school bus manufacturers would have difficulty in complying with the new lighting requirement in the time between the October 2004 final rule and the December 2004 compliance date. These petitioners also raised concern that the luminescence requirements of the standard would require lights that produce high levels of heat, which could potentially burn occupants, and could potentially cause glare and distraction problems.² At a minimum, these petitioners requested that the

agency delay the compliance date of the standards while we contemplated their petitions.

Additionally, Safety Systems requested that the interlock requirements be amended to include provisions for "malicious release." The Driving Alliance requested a clarification of the applicability of the standards to aftermarket installation of certified and non-certified lifts to vehicles manufactured before and after the compliance date.

IV. Today's Final Rule: Delay of Compliance Date

Today's final rule delays the compliance date of FMVSS No. 403 until April 1, 2005, and FMVSS No. 404 until July 1, 2005. This delay will prevent the disruption in the availability of vehicles manufactured to accommodate individuals with disabilities. The delay will also permit the agency to address any outstanding issues and confusion as to the applicability of the standards.

The delay in the compliance date will provide relief to vehicle manufacturers that would have been unable to incorporate compliant lifts into their vehicles by the December 27, 2004 effective date because of delays in receiving compliant lifts. The delay to the compliance date for FMVSS No. 404 also provides manufacturers an opportunity to secure replacement lifts for those lifts that will no longer be produced. This will further afford vehicle manufacturers and lift manufacturers an opportunity to perform any final engineering analysis required to incorporate compliant lifts into vehicle production.

The staggered compliance dates will ensure that vehicle manufacturers will have at least three months of lead time to incorporate compliant lifts before the compliance date for the vehicle standard. Additionally, we fully expect that lift manufacturers intending to distribute compliant lifts beginning December 27, 2004, will still do so. This will provide vehicle manufacturers adequate lead time to comply with FMVSS No. 404.

The agency recognizes that the installation of a compliant lift onto a vehicle that is not required to comply with FMVSS No. 404 may require removal or alteration of elements installed on the lift for purposes of compliance with FMVSS No. 403; e.g., removal or alteration of the threshold warning system or interlock system. Because the vehicle is not required to be equipped with an FMVSS No. 403 compliant lift, we would not consider alterations to the lift in this situation as

making the lift inoperative with FMVSS No. 403 within the meaning of 49 U.S.C. 30122.

The agency also recognizes that there is some confusion within the mobility industry as to the applicability of FMVSS Nos. 403 and 404 to aftermarket lift installations. The agency is in the process of responding to several requests for interpretation that will address this and related issues. These responses will be publicly available in advance of the new compliance dates.

Further, the agency is in the process of responding to petitions for reconsideration of the October 2004 final rule. The agency's response could affect the certification responsibility of platform lift and vehicle manufacturers as well as the requirements for platform lift lighting systems. The six-month delay in the compliance date relieves vehicle manufacturers of the potential of installing systems for which requirements may be amended.

Because the December 27, 2004 effective date for FMVSS Nos. 403 and 404 is fast approaching, NHTSA finds for good cause to issue this interim final rule to delay the compliance date. Further we find good cause that it should take effect immediately. Today's interim final rule makes no substantive change to the standard, but delays the compliance dates for FMVSS Nos. 403 and 404 for a period of three and six months, respectively. We are excepting comments on this delay. See, Request for Comments section below.

V. Regulatory Analyses and Notices

A. Executive Order, 12866 Regulatory Planning and Review

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees,

¹ Pub. L. 101-336, 42 U.S.C. 12101, *et seq.* Titles II and III of the ADA set specific requirements for vehicles purchased by municipalities for use in fixed route bus systems and vehicles purchased by private entities for use in public transportation to provide a level of accessibility and usability for individuals with disabilities. 42 U.S.C. 12204.

² Petitioners' concerns with the substance of the luminescence requirement relate to requirements established in the December 27, 2002 final rule. As such, this issue is beyond the scope of petitions for reconsideration of the October 1, 2004 final rule and may be treated as a request for rulemaking.

or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any burden on manufacturers, and extends the compliance date FMVSS Nos. 403 and 404 for 3 and 6 months, respectively. The agency believes that this impact on manufacturers is so minimal as to not warrant the preparation of a full regulatory evaluation. Additionally, because the Federal standards incorporate the most relevant industry standards and guidelines, the agency believes that any impact on the benefits of the Federal standards will be minimal.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rulemaking action will have on small entities (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act. The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule affects manufacturers of platform lifts for motor vehicles and vehicles equipped with platform lifts. According to the size standards of the Small Business Association (at 13 CFR 121.601), manufacturers of platform lifts are considered manufacturers of "All Other Motor Vehicle Parts Manufacturing" (NAICS Code 336399). The size standard for NAICS Code 336399 is 750 employees or fewer. The size standard for manufacturers of "Light Truck and Utility Vehicle Manufacturing" (NAICS Code 336112) is 1,000 employees or fewer. This Final Rule will not have any significant economic impact on a substantial number of small businesses in these industries because the rule only delays by three and six months, respectively, the compliance dates of previously published final rules. Small organizations and governmental jurisdictions that purchase platform lifts and vehicles equipped with platform lifts will not be significantly affected because this rulemaking will not cause price increases. Further, the delay in compliance dates will avoid a disruption in the manufacturing and sales that would have occurred for some lift-equipped vehicles. Accordingly, we

have not prepared a Final Regulatory Flexibility Analysis.

C. Executive Order 13132, Federalism

E.O. 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." E.O. 13132 defines the term "Policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under E.O. 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This action, which extends the compliance date of FMVSS Nos. 403 and 404, will not result in additional expenditures by state, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Since it

only delays the compliance date of a final rule, this final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a Federal motor vehicle safety standard only if the standard is identical to the Federal standard. However, the United States Government, a state, or political subdivision of a state, may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties file suit in court.

G. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

Comment is solicited on the extent to which this final rule effectively uses plain language principles.

H. National Technology Transfer and Advancement Act

Under the National Technology and Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104-113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical

standards as a means to carry out policy objectives or activities determined by the agencies and departments.”

The equipment standard was drafted to include or exceed all government and voluntary consensus standards. This final rule extends the compliance date of that final rule to July 1, 2004.

I. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

J. Environmental Impacts

We have not conducted an evaluation of the impacts of this final rule under the National Environmental Policy Act. This rulemaking action extends the date by which the manufacturers must comply with the newly upgraded requirements of FMVSS No. 205. This rulemaking does not impose any change that would have any environmental impacts. Accordingly, no environmental assessment is required.

K. Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This rule is not subject to E.O. 13045 because it is not “economically significant” as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

VI. Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically

by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on “Help & Information” or “Help/Info” to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.³ Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at <http://dmses.dot.gov/submit/DataQualityGuidelines.pdf>.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

³ Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov>).

(2) On that page, click on “Simple Search.”

(3) On the next page (<http://dms.dot.gov/search>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were “NHTSA–1998–1234,” you would type “1234.” After typing the docket number, click on “Search.”

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, reporting and recordkeeping requirements, and tires.

■ In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.403 is amended by revising S3 to read as follows:

§ 571.403 Standard No. 403; Platform lift systems for motor vehicles.

* * * * *

S3. *Application.* This standard applies to platform lifts manufactured on and after April 1, 2005, that are designed to carry passengers into and out of motor vehicles.

* * * * *

■ 3. Section 571.404 is amended by revising S3 to read as follows:

§ 571.404 Standard No. 404; Platform lift installations in motor vehicles.

* * * * *

S3. *Application.* This standard applies to motor vehicles manufactured on and after July 1, 2005, that are equipped with a platform lift to carry passengers into and out of the vehicle.

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Issued on: December 17, 2004.

Jeffrey W. Runge,
Administrator.

[FR Doc. 04-28085 Filed 12-20-04; 12:27 pm]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 041202338-4338-01; I.D. 112204B]

Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Management Area; 2005 Interim Harvest Specifications for Groundfish

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

ACTION: Temporary rule; interim specifications.

SUMMARY: NMFS issues 2005 interim total allowable catch (TAC) amounts for each category of groundfish, Community Development Quota (CDQ) reserve amounts, American Fisheries Act (AFA) pollock allocations and sideboard

limits, and prohibited species catch (PSC) allowances and prohibited species quota (PSQ) reserves for the groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI). The intended effect is to conserve and manage the groundfish resources in the BSAI.

DATES: The interim harvest specifications are effective from 0001 hours, Alaska local time (A.l.t.), January 1, 2005, until the effective date of the 2005 final harvest specifications for BSAI groundfish, which will be published in the **Federal Register**.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared for this action are available from the NMFS Alaska Region Web site at <http://www.fakr.noaa.gov>. The final 2003 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2003, and the final 2004 SAFE report, dated November 2004, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252, telephone (907) 271-2809, or from its Web site at <http://www.fakr.noaa.gov/npfmc>.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228, or mary.furuness@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

Federal regulations at 50 CFR part 679 implementing the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations that also pertain to the U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council met in October 2004 to review scientific information concerning groundfish stocks, including the 2003 SAFE report and the EA (see **ADDRESSES**), and to recommend 2005 proposed harvest specifications. The Council recommended a proposed total acceptable biological catch (ABC) of 3,345,963 metric tons (mt) and a proposed total TAC of 2,000,000 mt for the 2005 fishing year. The proposed TAC amounts for each species were based on the best available biological and socioeconomic information.

Under § 679.20(c)(1), NMFS published in the **Federal Register** the 2005 proposed harvest specifications for BSAI groundfish (December 8, 2004, 69

FR 70974). That document contains a detailed discussion of the 2005 proposed TACs, initial TACs (ITACs) and related apportionments, CDQ reserves, ABC amounts, overfishing levels, PSC allowances, PSQ reserve amounts, and associated management measures of the BSAI groundfish fishery.

This action provides interim harvest specifications and apportionments thereof for the 2005 fishing year that will become available on January 1, 2005, and will remain in effect until superseded by the 2005 final harvest specifications. Background information concerning the 2005 harvest specification process on which this interim action is based is provided in the above mentioned proposed harvest specification document.

Establishment of Interim TACs

Section 679.20(b)(1)(i) requires that 15 percent of the TAC for each target species and species group, except for pollock and the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. The AFA supersedes this provision for pollock by requiring that the TAC for this species be fully allocated among the CDQ program, incidental catch allowance (ICA), and inshore, catcher/processor, and mothership directed fishery allowances. Section 803 of the Consolidated Appropriations Act of 2004 (CAA), Public Law (Pub. L.) 108-199, supersedes portions of the AFA and allocates the AI directed pollock fishery (DPF) to the Aleut Corporation after subtraction for the CDQ directed fishing allowance and ICA. Amendment 82 to the FMP would establish the management measures for the AI DPF. The proposed rule to implement Amendment 82 was published in the **Federal Register** for public comment and review on December 7, 2004 (69 FR 70589). If Amendment 82 is approved, final regulations implementing Amendment 82 are anticipated to be effective by March 2005.

Section 679.20(b)(1)(iii) requires that one half of each TAC amount placed in the non-specified reserve, with the exception of squid, be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Sections 679.20(a)(5)(i)(A) and 679.31(a)(2) require that 10 percent of the pollock TAC be allocated to the pollock CDQ reserve. With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the CDQ reserves are not further apportioned by gear. Section 679.21(e)(1)(i) also