

data in a timely fashion and would delay the opening of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 20, 2008.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 7, 2008.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: February 21, 2008.

Alan D. Risenhoover

*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. 071106673–8011–02]

RIN 0648–XD69

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2008 and 2009 Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces final 2008 and 2009 harvest specifications and prohibited species catch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2008 and 2009 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea

and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: The final 2008 and 2009 harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), February 26, 2008, through 2400 hrs, A.l.t., December 31, 2009.

ADDRESSES: Copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available on the Alaska Region Web site at <http://www.fakr.noaa.gov>. Printed copies can be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian. Copies of the 2007 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the Bering Sea and Aleutian Islands management area (BSAI) dated November 2007, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, phone 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 e-mail mary.furuness@noaa.gov.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and 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 governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species and for the “other species” category, and the sum must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see 50 CFR (679.20(a)(1)(i)). NMFS also must specify apportionments of TACs, Community Development Quota (CDQ) reserve amounts, prohibited species catch (PSC) allowances, and prohibited species quota (PSQ) reserve amounts. The final harvest specifications listed in Tables 1 through 16 of this action satisfy these

requirements. The sum of TACs for 2008 is 1,838,345 mt and for 2009 is 1,814,204 mt.

Section 679.20(c)(3) further requires NMFS to consider public comment on the proposed annual TACs and apportionments thereof and the proposed PSC allowances, and to publish final harvest specifications in the **Federal Register**. The proposed 2008 and 2009 harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 6, 2007 (72 FR 68833). Comments were invited and accepted through January 7, 2008. NMFS received two letters with several comments on the proposed harvest specifications. These comments are summarized and responded to in the Response to Comments section of this rule. NMFS consulted with the Council on the final 2008 and 2009 harvest specifications during the December 2007 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council’s December meeting, NMFS is implementing the final 2008 and 2009 harvest specifications as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

The final ABC levels are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations and is based on a successive series of six levels, or tiers, of the reliability of the information available to fishery scientists. Tier 1 represents the highest level of data quality available and tier 6 the lowest.

In December 2007, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of the BSAI groundfish stocks. The Council’s Plan Team compiled and presented this information in the 2007 SAFE report for the BSAI groundfish fisheries, dated November 2007. The SAFE report contains a review of the latest scientific analyses and estimates of each species’ biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. The SAFE report is available for public review (see

ADDRESSES). From these data and analyses, the Plan Team estimates an OFL and ABC for each species or species category.

In December 2007, the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for BSAI Pacific cod and the "other species" category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. For 2008 and 2009, the SSC recommended higher Pacific cod OFLs and ABCs than the OFLs and ABCs recommended by the Plan Team. For BSAI Pacific cod, the SSC recommended using the 2007 ABC and OFL for 2008 and 2009 based on the upward trend of the spawning biomass. For "other species," the SSC recommended using tier 5 management for skate species resulting in higher ABCs than the Plan Team's recommended tier 3 management. For tier 3 the SSC was concerned with the fit of the stock assessment model to survey biomass trends and growth. The SSC provided 2008 and 2009 ABC and OFL amounts by summing up individual species' ABCs in the "other species" category since the current FMP specifies management at the group level. The AP endorsed the ABCs recommended by the SSC, and the Council adopted them.

The Plan Team, SSC, AP, and Council recommended that total removals of Pacific cod from the BSAI not exceed ABC recommendations. In 2007, the Board of Fisheries for the State of Alaska (State) established a guideline harvest level (GHL) west of 170 degrees west longitude in the AI subarea equal to 3 percent of the Pacific cod ABC in the BSAI. Accordingly, the Council recommended that the 2008 and 2009 Pacific cod TACs be adjusted downward from the ABCs by amounts equal to the 2008 and 2009 GHLs.

The final TAC recommendations were based on the ABCs as adjusted for other

biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. Except for BSAI yellowfin sole, arrowtooth flounder, and "other species," the Council adopted the AP's 2008 and 2009 TAC recommendations. The Council increased the yellowfin sole TAC as a result of a decrease in pollock TAC. The Council increased the arrowtooth flounder TAC to provide for incidental catch in other fisheries, and the Council decreased the "other species" TAC to provide enough TAC for incidental catch, but not for a directed fishery. None of the Council's recommended TACs for 2008 or 2009 exceeds the final 2008 or 2009 ABCs for any species category. The 2008 and 2009 harvest specifications approved by the Secretary of Commerce (Secretary) are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS. The 2008 and 2009 TACs are equal to or less than the ABCs recommended by the Council's Plan Teams and SSC. NMFS finds that the recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2007 SAFE report that was approved by the Council.

Other Actions Potentially Affecting the 2008 and 2009 Harvest Specifications

The Council is considering a proposal that would allocate the Pacific cod TAC by Bering Sea subarea and AI subarea instead of a combined BSAI TAC. Another proposal would separate some species from the "other rockfish" or "other species" categories so that individual OFLs, ABCs, and TACs may be established for these species. These actions, if submitted to and approved by the Secretary, could change the final 2008 and 2009 harvest specifications.

Changes From the Proposed 2008 and 2009 Harvest Specifications in the BSAI

In October 2007, the Council made its recommendations for the proposed 2008 and 2009 harvest specifications (72 FR 68833, December 6, 2007) based largely on information contained in the 2006 SAFE report for the BSAI groundfish fisheries. The 2007 SAFE report, which was not available when the Council made its recommendations in October 2007, contains the best and most recent scientific information on the condition of the groundfish stocks. In December 2007, the Council considered the 2007 SAFE report in making its recommendations for the final 2008 and 2009 harvest specifications. Based on the 2007 SAFE report, the sum of the 2008 and 2009 recommended final TACs for the BSAI (1,838,345 mt for 2008 and 1,814,204 mt for 2009) is lower than the sum of the proposed 2008 and 2009 TACs (2,000,000 mt for each year). Compared to the proposed 2008 and 2009 harvest specifications, the Council's final TAC recommendations increase fishing opportunities for fishermen and economic benefits to the nation for species for which the Council had sufficient information to raise TAC levels. These species include BSAI Atka mackerel, flathead sole, Pacific cod, yellowfin sole, other flatfish, arrowtooth flounder, Greenland turbot, and northern rockfish. The Council also reduced TAC levels to provide greater protection for several species including Bering Sea subarea pollock, sablefish, Alaska plaice, and other species. The changes in the final rule from the proposed rule are based on the most recent scientific information and implement the harvest strategy described in the proposed rule for the harvest specifications and are compared in the following table:

COMPARISON OF FINAL 2008 AND 2009 WITH PROPOSED 2008 AND 2009 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area ¹	2008 final TAC	2008 proposed TAC	2008 final minus proposed	2009 final TAC	2009 proposed TAC	2009 final minus proposed
Pollock	BS	1,000,000	1,318,000	-318,000	1,000,000	1,318,000	-318,000
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	10	10	0	10	10	0
Pacific cod	BSAI	170,720	127,070	43,650	170,720	127,070	43,650
Sablefish	BS	2,860	2,970	-110	2,610	2,970	-360
	AI	2,440	2,800	-360	2,230	2,800	-570
Atka mackerel	EAI/BS	19,500	17,600	1,900	15,300	17,600	-2,300
	CAI	24,300	22,000	2,300	19,000	22,000	-3,000
	WAI	16,900	15,300	1,600	13,200	15,300	-2,100
Yellowfin sole	BSAI	225,000	150,000	75,000	205,000	150,000	55,000
Rock sole	BSAI	75,000	75,000	0	75,000	75,000	0
Greenland turbot	BS	1,750	1,720	30	1,750	1,720	30

COMPARISON OF FINAL 2008 AND 2009 WITH PROPOSED 2008 AND 2009 TOTAL ALLOWABLE CATCH IN THE BSAI—
Continued

[Amounts are in metric tons]

Species	Area ¹	2008 final TAC	2008 proposed TAC	2008 final minus proposed	2009 final TAC	2009 proposed TAC	2009 final minus proposed
Arrowtooth flounder	AI	790	770	20	790	770	20
Flathead sole	BSAI	75,000	30,000	45,000	75,000	30,000	45,000
Other flatfish	BSAI	50,000	45,000	5,000	50,000	45,000	5,000
Alaska plaice	BSAI	21,600	21,400	200	21,600	21,400	200
Pacific ocean perch	BSAI	50,000	60,000	-10,000	50,000	60,000	-10,000
	BS	4,200	4,080	120	4,100	4,080	20
	EAI	4,900	4,900	0	4,810	4,900	-90
	CAI	4,990	5,000	-10	4,900	5,000	-100
	WAI	7,610	7,620	-10	7,490	7,620	-130
Northern rockfish	BSAI	8,180	8,150	30	8,130	8,150	-20
Shortraker rockfish	BSAI	424	424	0	424	424	0
Rougheye rockfish	BSAI	202	202	0	202	202	0
Other rockfish	BS	414	414	0	414	414	0
	AI	585	585	0	554	585	-31
Squid	BSAI	1,970	1,970	0	1,970	1,970	0
Other species	BSAI	50,000	58,015	-8,015	60,000	58,015	1,985
TOTAL	BSAI	1,838,345	2,000,000	-161,655	1,814,204	2,000,000	-185,796

¹ Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands Management Area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

The final 2008 and 2009 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed ABCs for any single species or complex. Table 1 lists the final 2008 and 2009 OFL, ABC, TAC, initial TAC (ITAC), and CDQ reserve amounts of the BSAI groundfish. The apportionment of TAC amounts among fisheries and seasons is discussed below.

As mentioned in the proposed 2008 and 2009 harvest specifications, NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the initial ITAC of several target species.

The final harvest specifications for 2008 and 2009 also include specifications consistent with two new FMP amendments. The final rule implementing Amendment 80 to the BSAI FMP was published in the **Federal Register** on September 14, 2007 (72 FR 52668). Amendment 80 allocates total allowable catch of specified groundfish species and halibut and crab PSC limits among several BSAI non-pollock trawl groundfish fisheries fishing sectors, and it facilitates the formation of harvesting cooperatives in the non-American Fisheries Act trawl catcher/processor sector. The Amendment 80 species are Atka mackerel, flathead sole, Pacific

cod, rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch.

The final rule implementing Amendment 85 to the FMP was published in the **Federal Register** on September 4, 2007 (72 FR 50788). Amendment 85 revises the current allocations of BSAI Pacific cod TAC among various harvest sectors and seasonal apportionments. Also, Amendment 85 divides the halibut PSC allowance annually specified for the hook-and-line Pacific cod fishery between the hook-and-line catcher/processor and catcher vessel sectors.

TABLE 1.—2008 AND 2009 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUND FISH IN THE BSAI¹

[Amounts are in metric tons]

Species	Area	2008					2009				
		OFL	ABC	TAC	ITAC ²	CDQ ³	OFL	ABC	TAC	ITAC ²	CDQ ³
Pollock ³	BS ²	1,440,000	1,000,000	1,000,000	900,000	100,000	1,320,000	1,000,000	1,000,000	900,000	100,000
	AI ²	34,000	28,200	19,000	17,100	1,900	26,100	22,700	19,000	17,100	1,900
	Bogoslof	58,400	7,970	10	10	0	58,400	7,970	10	10	0
Pacific cod ⁴	BSAI	207,000	176,000	170,720	152,453	18,267	207,000	176,000	170,720	152,453	18,267
Sablefish ⁵	BS	3,380	2,860	2,860	2,360	393	2,910	2,610	2,610	1,109	98
	AI	2,890	2,440	2,440	1,853	412	2,510	2,230	2,230	474	42
Atka mackerel	BSAI	71,400	60,700	60,700	54,205	6,495	50,600	47,500	47,500	42,418	5,083
	EAI/BS	n/a	19,500	19,500	17,414	2,087	n/a	15,300	15,300	13,663	1,637
	CAI	n/a	24,300	24,300	21,700	2,600	n/a	19,000	19,000	16,967	2,033
	WAI	n/a	16,900	16,900	15,092	1,808	n/a	13,200	13,200	11,788	1,412
Yellowfin sole	BSAI	265,000	248,000	225,000	200,925	24,075	296,000	276,000	205,000	183,065	21,935
Rock sole	BSAI	304,000	301,000	75,000	66,975	8,025	379,000	375,000	75,000	66,975	8,025
Greenland turbot	BSAI	15,600	2,540	2,540	2,159	n/a	16,000	2,540	2,540	2,159	n/a
	BS	n/a	1,750	1,750	1,488	187	n/a	1,750	1,750	1,488	187
	AI	n/a	790	790	672	0	n/a	790	790	672	0
Arrowtooth flounder	BSAI	297,000	244,000	75,000	63,750	8,025	300,000	246,000	75,000	63,750	8,025
Flathead sole	BSAI	86,000	71,700	50,000	44,650	5,350	83,700	69,700	50,000	44,650	5,350
Other flatfish ⁶	BSAI	28,800	21,600	21,600	18,360	0	28,800	21,600	21,600	18,360	0

TABLE 1.—2008 AND 2009 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUND FISH IN THE BSAI¹—Continued
[Amounts are in metric tons]

Species	Area	2008					2009				
		OFL	ABC	TAC	ITAC ²	CDQ ³	OFL	ABC	TAC	ITAC ²	CDQ ³
Alaska plaice Pacific ocean perch.	BSAI	248,000	194,000	50,000	42,500	0	277,000	217,000	50,000	42,500	0
	BSAI	25,700	21,700	21,700	19,198	n/a	25,400	21,300	21,300	18,845	n/a
	BS	n/a	4,200	4,200	3,570	0	n/a	4,100	4,100	3,485	0
	EAI	n/a	4,900	4,900	4,376	524	n/a	4,810	4,810	4,295	515
	CAI	n/a	4,990	4,990	4,456	534	n/a	4,900	4,900	4,376	524
Northern rock- fish.	WAI	n/a	7,610	7,610	6,796	814	n/a	7,490	7,490	6,689	801
	BSAI	9,740	8,180	8,180	6,953	0	9,680	8,130	8,130	6,911	0
Shortraker rockfish.	BSAI	564	424	424	360	0	564	424	424	360	0
Rougheye rockfish.	BSAI	269	202	202	172	0	269	202	202	172	0
Other rock- fish ⁷ .	BSAI	1,330	999	999	849	0	1,290	968	968	823	0
Squid	BS	n/a	414	414	352	0	n/a	414	414	352	0
	AI	n/a	585	585	497	0	n/a	554	554	471	0
	BSAI	2,620	1,970	1,970	1,675	0	2,620	1,970	1,970	1,675	0
	BSAI	104,000	78,100	50,000	42,500	0	104,000	78,100	60,000	51,000	0
	Other spe- cies ⁸ .										
Total		3,205,693	2,472,585	1,838,345	1,639,009	174,989	3,191,843	2,557,944	1,814,204	1,597,810	170,751

¹ These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

² Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves.

³ Under § 679.20(a)(5)(i)(A)(1), the annual Bering Sea subarea pollock TAC after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.5 percent), is further allocated by sector for a directed pollock fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (1,600 mt) is allocated to the Aleut Corporation for a directed pollock fishery.

⁴ The Pacific cod TAC is reduced by three percent from the ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Aleutian Islands subarea.

⁵ For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, "other flatfish," Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish," squid, and "other species" are not allocated to the CDQ program.

⁶ "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, and Alaska plaice.

⁷ "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

⁸ "Other species" includes sculpins, sharks, skates, and octopus. Forage fish, as defined at § 679.2, are not included in the "other species" category.

Non-specified Reserves, CDQ Reserves, and the Incidental Catch Allowance (ICA) for Pollock, Sablefish, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires the placement of 15 percent of the TAC for each target species or "other species" category, except for pollock, the hook-and-line and pot gear allocation of sablefish, and the Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires allocation of 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires allocation of 10.7 percent of the TACs for Atka mackerel, Aleutian Islands Pacific Ocean perch, yellowfin sole, rock sole,

flathead sole, and Pacific cod to the CDQ reserves. Sections 679.20(a)(5)(i)(A), (a)(5)(iii)(B)(2)(i), (b)(1)(i)(A), and 679.31(a) also require the allocation of 10 percent of the BSAI pollock TACs to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA (see 679.20(a)(5)(ii) and (b)(1)(ii)(A)(2)). With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ allocations by gear. Section 679.21(e)(3)(i)(A) requires withholding 7.5 percent of the Chinook salmon PSC limit, 10.7 percent of the crab and non-Chinook salmon PSC limits, and 343 metric tons (mt) of halibut PSC as PSQ reserves for the CDQ fisheries. Sections 679.30 and 679.31 set forth regulations governing the management of the CDQ and PSQ reserves, respectively.

Pursuant to 679.20(a)(5)(i)(A)(1), NMFS allocates a pollock ICA of 3.5 percent of the Bering Sea subarea pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance is

based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 1999 through 2007. During this 9-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006 to a high of 5 percent in 1999, with a 9-year average of 3 percent. Pursuant to 679.20(a)(5)(iii)(B)(2)(i) and (ii), NMFS recommends a pollock ICA of 1,600 mt for the AI subarea after subtraction of the 10 percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2007. During this 5-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 10 percent in 2003, with a 5-year average of 6 percent.

Pursuant to 679.20(a)(8) and (10), NMFS allocates ICAs of 4,500 mt of flathead sole, 5,000 mt of rock sole, 2,000 mt of yellowfin sole, 10 mt each of Western and Central Aleutian District

Pacific Ocean perch and Atka mackerel, 100 mt of Eastern Aleutian District Pacific Ocean perch, and 1,400 mt of Eastern Aleutian District and Bering Sea subarea Atka mackerel TAC after subtraction of the 10.7 percent CDQ reserve. These allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2007.

The regulations do not designate the remainder of the non-specified reserve

by species or species group. Any amount of the reserve may be apportioned to a target species or to the "other species" category during the year, provided that such apportionments do not result in overfishing (see 679.20(b)(1)(ii)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified reserve because U.S. fishing vessels

have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC for northern rockfish, shortraker rockfish, rougheye rockfish, and Bering Sea other rockfish by 7.5 percent of the TAC in 2008 and 2009.

TABLE 2.—2008 AND 2009 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species—area or subarea	2008 ITAC	2008 re- serve amount	2008 final ITAC	2009 ITAC	2009 re- serve amount	2009 final ITAC
Shortraker rockfish—BSAI	360	32	392	360	32	392
Rougheye rockfish—BSAI	172	15	187	172	15	187
Northern rockfish—BSAI	6,953	614	7,567	6,911	610	7,521
Other rockfish—Bering Sea subarea	352	31	383	352	31	383
Total	7,837	692	8,529	7,795	688	8,483

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the pollock TAC apportioned to the Bering Sea subarea, after subtraction of the 10 percent for the CDQ program and the 3.5 percent for the ICA, be allocated as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor sector, and 10 percent to the mothership sector. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10), and 60 percent of the DFA is allocated to the B season (June 10–November 1). The AI directed pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 1,600 mt for the ICA. In the AI subarea, 40 percent of the ABC is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season.

Table 3 lists these 2008 and 2009 amounts.

Section 679.20(a)(5)(i)(A)(4) also includes several specific requirements regarding Bering Sea pollock allocations. First, 8.5 percent of the pollock allocated to the catcher/processor sector will be available for harvest by AFA catcher vessels with catcher/processor sector endorsements, unless the Regional Administrator receives a cooperative contract that provides for the distribution of harvest among AFA catcher/processors and AFA catcher vessels in a manner agreed to by all members. Second, AFA catcher/processors not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the catcher/processor sector. Table 3 lists the 2008 and 2009 allocations of pollock TAC. Tables 10 through 15 list the AFA catcher/processor and catcher vessel harvesting sideboard limits. The tables for the pollock allocations to the

Bering Sea subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at <http://www.fakr.noaa.gov>.

Table 3 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at 679.22(a)(7)(vii), is limited to 28 percent of the annual DFA until April 1. The remaining 12 percent of the 40 percent annual DFA allocated to the A season may be taken outside the SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 3 lists by sector these 2008 and 2009 amounts.

TABLE 3.—2008 AND 2009 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) ¹

[Amounts are in metric tons]

Area and sector	2008 Allocations	2008 A season ¹		2008 B season ¹ B season DFA	2009 Allocations	2009 A season ¹		2009 B season ¹ B season DFA
		A season DFA	SCA harvest limit ²			A season DFA	SCA harvest limit ²	
Bering Sea subarea	1,000,000	n/a	n/a	n/a	1,000,000	n/a	n/a	n/a
CDQ DFA	100,000	40,000	28,000	60,000	100,000	40,000	28,000	60,000
ICA ¹	31,500	n/a	n/a	n/a	31,500	n/a	n/a	n/a
AFA Inshore	434,250	173,700	121,590	260,550	434,250	173,700	121,590	260,550
AFA Catcher/Processors ³	347,400	138,960	97,272	208,440	347,400	138,960	97,272	208,440
Catch by C/Ps	317,871	127,148	n/a	190,723	317,871	127,148	n/a	190,723
Catch by CVs ³	29,529	11,812	n/a	17,717	29,529	11,812	n/a	17,717
Unlisted C/P Limit ⁴	1,737	695	n/a	1,042	1,737	695	n/a	1,042
AFA Motherships	86,850	34,740	24,318	52,110	86,850	34,740	24,318	52,110
Excessive Harvesting Limit ⁵	151,988	n/a	n/a	n/a	151,988	n/a	n/a	n/a
Excessive Processing Limit ⁶	260,550	n/a	n/a	n/a	260,550	n/a	n/a	n/a
Total Bering Sea DFA	868,500	347,400	243,180	521,099	868,501	347,399	243,180	521,100
Aleutian Islands subarea ¹	19,000	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140	1,900	760	n/a	1,140
ICA	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation	15,500	15,500	n/a	0	15,500	15,500	n/a	0
Bogoslof District ICA ⁷	10	n/a	n/a	n/a	10	n/a	n/a	n/a

¹ Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (3.5 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

² In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

³ Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

⁴ Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

⁵ Pursuant to § 679.20(a)(5)(i)(A)(6), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

⁶ Pursuant to § 679.20(a)(5)(i)(A)(7), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

⁷ The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and 679.91.

Pursuant to 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to jig gear. The amount of this allocation is determined annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the Eastern Aleutian District and Bering Sea subarea to the jig gear in 2008 and 2009. Based on the 2008 TAC of 16,900 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 80 mt for 2008. Based on the 2009 TAC of 15,300 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 61 mt for 2009.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel ITAC into two equal seasonal allowances. The first seasonal allowance is made available for directed fishing from January 1 (January 20 for trawl gear) to April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season). The jig gear allocation is not apportioned by season.

Pursuant to 679.20(a)(8)(ii)(C)(1), the Regional Administrator will establish a harvest limit area (HLA) limit of no more than 60 percent of the seasonal TAC for the Western and Central Aleutian Districts.

NMFS will establish HLA limits for the CDQ reserve and each of the three non-CDQ trawl sectors: The BSAI trawl limited access sector; the Amendment 80 limited access fishery; and an aggregate HLA limit applicable to all Amendment 80 cooperatives. NMFS will assign vessels in each of the three non-CDQ sectors that apply to fish for Atka mackerel in the HLA to an HLA fishery based on a random lottery of the vessels that apply (see 679.20(a)(8)(iii)). There is no allocation of Atka mackerel to the BSAI trawl limited access sector in the Western Aleutian District.

Therefore, no vessels in the BSAI trawl limited access sector will be assigned to

the Western Aleutian District HLA fishery.

Each trawl sector will have a separate lottery. A maximum of two HLA fisheries will be established in Area 542 for the BSAI trawl limited access sector. A maximum of four HLA fisheries will be established for vessels assigned to Amendment 80 cooperatives: A first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. A maximum of four HLA fisheries will be established for vessels assigned to the Amendment 80 limited access fishery: A first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. NMFS will initially open fishing in the HLA for the first HLA fishery in all three trawl sectors at the same time. The initial opening of fishing in the HLA will be based on the first directed fishing closure of Atka mackerel in Area 541/BS for any one of the three trawl sectors allocated Atka mackerel TAC.

Table 4 lists these 2008 and 2009 amounts. The 2009 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

TABLE 4.—2008 AND 2009 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector ¹	Season ^{2,3}	2008 Allocation by area			2009 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
TAC	n/a	19,500	24,300	16,900	15,300	19,000	13,200
CDQ reserve	Total	2,087	2,600	1,808	1,637	2,033	1,412
	HLA ⁴	n/a	1,560	1,085	n/a	1,220	847
ICA	Total	1,400	10	10	1,400	10	10
Jig ⁵	Total	80	0	0	61	0	0
BSAI trawl limited access	Total	319	434	0	488	678	0
	A	159	217	0	244	339	0
	HLA ⁴	n/a	130	0	n/a	203	0
	B	159	217	0	244	339	0
	HLA ⁴	n/a	130	0	n/a	203	0
Amendment 80 sectors	Total	15,615	21,256	15,082	12,202	16,957	11,778
	A	7,807	10,628	7,541	6,101	8,479	5,889
	HLA ⁴	4,684	6,377	4,525	3,660	5,087	3,533
	B	7,807	10,628	7,541	6,101	8,479	5,889
	HLA ⁴	4,684	6,377	4,525	3,660	5,087	3,533
Amendment 80 limited access	Total	8,232	12,809	9,298	n/a	n/a	n/a
	A	4,116	6,405	4,649	n/a	n/a	n/a
	HLA ⁴	n/a	3,843	2,789	n/a	n/a	n/a
	B	4,116	6,405	4,649	n/a	n/a	n/a
	HLA ⁴	n/a	3,843	2,789	n/a	n/a	n/a
Amendment 80 cooperatives	Total	7,383	8,447	5,784	n/a	n/a	n/a
	A	3,812	4,224	2,892	n/a	n/a	n/a
	HLA ⁴	n/a	2,534	1,735	n/a	n/a	n/a
	B	3,692	4,224	2,892	n/a	n/a	n/a

TABLE 4.—2008 AND 2009 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector ¹	Season ^{2,3}	2008 Allocation by area			2009 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
	HLA ⁴	n/a	2,534	1,735	n/a	n/a	n/a

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

² Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery. The A season is January 1 (January 20 for trawl gear) to April 15, and the B season is September 1 to November 1.

³ The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

⁴ Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2008 and 2009, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

⁵ Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod ITAC

Section 679.20(a)(7)(i) and (ii) allocates the Pacific cod TAC in the BSAI, after subtraction of 10.7 percent for the CDQ reserve, as follows: 1.4 percent to vessels using jig gear, 2.0 percent to hook-and-line and pot catcher vessels less than 60 ft (18.3 m) length overall (LOA), 0.2 percent to hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 48.7 percent to hook-and-line catcher/processors, 8.4 percent to pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 1.5 percent to pot catcher/processors, 2.3 percent to American Fisheries Act (AFA) trawl catcher/processors, 13.4 percent to non-AFA trawl catcher/processors, and 22.1 percent to trawl catcher vessels. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2008 and 2009, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries. The allocation of the ITAC for Pacific cod to the Amendment 80 sector is established in Table 33 to part 679 and 679.91. The 2009 allocations for Pacific cod between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

Sections 679.20(a)(7) and 679.23(e)(5) apportion seasonal allowances of the Pacific cod ITAC to disperse the Pacific cod fisheries over the fishing year. In accordance with 679.20(a)(7)(iv)(B) and

(C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

Sections 679.20(a)(7)(i)(B) and 679.23(e)(5) establish the CDQ seasonal allowances based on gear type. For hook-and-line catcher/processors and hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA harvesting CDQ Pacific cod, the first seasonal allowance of 60 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 40 percent of the ITAC is available from June 10 to December 31. No seasonal harvest constraints are imposed on the CDQ Pacific cod fishery for pot gear or hook-and-line catcher vessels less than 60 feet (18.3 m) LOA. For vessels harvesting CDQ Pacific cod with trawl gear, the first seasonal allowance of 60 percent of the ITAC is available January 20 to April 1. The second seasonal, April 1 to June 10, and the third seasonal allowance, June 10 to November 1, are each allocated 20 percent of the ITAC. The CDQ Pacific cod trawl catcher vessel allocation is further allocated as 70 percent of the first seasonal allowance, 10 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. The CDQ Pacific cod trawl catcher/processor allocation is 50 percent in the first seasonal allowance, 30 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. For jig gear, the first and third seasonal allowances are each allocated 40 percent of the ITAC and the second

seasonal allowance is allocated 20 percent of the ITAC.

Sections 679.20(a)(7)(iv)(A) and 679.23(e)(5) apportion the non-CDQ seasonal allowances by gear type as follows. For hook-and-line and pot catcher/processors and hook-and-line and pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, the first seasonal allowance of 51 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 49 percent of the ITAC is available from June 10 (September 1 for pot gear) to December 31. No seasonal harvest constraints are imposed on the Pacific cod fishery for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first seasonal allowance is January 20 to April 1, the second seasonal allowance is April 1 to June 10, and the third seasonal allowance is June 10 to November 1. The trawl catcher vessel allocation is further allocated as 74 percent in the first seasonal allowance, 11 percent in the second seasonal allowance, and 15 percent in the third seasonal allowance. The trawl catcher/processor allocation is allocated 75 percent in the first seasonal allowance, 25 percent in the second seasonal allowance, and zero percent in the third seasonal allowance. For jig gear, the first seasonal allowance is allocated 60 percent of the ITAC, and the second and third seasonal allowances are each allocated 20 percent of the ITAC. Table 5 lists the 2008 and 2009 allocations and seasonal apportionments of the Pacific cod TAC.

TABLE 5.—2008 AND 2009 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2008 and 2009 share of gear sector total	2008 and 2009 share of sector total	2008 and 2009 seasonal apportionment ²	
				Dates	Amount
Total TAC	100	170,720	n/a	n/a	n/a
CDQ	10.7	18,267	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	92,691	n/a	n/a	n/a
Hook-and-line/pot ICA ¹	n/a	n/a	500	n/a	n/a
Hook-and-line/pot subtotal	n/a	92,191	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	73,844	Jan 1–Jun 10	37,660
				Jun 10–Dec 31	36,184
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	303	Jan 1–Jun 10	155
				Jun 10–Dec 31	149
Pot catcher/processor	1.5	n/a	2,274	Jan 1–Jun 10	1,160
				Sept 1–Dec 31	1,114
Pot catcher vessel ≥ 60 ft LOA ...	8.4	n/a	12,737	Jan 1–Jun 10	6,496
				Sept 1–Dec 31	6,241
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2.0	3,033	3,033	n/a	n/a
Trawl catcher vessel	22.1	33,692	n/a	Jan 20–Apr 1	24,932
				Apr 1–Jun 10	3,706
				Jun 10–Nov 1	5,054
AFA trawl catcher/processor	2.3	3,506	n/a	Jan 20–Apr 1	2,630
				Apr 1–Jun 10	877
				Jun 10–Nov 1	0
Amendment 80	13.4	20,429	n/a	Jan 20–Apr 1	15,322
				Apr 1–Jun 10	5,107
				Jun 10–Nov 1	0
Amendment 80 limited access ² ..	n/a	n/a	3,294	Jan 20–Apr 1	2,471
				Apr 1–Jun 10	824
				Jun 10–Nov 1	0
Amendment 80 cooperatives ²	n/a	n/a	17,135	Jan 20–Apr 1	12,851
				Apr 1–Jun 10	4,284
				Jun 10–Nov 1	0
Jig	1.4	2,134	n/a	Jan 1–Apr 30	1,281
				Apr 30–Aug 31	427
				Aug 31–Dec 31	427

¹ The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2008 and 2009 based on anticipated incidental catch in these fisheries.

² The 2009 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require the allocation of sablefish TACs for the Bering Sea and AI subareas between trawl and hook-and-line or pot gear. Gear allocations of the TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear.

Section 679.20(b)(1)(iii)(B) requires apportionment of 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2008 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ

fishery. Concurrent sablefish and halibut IFQ fisheries reduces the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final specifications for the sablefish IFQ fisheries are in effect. Table 6 lists the 2008 and 2009 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6.—2008 AND 2009 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2008 share of TAC	2008 ITAC	2008 CDQ reserve	2009 share of TAC	2009 ITAC	2009 CDQ reserve
Bering Sea:							
Trawl ¹	50	1,430	1,216	107	1,305	1,109	98
Hook-and-line/pot gear ²	50	1,430	1,144	286	n/a	n/a	n/a
TOTAL	100	2,860	2,360	393	1,305	1,109	98
Aleutian Islands:							

TABLE 6.—2008 AND 2009 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACs—Continued

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2008 share of TAC	2008 ITAC	2008 CDQ reserve	2009 share of TAC	2009 ITAC	2009 CDQ reserve
Trawl ¹	25	610	519	46	558	474	42
Hook-and-line/pot gear ²	75	1,830	1,464	366	n/a	n/a	n/a
TOTAL	100	2,440	1,983	412	558	474	42

¹ Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

² For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to 1 year.

Allocation of the Aleutian Islands Pacific Ocean Perch, Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require the allocation of the Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole TACs in the BSAI, after subtraction of 10.7 percent for the CDQ reserve and an ICA

for the BSAI trawl limited access sector and vessels using non-trawl gear, to the Amendment 80 sector. The allocation of the ITAC for Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in Tables 33 and 34 to part 679 and 679.91. The 2009 allocations for Amendment 80 species

between Amendment 80 cooperatives and limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008. Table 7 lists the 2008 and 2009 allocations and seasonal apportionments of the Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole TACs.

TABLE 7.—2008 AND 2009 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAs), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACs

[Amounts are in metric tons]

Sector	Pacific ocean perch						Flathead sole	Rock sole	Yellowfin sole	
	Eastern Aleutian District		Central Aleutian District		Western Aleutian District		BSAI	BSAI	BSAI	
	2008	2009	2008	2009	2008	2009	2008 and 2009	2008 and 2009	2008	2009
TAC	4,900	4,810	4,990	4,900	7,610	7,490	50,000	75,000	225,000	205,000
CDQ	524	515	534	524	814	801	5,350	8,025	24,075	21,935
ICA	100	100	10	10	10	10	4,500	5,000	2,000	2,000
BSAI trawl limited access	214	420	222	437	136	134	0	0	44,512	37,368
Amendment 80	4,062	3,776	4,224	3,929	6,650	6,545	40,150	61,975	154,413	143,697
Amendment 80 limited access ¹	2,154	0	2,240	0	3,526	0	4,392	14,972	61,431	0
Amendment 80 co-operatives ¹	1,908	0	1,984	0	3,124	0	35,758	47,003	92,982	0

¹ The 2009 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

Allocation of PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to 679.21(e)(1)(iv) and (e)(2), the 2008 and 2009 BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Section 679.21(e)(3)(i) allocates 276 mt of the trawl halibut mortality limit and 679.21(e)(4)(i)(A) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. Section 679.21(e)(1)(vii) specifies 29,000 fish as the 2008 and 2009 Chinook salmon PSC limit for the Bering Sea subarea pollock fishery. Section 679.21(e)(3)(i)(A)(3)(i) allocates

7.5 percent, or 2,175 Chinook salmon, as the PSQ reserve for the CDQ program and allocates the remaining 26,825 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(ix) specifies 700 fish as the 2008 and 2009 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(3)(i)(A)(3)(i) allocates 7.5 percent, or 53 Chinook salmon, as the AI subarea PSQ for the CDQ program and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(viii) specifies 42,000 fish as the 2008 and 2009 non-Chinook salmon PSC limit. Section 679.21(e)(3)(i)(A)(3)(i) allocates 10.7 percent, or 4,494 non-Chinook salmon, as the PSQ for the CDQ program

and allocates the remaining 37,506 non-Chinook salmon to the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. The red king crab mature female abundance is estimated from the 2007 survey data at 33.4 million red king crabs, and the effective spawning biomass is estimated at 73 million pounds (33,113 mt). Based on the criteria set out at (679.21(e)(1)(ii), the 2008 and 2009 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit derives from the mature female abundance of more than 8.4 million king crab and the effective spawning biomass estimate of more than 55 million pounds (24,948 mt).

Section 679.21(e)(3)(ii)(B)(2) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The bycatch limit cannot exceed 25 percent of the red king crab PSC allowance based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2007, the Council recommended and NMFS approves that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC allowance within the RKCSS (Table 8b).

Based on 2007 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 787 million animals. Given the criteria set out at 679.21(e)(1)(iii), the 2008 and 2009 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits derive from the *C. bairdi* crab abundance estimate of more than 400 million animals.

Pursuant to 679.21(e)(1)(iv), the PSC limit for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2007 survey estimate of 3.33 billion animals, the calculated limit is 4,350,000 animals.

Pursuant to 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2008 and 2009 herring biomass is 172,644 mt. This amount was derived using 2007 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 2008 and 2009 is 1,727 mt for all trawl gear as presented in Tables 8a and 8b.

Section 679.21(e)(3) requires, after subtraction of PSQ reserves, that crab

and halibut trawl PSC be apportioned between the BSAI trawl limited access and Amendment 80 sectors as presented in Table 8a. The amount of 2008 PSC assigned to the Amendment 80 sector is specified in Table 35 to part 679. Pursuant to 679.21(e)(1)(iv) and 679.91(d) through (f), crab and halibut trawl PSC assigned to the Amendment 80 sector is then sub-allocated to Amendment 80 cooperatives as PSC cooperative quota (CQ) and to the Amendment 80 limited access fishery as presented in Tables 8d and 8e. PSC CQ assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. The 2009 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008. Section 679.21(e)(3)(i)(B) requires the apportionment of each trawl PSC limit not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories.

Sections 679.21(e)(4)(i)(B) and (C) authorize the apportionment of the non-trawl halibut PSC limit into PSC bycatch allowances among six fishery categories. Table 8c lists the fishery bycatch allowances for the trawl and non-trawl fisheries.

Section 679.21(e)(4)(ii) authorizes the exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years after consultation with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because (1) the pot gear fisheries have low halibut bycatch mortality, (2) halibut mortality for the jig gear fleet is assumed to be negligible, and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program

requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ (subpart D of 50 CFR part 679). In 2007, total groundfish catch for the pot gear fishery in the BSAI was approximately 19,496 mt, with an associated halibut bycatch mortality of about 5 mt. The 2007 jig gear fishery harvested about 89 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and thus are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, a negligible amount of halibut bycatch mortality is assumed because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Section 679.21(e)(5) authorizes NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts for the BSAI trawl limited access and Amendment 80 limited access sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS approves the seasonal PSC apportionments in Tables 8c and 8e to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 8A.—2008 AND 2009 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ ¹	Total trawl PSC	Trawl PSC remaining after CDQ PSQ ¹	CDQ PSQ reserve ¹	Amendment 80 sector		BSAI trawl limited access fishery
						2008	2009	
Halibut mortality (mt)								
BSAI	900	832	3,675	3,400	343	2,525	2,475	875
Herring (mt) BSAI	n/a	n/a	1,726	n/a	n/a	n/a	n/a	n/a
Red king crab (animals)								
Zone 1 ²	n/a	n/a	197,000	175,921	21,079	109,915	104,427	53,797
<i>C. opilio</i> (animals)								
COBLZ ²	n/a	n/a	4,350,000	3,884,550	465,450	2,386,668	2,267,412	1,248,494
<i>C. bairdi</i> crab (animals)								
Zone 1 ²	n/a	n/a	980,000	875,140	104,860	460,674	437,658	411,228

TABLE 8A.—2008 AND 2009 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS—Continued

PSC species	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ ¹	Total trawl PSC	Trawl PSC remaining after CDQ PSQ ¹	CDQ PSQ reserve ¹	Amendment 80 sector		BSAI trawl limited access fishery
						2008	2009	
<i>C. bairdi</i> crab (animals) Zone 2 ²	n/a	n/a	2,970,000	2,652,210	317,790	784,789	745,536	1,241,500

¹ Section 679.21(e)(3)(i) allocates 276 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(a) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

² Refer to 50 CFR § 679.2 for definitions of areas.

TABLE 8B.—2008 AND 2009 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	148	n/a
Rock sole/flathead sole/other flatfish ¹	26	n/a
Turbot/arrowtooth/sablefish ²	12	n/a
Rockfish	9	n/a
Pacific cod	26	n/a
Midwater trawl pollock	1,318	n/a
Pollock/Atka mackerel/other species ³	187	n/a
Red king crab savings subarea Non-pelagic trawl gear ⁴	n/a	49,250
Total trawl PSC	1,726	197,000

¹ “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

² Greenland turbot, arrowtooth flounder, and sablefish fishery category.

³ Non-pelagic pollock, Atka mackerel, and “other species” fishery category.

⁴ In October 2007 the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see (679.21(e)(3)(ii)(B)(2)).

TABLE 8C.—2008 AND 2009 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

BSAI trawl limited access fisheries	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole	162	47,397	1,176,494	346,228	1,185,500
Rock sole/flathead sole/other flatfish ²	0	0	0	0	0
Turbot/arrowtooth/sablefish ³	0	0	0	0	0
Rockfish	3	0	2,000	60,000	1,000
Pacific cod	585	6,000	50,000	60,000	50,000
Pollock/Atka mackerel/other species	125	400	20,000	5,000	5,000
Total BSAI trawl limited access PSC	875	53,797	1,248,494	411,228	1,241,500
Non-trawl fisheries	Catcher processor	Catcher vessel			
Pacific cod—Total	760	15			
January 1–June 10	314	10			
June 10–August 15	0	3			
August 15–December 31	446	2			
Other non-trawl—Total		58			
May 1–December 31		58			
Groundfish pot and jig		exempt			
Sablefish hook-and-line		exempt			
Total non-trawl PSC		833			

¹ Refer to § 679.2 for definitions of areas.

² “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

³ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

TABLE 8D.—2008 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 COOPERATIVES

Year	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
2008	1,837	78,631	1,632,432	340,520	580,311

¹ Refer to § 679.2 for definitions of areas.

TABLE 8E.—2008 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 LIMITED ACCESS FISHERIES

Amendment 80 limited access fisheries	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole	363	6,100	660,000	63,154	155,318
Jan 20–Jul 1	214	5,900	650,000	58,500	125,318
Jul 1–Dec 31	149	200	10,000	4,654	30,000
Rock sole/other flat/flathead sole ²	224	25,000	93,395	56,677	48,266
Jan 20–Apr 1	180	24,632	90,235	50,000	42,160
Apr 1–Jul 1	20	184	1,660	3,500	3,053
July 1–Dec 31	24	184	1,500	3,177	3,053
Turbot/arrowtooth/sablefish ³	n/a	n/a	7,542	n/a	n/a
Rockfish	50	n/a	n/a	n/a	n/a
Pacific cod	1	184	840	323	893
Pollock/Atka mackerel/other species	50	0	0	0	0
Total Amendment 80 trawl limited access PSC	688	31,284	754,235	120,154	204,477

¹ Refer to § 679.2 for definitions of areas.

² “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

³ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, discard mortality rates (DMR), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The DMRs are based on the best information available, including

information contained in the annual SAFE report.

NMFS approves the halibut DMRs developed and recommended by the International Pacific Halibut Commission (IPHC) and the Council for the 2008 and 2009 BSAI groundfish fisheries for use in monitoring the 2008 and 2009 halibut bycatch allowances (see Tables 8a–e). The IPHC developed these DMRs for the 2008 and 2009 BSAI non-CDQ fisheries using the 10-year mean DMRs for those fisheries. The

IPHC developed the DMRs for the 2008 and 2009 BSAI CDQ fisheries using the 1998 to 2006 DMRs for those fisheries. The IPHC will analyze observer data annually and recommend changes to the DMR when a fishery DMR shows large variation from the mean. A copy of the document explaining these DMRs is available from the Council (see **ADDRESSES**) and the DMRs are discussed in the final 2007 SAFE report dated November 2007. Table 9 lists the 2008 and 2009 DMRs.

TABLE 9.—2008 AND 2009 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut discard mortality rate (percent)
Non-CDQ hook-and-line	Greenland turbot	13
	Other species	11
	Pacific cod	11
	Rockfish	17
Non-CDQ trawl	Arrowtooth flounder	75
	Atka mackerel	76
	Flathead sole	70
	Greenland turbot	70
	Non-pelagic pollock	74
	Pelagic pollock	88
	Other flatfish	74
	Other species	70
	Pacific cod	70
	Rockfish	76
	Rock sole	80
	Sablefish	75

TABLE 9.—2008 AND 2009 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI—Continued

Gear	Fishery	Halibut discard mortality rate (percent)
Non-CDQ Pot	Yellowfin sole	80
	Other species	7
	Pacific cod	7
CDQ trawl	Atka mackerel	85
	Flathead sole	87
	Non-pelagic pollock	86
	Pelagic pollock	90
	Rockfish	82
	Rock sole	86
	Yellowfin sole	86
CDQ hook-and-line	Greenland turbot	4
	Pacific cod	10
CDQ pot	Pacific cod	7
	Sablefish	34

Directed Fishing Closures

In accordance with 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (see 697.20(d)(1)(iii)). Similarly, pursuant to 679.21(e), if the Regional Administrator determines that a fishery category’s

bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the groundfish allocation amounts in Table 10 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2008 and 2009 fishing years. Consequently, in accordance with 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 10 as zero. Therefore, in accordance

with 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species in the specified areas effective at 1200 hrs, A.l.t., February 26, 2008, through 2400 hrs, A.l.t., December 31, 2009. Also, the bycatch allowances of halibut in Table 10 are zero mt and the bycatch allowances of red king crab, *C. bairdi* crab, and *C. opilio* crab in Table 10 are 0 animals. Therefore, in accordance with 679.21(e)(7), NMFS is prohibiting directed fishing for these sectors and fishery categories in the specified areas effective at 1200 hrs, A.l.t., February 26, 2008, through 2400 hrs, A.l.t., December 31, 2009.

TABLE 10.—2008 AND 2009 DIRECTED FISHING CLOSURES ¹

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2008 Incidental catch allowance	2009 Incidental catch allowance
Bogoslof District	All	Pollock	10	10
Aleutian Islands subarea	All	ICA pollock	1,600	1,600
		“Other rockfish”	497	497
Eastern Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	1,400	1,400
		ICA Pacific ocean perch	100	100
Central Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	10	10
		ICA Pacific ocean perch	10	10
Western Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	10	10
		ICA Pacific ocean perch	10	10
Bering Sea subarea	All	Pacific ocean perch	3,570	3,485
		“Other rockfish”	383	383
		ICA pollock	31,500	31,500
		Northern rockfish	7,567	7,520
Bering Sea and Aleutian Islands	All	Shortraker rockfish	392	392
		Rougeye rockfish	187	187
		“Other species”	42,500	51,000
		ICA Pacific cod	500	500
		ICA flathead sole	4,500	4,500
		ICA rock sole	5,000	5,000
		ICA yellowfin sole	2,000	2,000
		Hook-and-line and pot gear		
		Non-amendment 80		

TABLE 10.—2008 AND 2009 DIRECTED FISHING CLOSURES ¹—Continued
 [Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2008 Incidental catch allowance	2009 Incidental catch allowance
	BSAI trawl limited access	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	0
	Amendment 80 limited access	Rockfish—red king crab zone 1	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, <i>C. bairdi</i> Zone 1 and 2.	0	n/a
		Rockfish—red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	n/a
		Pollock/Atka mackerel/other species—red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	n/a

¹ Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Under authority of the final 2008 and 2009 harvest specifications (72 FR 9451, March 2, 2007), NMFS prohibited directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI for vessels participating in the BSAI trawl limited access fishery effective 1200 hrs, A.l.t., January 20, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 4494, January 25, 2008). NMFS opened the first directed fisheries in the HLA in Area 542 and Area 543 effective 1200 hrs, A.l.t., January 22, 2008. The first HLA fishery in Area 542 remained open through 1200 hrs, A.l.t., February 5, 2008. The first HLA fishery in Area 543 remained open through 1200 hrs, A.l.t., February 5, 2008. The second directed fisheries in the HLA in Area 542 and Area 543 opened effective 1200 hrs, A.l.t., February 7, 2008. The second HLA fishery in Area 542 remained open through 1200 hrs, A.l.t., February 21, 2008. The second HLA fishery in Area 543 remained open through 1200 hrs, A.l.t., February 21, 2008. NMFS prohibited directed fishing for Pacific cod by catcher vessels 60 ft (18.3 m) LOA and longer using pot gear in the BSAI, effective 12 hrs, A.l.t., January 18, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 3879, January 23, 2008). NMFS prohibited directed fishing for Pacific cod by catcher/processor vessels using pot gear in the BSAI, effective 12 noon, A.l.t., January 20, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 3879, January 23, 2008). NMFS prohibited directed fishing for Pacific cod for vessels

participating in the Amendment 80 limited access fishery in the BSAI, effective 12 noon, A.l.t., January 20, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 4760, January 28, 2008). NMFS prohibited directed fishing for Atka mackerel for vessels participating in the Amendment 80 limited access fishery in the Eastern Aleutian District and Bering Sea subarea of the BSAI, effective 12 noon, A.l.t., February 5, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 7480, February 8, 2008). NMFS prohibited directed fishing for Pacific cod by catcher processors using hook-and-line gear in the BSAI, effective 12 noon, A.l.t., February 8, 2008, through June 10, 2008, (73 FR 8228, February 13, 2008). NMFS announced Atka mackerel fishery dates for the HLA fishery in the Central Aleutian District for the vessel participating in the Amendment 80 cooperative, opens effective 1200 hrs, A.l.t., February 13, 2008, through 1200 hrs, A.l.t., February 27, 2008 (73 FR 9034, February 19, 2008). NMFS prohibited directed fishing for Pacific cod by catcher vessels less than 60 feet (< 18.3 meters (m)) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area of the BSAI, effective 12 noon, A.l.t., February 12, 2008, through 1200 hrs, A.l.t., December 31, 2008 (73 FR 8821, February 15, 2008). NMFS announced the season opening of the sablefish fixed gear fisheries managed under the IFQ Program at 1200 hrs, A.l.t., March 8, 2008, and will close 1200 hrs, A.l.t., November 15, 2008, which will publish

in the **Federal Register** February 21, 2008.

These closures remain effective under authority of these final 2008 and 2009 harvest specifications. These closures supersede the closures announced under authority of the 2007 and 2008 final harvest specifications (72 FR 9451, March 2, 2007) and revision (72 FR 71802, December 19, 2007). While these closures are in effect, the maximum retainable amounts at 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

Central Gulf of Alaska Rockfish Pilot Program (Rockfish Program)

On June 6, 2005, the Council adopted the Rockfish Program to meet the requirements of Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108–199). The basis for the BSAI fishing prohibitions and the catcher vessel BSAI Pacific cod sideboard limits of the Rockfish Program are discussed in detail in the final rule to Amendment 68 to the FMP for groundfish of the Gulf of Alaska (71 FR 67210, November 20, 2006). Pursuant to 679.82(d)(6)(i), the catcher vessel BSAI Pacific cod sideboard limit is 0.0 mt. Therefore, in accordance with 679.82(d)(7)(ii), NMFS is prohibiting directed fishing for BSAI Pacific cod in July for catcher vessels under the Rockfish Program sideboard limitations.

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA catcher/processors to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery

cooperatives in the directed pollock fishery. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 11 lists the 2008 and 2009 catcher/processor sideboard limits.

All harvests of groundfish sideboard species made by listed AFA catcher/

processors, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 11. However, groundfish sideboard species that are delivered to listed catcher/processors by catcher vessels will not be deducted from the 2008 and 2009 sideboard limits for the listed AFA catcher/processors.

TABLE 11.—2008 AND 2009 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUND FISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2008 ITAC available to trawl C/Ps ¹	2008 AFA C/P sideboard limit	2009 ITAC available to trawl C/Ps ¹	2009 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Sablefish trawl	BS	8	497	0.016	1,216	19	1,109	18
	AI	0	145	0.000	519	0	474	0
Atka mackerel	Central AI							
	A season ²	n/a	n/a	0.115	10,850	1,248	8,483	976
	HLA limit ³	n/a	n/a	n/a	6,510	749	5,090	585
	B season ²	n/a	n/a	0.115	10,850	1,248	8,484	976
	HLA limit ³	n/a	n/a	n/a	6,510	749	5,090	585
	Western AI							
	A season ²	n/a	n/a	0.200	7,546	1,509	5,894	1,179
	HLA limit ³	n/a	n/a	n/a	4,528	906	3,536	707
	B season ²	n/a	n/a	0.200	7,546	1,509	5,894	1,179
	HLA limit ³	n/a	n/a	n/a	4,528	906	3,536	707
Yellowfin sole ⁴	BSAI	100,192	435,788	0.230	200,925	n/a	183,065	n/a
Rock sole	BSAI	6,317	169,362	0.037	66,975	2,478	66,975	2,478
Greenland turbot	BS	121	17,305	0.007	1,488	10	1,488	10
	AI	23	4,987	0.005	672	3	672	3
Arrowtooth flounder	BSAI	76	33,987	0.002	63,750	128	63,750	128
Flathead sole	BSAI	1,925	52,755	0.036	44,650	1,607	44,650	1,607
Alaska plaice	BSAI	14	9,438	0.001	42,500	43	42,500	43
Other flatfish	BSAI	3,058	52,298	0.058	18,360	1,065	18,360	1,065
Pacific ocean perch	BS	12	4,879	0.002	3,570	7	3,485	7
	Eastern AI	125	6,179	0.020	4,376	88	4,295	86
	Central AI	3	5,698	0.001	4,456	4	4,376	4
	Western AI	54	13,598	0.004	6,796	27	6,689	27
Northern rockfish	BSAI	91	13,040	0.007	7,567	53	7,521	53
Shortraker rockfish	BSAI	50	2,811	0.018	392	7	392	7
Rougheye rockfish	BSAI	50	2,811	0.018	187	3	187	3
Other rockfish	BS	18	621	0.029	383	11	383	11
	AI	22	806	0.027	497	13	471	13
Squid	BSAI	73	3,328	0.022	1,675	37	1,675	37
Other species	BSAI	553	68,672	0.008	42,500	340	51,000	408

¹ Atka mackerel, flathead sole, rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

² The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

³ Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2008 and 2009, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

⁴ Section 679.64(a)(1)(v) exempts AFA catcher/processors from a yellowfin sole sideboard limit because the 2008 and 2009 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (200,925 mt in 2008 and 180,065 mt in 2009) is greater than 125,000 mt.

Section 679.64(a)(2) and Tables 40 and 41 of part 679 establish a formula for calculating PSC sideboard limits for listed AFA catcher/processors. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30,

2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 12 that are caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock will accrue against the 2008 and 2009 PSC sideboard limits for the listed AFA catcher/processors.

Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA catcher/processors once a 2008 or 2009 PSC sideboard limit listed in Table 12 is reached.

Crab or halibut PSC caught by listed AFA catcher/processors while fishing

for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/"other species" fishery categories under regulations at 679.21(e)(3)(iv).

TABLE 12.—2008 AND 2009 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area ²	Ratio of PSC catch to total PSC	2008 and 2009 PSC available to trawl vessels after subtraction of PSQ ¹	2008 and 2009 C/P sideboard limit ¹
Halibut mortality BSAI	n/a	n/a	286
Red king crab zone 1	0.007	175,921	1,231
<i>C. opilio</i> (COBLZ)	0.153	3,884,550	594,336
<i>C. bairdi</i>			
Zone 1	0.140	875,140	122,520
Zone 2	0.050	2,652,210	132,611

¹ Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

² Refer to § 679.2 for definitions of areas.

AFA Catcher Vessel Sideboard Limits

Pursuant to 679.64(a), the Regional Administrator is responsible for restricting the ability of AFA catcher vessels to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery

cooperatives in the directed pollock fishery. Section 679.64(b) establishes a formula for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80

(72 FR 52668, September 14, 2007). Tables 13 and 14 list the 2008 and 2009 AFA catcher vessel sideboard limits.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the 2008 and 2009 sideboard limits listed in Table 13.

TABLE 13.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUND FISH SIDEBOARD LIMITS
[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2008 initial TAC ¹	2008 AFA catcher vessel sideboard limits	2009 initial TAC ¹	2009 AFA catcher vessel sideboard limits
Pacific cod	BSAI					
	Jig gear	0.0000	2,134	0	2,134	0
	Hook-and-line CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	155	0	155	0
	Jun 10–Dec 31	0.0006	149	0	149	0
	Pot gear CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	6,496	4	6,496	4
	Sept 1–Dec 31	0.0006	6,241	4	6,241	4
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	3,033	2	3,033	2
	Trawl gear CV					
	Jan 20–Apr 1	0.8609	24,932	21,464	24,932	21,464
	Apr 1–Jun 10	0.8609	3,706	3,190	3,706	3,190
	Jun 10–Nov 1	0.8609	5,054	4,351	5,054	4,351
Sablefish	BS trawl gear	0.0906	1,216	110	1,109	100
	AI trawl gear	0.0645	519	33	474	31
Atka mackerel	Eastern AI/BS					
	Jan 1–Apr 15	0.0032	8,706	28	6,831	22
	Sept 1–Nov 1	0.0032	8,707	28	6,832	22
	Central AI					
	Jan–Apr 15	0.0001	10,850	1	8,483	1
	HLA limit	0.0001	6,510	1	5,090	1
	Sept 1–Nov 1	0.0001	10,850	1	8,484	1
	HLA limit	0.0001	6,510	1	5,090	1
	Western AI					
	Jan–Apr 15	0.0000	7,546	0	5,894	0
	HLA limit	n/a	4,528	0	3,536	0
	Sept 1–Nov 1	0.0000	7,546	0	5,894	0
	HLA limit	n/a	4,528	0	3,536	0
Yellowfin sole ²	BSAI	0.0647	200,925	n/a	183,065	n/a
Rock sole	BSAI	0.0341	66,975	2,284	66,975	2,284
Greenland turbot	BS	0.0645	1,488	96	1,488	96
	AI	0.0205	672	14	672	14

TABLE 13.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUND FISH SIDEBOARD LIMITS—
Continued

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2008 initial TAC ¹	2008 AFA catcher ves- sel sideboard limits	2009 initial TAC ¹	2009 AFA catcher ves- sel sideboard limits
Arrowtooth flounder	BSAI	0.0690	63,750	4,399	63,750	4,399
Alaska plaice	BSAI	0.0441	42,500	1,874	42,500	1,874
Other flatfish	BSAI	0.0441	18,360	810	18,360	810
Pacific ocean perch	BS	0.1000	3,570	357	3,485	349
	Eastern AI	0.0077	4,376	34	4,295	33
	Central AI	0.0025	4,456	11	4,376	11
	Western AI	0.0000	6,796	0	6,689	0
Northern rockfish	BSAI	0.0084	7,567	64	7,521	63
Shortraker rockfish	BSAI	0.0037	392	1	392	1
Rougheye rockfish	BSAI	0.0037	187	1	187	1
Other rockfish	BS	0.0048	383	2	383	2
	AI	0.0095	497	5	471	4
Squid	BSAI	0.3827	1,675	641	1,675	641
Other species	BSAI	0.0541	42,500	2,299	51,000	2,759
Flathead sole	BS trawl gear	0.0505	44,650	2,255	44,650	2,255

¹ Atka mackerel, flathead sole, rock sole, yellowfin sole, and Aleutians Islands Pacific ocean perch are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

² Section 679.64(b)(6) exempts AFA catcher vessels from a yellowfin sole sideboard limit because the 2008 and 2009 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (200,925 mt in 2008 and 180,065 mt in 2009) is greater than 125,000 mt.

Halibut and crab PSC listed in Table 14 that are caught by AFA catcher vessels participating in any groundfish fishery for groundfish other than pollock will accrue against the 2008 and 2009 PSC sideboard limits for the AFA catcher vessels. Sections 679.21(d)(8)

and (e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA catcher vessels once a 2008 or 2009 PSC sideboard limit listed in Table 14 is reached. The PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI

will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/"other species" fishery categories under regulations at 679.21(e)(3)(iv).

TABLE 14.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI¹

[Amounts are in metric tons]

PSC species	Target fishery category ²	AFA catcher vessel PSC sideboard limit ratio	2008 and 2009 PSC limit after subtraction of PSQ reserves	2008 and 2009 AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish total ⁵	n/a	n/a	228
	Turbot/Arrowtooth/Sablefish	n/a	n/a	0
	Rockfish (June 1–December 31)	n/a	n/a	2
	Pollock/Atka mackerel/other species	n/a	n/a	5
Red king crab Zone 1 ^{3,4}	n/a	0.299	175,921	52,600
<i>C. opilio</i> COBLZ ³	n/a	0.168	3,884,550	652,604
<i>C. bairdi</i> Zone 1 ³	n/a	0.330	875,140	288,796
<i>C. bairdi</i> Zone 2 ³	n/a	0.186	2,652,210	493,311

¹ Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

² Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).

³ Refer to § 679.2 for definitions of areas.

⁴ In December 2007, the Council recommended that red king crab bycatch for trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(2)).

⁵ "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures

The Regional Administrator has determined that many of the AFA catcher/processor and catcher vessel sideboard limits listed in Tables 15 and 16 are necessary as incidental catch to

support other anticipated groundfish fisheries for the 2008 fishing year. In accordance with 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 15 and 16 as DFAs. The Regional Administrator finds that many of these DFAs will be reached before the end of the year.

Therefore, in accordance with 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by listed AFA catcher/processors for the species in the specified areas set out in Table 15 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 16.

TABLE 15.—2008 AND 2009 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES ¹

[Amounts are in metric tons]

Species	Area	Gear types	2008 Sideboard limit	2009 Sideboard limit
Sablefish trawl	BS	trawl	19	18
	AI	trawl	0	0
Rock sole	BSAI	all	2,478	2,478
Greenland turbot	BS	all	10	10
	AI	all	3	3
Arrowtooth flounder	BSAI	all	128	128
Flathead sole	BSAI	all	1,607	1,607
Pacific ocean perch	BS	all	7	7
	Eastern AI	all	88	86
	Central AI	all	4	4
	Western AI	all	27	27
Northern rockfish	BSAI	all	53	53
Shortraker rockfish	BSAI	all	7	7
Rougheye rockfish	BSAI	all	3	3
Other rockfish	BS	all	11	11
	AI	all	13	13
Squid	BSAI	all	37	37
"Other species"	BSAI	all	340	408

¹ Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

TABLE 16.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES ¹

[Amounts are in metric tons]

Species	Area	Gear types	2008 Sideboard limit	2009 Sideboard limit
Pacific cod	BSAI	hook-and-line	0	0
	BSAI	pot	8	8
	BSAI	jig	0	0
Sablefish	BS	trawl	110	100
	AI	trawl	33	31
Atka mackerel	Eastern AI/BS	all	56	44
	Central AI	all	2	2
	Western AI	all	0	0
Greenland turbot	BS	all	96	96
	AI	all	14	14
Arrowtooth flounder	BSAI	all	4,399	4,399
Flathead sole	BSAI	all	2,255	2,255
Rock sole	BSAI	all	2,284	2,284
Pacific ocean perch	BS	all	357	349
	Eastern AI	all	34	33
	Central AI	all	11	11
	Western AI	all	0	0
Northern rockfish	BSAI	all	64	63
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BSAI	all	1	1
Other rockfish	BS	all	2	2
	AI	all	5	4
Squid	BSAI	all	641	641
"Other species"	BSAI	all	2,299	2,759

¹ Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Response to Comments

NMFS received two letters of comment (eight comments) in response to the proposed 2008 and 2009 harvest specifications. These comments are summarized and responded to below.

Comment 1: Explain why the catch specifications as reported in the proposed harvest specifications published in the **Federal Register** do not match the actual numbers discussed and recommended by the Groundfish Plan Teams, Scientific and Statistical Committee, or the North Pacific Fishery Management Council in December 2007.

Response: NMFS's primary objective in the harvest specifications process is the conservation and management of fish resources. The harvest specifications process was developed to balance the use of the best available scientific information from the most recent Stock Assessment and Fishery Evaluation (SAFE) reports with the notice and comment procedures required by the Administrative Procedure Act that allow public participation in the development of rules for more informed agency decision making. Chapter 3 of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement, January 2007, provides a detailed description of the harvest specifications process and is available on the NMFS Web site at <http://www.fakr.noaa.gov/analyses/specs/eis/final.pdf>.

As explained in the proposed harvest specifications, the Council recommended the proposed harvest specifications for 2008 and 2009 in October 2007. NMFS then published the proposed harvest specifications in the **Federal Register** (72 FR 68833, December 6, 2007). The Council used the best information available at the time in recommending that proposed 2008 and 2009 overfishing levels (OFLs), acceptable biological catches (ABCs), and total allowable catches (TACs) be set equal to the 2008 amounts previously published in the **Federal Register** (72 FR 9451, March 2, 2007). The proposed harvest specifications in October 2007 were based largely on information contained in the 2006 SAFE reports for the BSAI groundfish fisheries, dated November 2006, because the 2007 SAFE reports were not completed until November 2007.

In November 2007, the 2007 SAFE reports were forwarded to the Council by the Council's Groundfish Plan Teams. The 2007 SAFE reports are available on the NMFS Web site at <http://www.afsc.noaa.gov/REFM/stocks/assessments.htm>. The 2007 SAFE reports contain the best and most recent

scientific information on the condition of the groundfish stocks, including projected biomass trends, information on assumed distribution of stock biomass, and revised methods used to calculate stock biomass. In December 2007, the Council developed recommendations for the final harvest specifications based on the new information in the 2007 SAFE reports, public testimony, and the Scientific and Statistical Committee's reviews of the SAFE reports and recommendations. NMFS reviewed the Council's final harvest specifications recommendations and public comments on the proposed harvest specifications, and determined that the final harvest specifications were (1) set using the most recent scientific information according to the harvest strategy, (2) are within the optimum yield established for the BSAI, and (3) do not exceed the ABC for any single species or species complex.

Comment 2: The commenter does not support the BSAI pollock ABC of one million mt for 2008 and 2009, as calculated under Tier 1. Harvest levels should be lower because of poor pollock recruitment, uncertainty in the strength of year classes, and uncertainty in the impact of global warming on pollock stocks. The commenter recommends a pollock ABC of 555,000 mt for 2008 and 650,000 mt for 2009, as calculated under Tier 3b.

Response: The SSC has consistently placed this stock in the Tier 1 category where the estimates of stock productivity specific to Bering Sea subarea pollock apply (as opposed to the proxy values used in Tier 3). This gives a maximum permissible risk-averse ABC level of 1.17 million mt for 2008. The upper limit of the harvest control rule has consideration of uncertainty built in and has an added mechanism to further reduce harvest rates as the stock drops below the maximum sustainable yield biomass level. However, due to additional concerns about stock uncertainty and the desire to further reduce exploitation rates, the SSC agreed with the stock assessment authors and the Plan Team and recommended that the 2008 and 2009 BSAI pollock ABC be set to 1 million mt, which is about 15 percent below the maximum permissible ABC. This corresponds to a harvest rate that would be considerably lower than the one used in recent years and similar to past values.

The TACs, which are the amount of fish the fishery may harvest, are set either at or below the ABCs. Even without this approximately 15 percent reduction, the assessment model and the harvest policy to determine ABC for

pollock is precautionary in a number of ways: (1) There is a conservative constraint on the stock-recruit steepness parameter; (2) as uncertainty increases, the ABC decreases because the estimate of the F_{MSY} (which is the fishing mortality rate expected to result in a long-term average catch approximating maximum sustainable yield) is applied in a formally risk-averse manner; and (3) an added proportional drop in the harvest rate is applied as the stock drops below the level of biomass that results from fishing at constant F_{MSY} .

For the near term, the 2006 year-class appears strong based on age-1 abundance in both the echo-integration trawl survey and bottom trawl surveys, suggesting that the recent spawning levels are capable of generating good recruitment. However, because survival rates are variable at these young ages, the impact of this year-class on rebuilding the stock is uncertain. Projections suggest that the population is expected to rebuild to the maximum sustainable yield level by 2010 with the caveat that the predictive uncertainty remains relatively high.

Comment 3: The optimum yield range is far beyond a healthy range and allows overfishing. Cut the "range" in half. All TACs are double the size they should be for ocean health and food to support whales and all marine mammals.

Response: The optimum yield range for BSAI groundfish is 85 percent of the historical estimate of the maximum sustainable yield (1.7 to 2.4 million mt) or 1.4 to 2.0 million mt. The sum of the 2008 TACs is 1.8 million mt, which is significantly below the upper end of the optimum yield range for the BSAI. NMFS finds that the recommended overfishing levels are consistent with the biological condition of groundfish stocks as described in the 2007 SAFE report. The overfishing levels are harvest limits rather than targets and ABCs and TACs are set below the overfishing levels. Currently, no Alaska groundfish species are known to be overfished. See responses to comments 1 and 2.

Additionally, as detailed in the SAFE reports, ecosystem considerations are incorporated into the harvest specifications process, including consideration of the needs of marine mammals.

Comment 4: It is difficult to understand the process in which NMFS addresses the impacts of the Federal groundfish fisheries on the North Pacific ecosystem. No existing National Environmental Policy Act (NEPA) document adequately assesses the effects of the total allowable catch levels under current circumstances. Removing

millions of tons of fish from the ecosystem using various types of gear, including trawl gear, is likely to have significant effects on the environment, and on fish habitat in particular. Given prevailing ecological and ecosystem conditions and the implications of fishery removals, NMFS must prepare an EIS to evaluate the impacts of the 2008 and 2009 harvest specifications.

Response: NMFS analyzed the impacts of the Federal groundfish fisheries on the North Pacific ecosystem in the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement, January 2007. The EIS examined alternative harvest strategies and projected TAC levels for the federally managed groundfish fisheries in the BSAI management area that comply with Federal regulations, the FMPs, and the Magnuson-Stevens Act. The preferred harvest strategy prescribes setting TACs for groundfish species and species complexes through the Council's harvest specifications process.

Each year, NMFS and the Council utilize the best available scientific information to derive annual harvest specifications, which include TACs and prohibited species catch limits for the following two years. The Council's Groundfish Plan Teams and Scientific and Statistical Committee use stock assessments to calculate biomass, overfishing levels, and ABC limits for each species or species group for specified management areas. The annual SAFE reports include an ecosystem considerations chapter which is used by the stock assessment scientists in the development of the assessments and the recommended ABCs. The SAFE reports detail how ecosystem considerations are incorporated into the assessment process.

Overfishing levels and ABCs provide the foundation for the Council and NMFS to develop the TACs. Overfishing levels and ABC amounts reflect fishery science, applied pursuant to the requirements of the FMPs. The TACs recommended by the Council are either at or below the ABCs. The sum of the TACs for each area is constrained by the optimum yield established for that area.

The EIS evaluated the consequences of alternative harvest strategies and projected TAC levels on ecosystem components and the ecosystem as a whole. Chapter 2 of the Groundfish EIS points to the implications of overall declines in pollock and Pacific cod biomass, discusses the resulting decreases in TACs for those species, and identifies potential increases in flatfish TACs. These changes in abundance and TAC levels were evaluated in the EIS.

The EIS assessed the environmental consequences of each alternative on target species, non-specified species, forage species, prohibited species, marine mammals, seabirds, essential fish habitat, ecosystem relationships, the economy, and environmental justice. Ecosystem impacts were evaluated with respect to predator-prey relationships, energy flow and balance, and diversity.

NMFS also prepared a Supplemental Information Report to evaluate the need to prepare a Supplemental EIS for the 2008 and 2009 groundfish harvest specifications. The Supplemental Information Report is available on the NMFS Web site at <http://www.fakr.noaa.gov/analyses/specs/eis/default.htm>. A Supplemental EIS is required if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)).

In this report, NMFS analyzed the information contained in the Council's 2007 SAFE reports and other information available to NMFS and the Council to determine whether a Supplemental EIS should be prepared. As described in the report, NMFS concluded that the 2008 and 2009 harvest specifications are consistent with the preferred alternative harvest strategy analyzed in the EIS because they were set through the harvest specifications process pursuant to the selected harvest strategy, are within the optimum yield established for the BSAI, and do not exceed the ABC for any single species or species complex. The preferred harvest strategy analyzed in the EIS anticipated that new information on changes in species abundance would be used in setting the annual harvest specifications and was designed to adjust to such fluctuations.

As described in the Supplemental Information Report, the information used to set the 2008 and 2009 harvest specifications is not significant relative to the environmental impacts analyzed in the EIS and it raises no new environmental concerns significantly different from those previously analyzed in the EIS. The harvest specifications process and the environmental consequences of the selected harvest strategy are fully described in the EIS. Thus, NMFS concluded that the new information available is not of a scale and scope that require a Supplemental EIS.

Comment 5: NEPA and the Magnuson-Stevens Act require NMFS to undertake a new, credible analysis of habitat and bycatch impacts before raising flatfish quotas. The Essential Fish Habitat EIS and the Alaska Groundfish Harvest Specifications EIS are not sufficient to evaluate the potential impacts, including bottom habitat impacts, of an increase in the flatfish harvests, the use of bottom trawls, and redistribution of fishing effort.

Response: NMFS has performed an appropriate analysis of the potential impacts, including bottom habitat impacts, of an increase in the flatfish harvests, the use of bottom trawls, and redistribution of fishing effort. The Alaska Groundfish Harvest Specifications Final EIS (Groundfish EIS, January 2007) based its conclusions on the Final EIS for Essential Fish Habitat Identification and Conservation in Alaska (EFH EIS, April 2005, available on the NMFS Web site at <http://www.fakr.noaa.gov/habitat/seis/efheis.htm>) analysis and on the extensive habitat protection measures enacted after the EFH EIS was finalized. The EFH EIS represents the best available science and fully discloses the uncertainties in understanding the impacts of fishing on EFH. The EFH EIS concludes that the effects on EFH are minimal, although some may be persistent, because the analysis found no indication that continued fishing activities at the current rate and intensity would alter the capacity of EFH to support healthy populations of managed species over the long term.

Due to the uncertainties identified in the EFH EIS, the Council recommended, and NMFS implemented, precautionary measures to protect nearly 300,000 square nautical miles of habitat identified as EFH and habitat areas of particular concern from the effects of fishing activities in the Aleutian Islands subarea (71 FR 36694, June 28, 2006).

Additionally, the Council recommended and NMFS is in the process of implementing habitat protection measures for the Bering Sea subarea under Amendment 89. Amendment 89, if approved, would close portions of the Bering Sea to non-pelagic trawling, including flatfish fishing, to ensure fishing remained in historically fished areas and prevent substantial redistribution of effort from increased TAC levels. This amendment and proposed rule is scheduled to be published in the spring and implemented by fall 2008. An Environmental Assessment was prepared for this action. It analyzes the impacts of bottom trawl gear on habitat

in the Bering Sea and the impacts from closing these specific areas to bottom trawl gear. The Environmental Assessment is available on the NMFS Web site at http://www.fakr.noaa.gov/npfmc/current_issues/BSHC/BSHC307.pdf.

The Groundfish EIS projects increases in flatfish TACs under the preferred harvest strategy and under Alternative 1. Chapter 2 of the Groundfish EIS points to the implications of overall declines in pollock and Pacific cod biomass, the resulting decreases in TACs for those species, and identifies potential increases in flatfish TACs. Potential changes in flatfish TACs are evaluated in the EIS where changes in flatfish harvests may impact resource components. For example, there are discussions in Chapter 8 on marine mammals, Chapter 10 on habitat, Chapter 11 on ecosystem relationships, and Chapter 12 on economic and social factors. For habitat, the EIS concluded that since flatfish are harvested with bottom gear, the impacts to habitat may increase with an increase in flatfish TACs. However, increased TACs may not lead to proportionate increases in fishing activity or harvests, or benthic habitat impacts. The flatfish fisheries routinely do not harvest the full TAC because of halibut PSC constraints and limited marketability for some flatfish species. It may not be possible to market the increased quantities of many of these species (for example, increased arrowtooth flounder TACs). In other instances, incidental catch constraints for PSC species, like halibut, may limit the industry's ability to catch the increased TACs. The halibut PSC limits and the marketability of some flatfish species, such as arrowtooth flounder, are not likely to change in 2008. Due to these factors, actual flatfish harvest in 2008 is likely to be lower than the predicted TAC amounts.

Additionally, the EFH conservation measures, closures of habitat areas of particular concern, and other area closures and gear restrictions established in the FMPs protect areas of ecological importance to the long-term sustainability of managed species from fishing impacts, regardless of the TAC levels.

Thus, NMFS concluded that the preferred harvest strategy impacts EFH for managed species, but that the available information does not identify effects of fishing that are more than minimal. An increase in flatfish TACs would not change this conclusion because of the existing habitat protection measures and the limits on the actual flatfish harvests that prevent the TAC from being fully harvested.

Additionally, the general location of the fisheries, the fishing seasons, and the gear used in the fisheries are not likely to be changed by the 2008 and 2009 TAC changes.

Comment 6: The current level of Chinook salmon bycatch in the pollock trawl fishery is unacceptable. The interception of Yukon River Chinook by the pollock trawl fishery has resulted in below average returns, escapement goals not being met, and village elders finding it more difficult to locate fish.

Response: NMFS agrees that the increasing amount of salmon bycatch in the BSAI pollock fisheries is a concern because of the potential for negative impacts on salmon stocks. NMFS has implemented management measures to reduce salmon bycatch in the pollock fishery, and NMFS and the Council are analyzing additional bycatch reduction measures. NMFS, the University of Washington, and the State of Alaska are conducting scientific research to determine the origins of the salmon caught in the pollock fishery. NMFS, the Council, and the State of Alaska are working to determine the impacts of the salmon bycatch on western Alaska stocks. Additionally, the substantial reductions in pollock TACs from 2007 to 2008 may result in a reduction in salmon bycatch.

NMFS agrees that salmon bycatch is an important issue and that salmon of western Alaska origin caught in the groundfish fisheries are not available for escapement, subsistence fisheries, and commercial fisheries. However, limited information is available on salmon biomass and the river of origin for salmon bycatch. Research is underway to address these informational deficiencies. As a result, at present, NMFS is unable to determine whether high bycatch amounts in the pollock fishery are due to high salmon abundance in the Bering Sea, or whether these high bycatch amounts affect western Alaska salmon runs. NMFS anticipates that new information on the genetic profile of salmon bycatch will soon be available and summarized in the analysis of the alternative salmon bycatch reduction measures being prepared for Council consideration. When it is available, this information will be an important consideration in developing responsive management measures to reduce salmon bycatch and understand the potential impacts of salmon bycatch on individual salmon stocks.

Amendment 84 and its implementing regulations give the pollock industry more flexibility to move its fishing operations to avoid areas of high salmon bycatch rates. This action exempted

vessels participating in salmon bycatch intercooperative agreements from existing salmon bycatch closure areas. NMFS implemented Amendment 84 with a final rule published in the **Federal Register** on October 29, 2007 (72 FR 61070). In recommending Amendment 84, the Council recognized that current regulatory management measures, including a bycatch cap that triggered closure of fixed salmon savings areas, have not been effective at reducing salmon bycatch. Amendment 84 provides an alternative approach to managing salmon bycatch which has the potential to be more effective than current regulations.

NMFS and the Council have begun a process pursuant to the Magnuson-Stevens Act and NEPA to analyze alternative management measures to the current Chinook and Chum Salmon Savings Areas in the BSAI. NMFS and the Council published a notice of intent to prepare an EIS on salmon bycatch reduction measures in the BSAI (72 FR 72994, December 26, 2007). The proposed action would replace the current Chinook and Chum Salmon Savings Areas in the BSAI with new regulatory closures, salmon bycatch limits, or a combination of both. These management measures could incorporate current or new bycatch reduction methods. During the approximately two-month scoping period from December 26, 2007, to February 15, 2008, NMFS solicited written comments from the public to determine the issues of concern and the appropriate range of management alternatives for analysis in the EIS.

Comment 7: The high levels of salmon bycatch call into question NMFS's compliance with the Endangered Species Act (ESA), the Magnuson-Stevens Act, the Pacific Salmon Treaty, and the Convention of Anadromous Stocks in the North Pacific Ocean.

Response: NMFS management of the BSAI pollock fisheries is in compliance with the ESA, the Magnuson-Stevens Act, the Pacific Salmon Treaty, the Convention of Anadromous Stocks in the North Pacific Ocean, and other applicable law.

NMFS is complying with the ESA through section 7 consultations on the Alaska groundfish fisheries, including the BSAI pollock fishery, regarding the potential incidental take of ESA-listed salmon. In January 2007, the NMFS Northwest Region completed a biological opinion on the effects of the BSAI groundfish fisheries on ESA-listed salmon. Most of the incidental take of Chinook salmon occurs in the BSAI pollock fishery. In this biological opinion, the incidental take statement

for the Upper Willamette and Lower Columbia River ESA-listed Chinook salmon stocks taken by the BSAI groundfish fisheries was based on the range of recent observations of Chinook salmon taken in those fisheries and on the coded-wire tag recoveries of surrogates of these ESA-listed stocks. Based on coded-wire tag recoveries of salmon taken in the BSAI groundfish fisheries, salmon from the Upper Willamette River and Lower Columbia River ESA-listed Chinook stocks may be taken in the BSAI groundfish fisheries. However, no evidence confirms that any ESA-listed salmon have in fact been taken in the BSAI groundfish fisheries.

Between 2001 and 2006, the incidental take of Chinook salmon in the BSAI groundfish fisheries ranged from 36,000 fish to 87,500 fish. Coded-wire tag recoveries for surrogates for the Lower Columbia River and Upper Willamette River ESA-listed Chinook salmon stocks taken in the BSAI groundfish fisheries has ranged from 0 to a few fish between 2001 and 2006. The biological opinion concluded that the BSAI groundfish fisheries are not likely to jeopardize the continued existence or adversely modify critical habitat for the Upper Willamette River and Lower Columbia River ESA-listed Chinook salmon stocks.

NMFS Alaska Region is currently consulting with NMFS Northwest Region on the 2007 incidental take of Chinook salmon in the BSAI groundfish fisheries. The incidental take of Chinook salmon in the 2007 BSAI groundfish fisheries was approximately 130,000 fish. Even though the number of Chinook salmon incidentally taken in 2007 was higher than seen in previous years, no coded-wire tag surrogates from ESA-listed salmon stocks have been recovered from the samples of bycaught salmon analyzed to date. Analysis of coded-wire tags collected during the 2007 BSAI groundfish fisheries will be completed in late 2008.

Amendment 84 and its implementing regulations are consistent with National Standard 9 of the Magnuson-Stevens Act because they increase the ability of fishery participants to minimize salmon bycatch to the extent practicable. Amendment 84 provides participants in the pollock fisheries the flexibility to conduct pollock fishing in areas of relatively lower salmon bycatch rates and to be responsive to current bycatch rates rather than relying on static closure areas that were established based on historical high bycatch rates.

NMFS and the Council are complying with the Magnuson-Stevens Act in developing additional salmon bycatch reduction measures though the

deliberative Council and public processes established in Title III of the Magnuson-Stevens Act. See response to comment 4. The Council develops and evaluates management measures to ensure that there is a careful analysis of the distinctive elements of the alternatives for each type of measure. This analysis is vital to ensuring that any salmon bycatch reduction measure implemented accomplishes the National Standard 9 requirement to minimize bycatch to the extent practicable. NMFS and the Council are also complying with the analytical requirements of NEPA, Executive Order 12866, and the Regulatory Flexibility Act by evaluating existing measures and developing alternatives that may be necessary to further reduce salmon bycatch.

NMFS and the Council are also complying with the obligations in the Yukon River Agreement to the Pacific Salmon Treaty by developing and analyzing alternative measures to reduce salmon bycatch through the Council process. The Agreement states that the "Parties shall maintain efforts to increase the in-river run of Yukon River origin salmon by reducing marine catches and by-catches of Yukon River salmon. They shall further identify, quantify and undertake efforts to reduce these catches and by-catches" (Art. XV, Annex IV, Ch. 8, Cl. 12). Amendment 84 is consistent with the Yukon River Agreement because it is an element of the Council's efforts to reduce bycatch of western Alaska salmon in the BSAI groundfish fisheries. Additionally, NMFS and the Council are working through the Council's public process to resolve substantive issues involving whether the salmon bycaught in the Bering Sea originated from the Yukon River and whether additional efforts are necessary to ensure compliance with the Agreement. Additionally, NMFS and the Council are considering the recommendations of the Yukon River Panel.

Finally, NMFS and the Council are complying with the obligations in the Convention of Anadromous Stocks in the North Pacific Ocean, which requires that incidental taking of anadromous fish shall be minimized to the maximum extent practicable. NMFS and the Council have implemented management measures to reduce the incidental take of salmon in the pollock fishery, first through the Chinook and Chum Salmon Savings Areas, and currently with the Amendment 84 salmon bycatch intercooperative agreement and the voluntary rolling hotspot system. Additionally, as explained in the response to comment 6, the Council is in the process of evaluating these

existing measures and developing alternatives that may be necessary to further reduce salmon bycatch.

Comment 8: NMFS is required to take immediate action to reduce salmon bycatch in the pollock trawl fishery.

Response: NMFS and the Council have taken and are taking action to reduce salmon bycatch in the pollock trawl fishery because of the potential for negative impacts on salmon stocks. Existing measures have reduced salmon bycatch rates in the pollock fishery compared with what they would have been without the measures. NMFS and the Council are engaged in a comprehensive process to evaluate these existing measures and develop alternatives that may be necessary to further reduce salmon bycatch. See response to comment 6. Applicable Federal law requires that bycatch be minimized to the extent practicable and establishes processes for assessment and responsive implementation of appropriate management measures if and when warranted. The Council and NMFS are engaged in that assessment process with a schedule for decision making and establishment of any new salmon bycatch reduction measures in the pollock fishery. No applicable Federal law requires NMFS to truncate or accelerate this process.

Classification

NMFS determined that the FMP is necessary for the conservation and management of the BSAI groundfish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

NMFS prepared a Final EIS for this action and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. In January 2007, NMFS prepared a Supplemental Information Report (SIR) for the Alaska Groundfish Harvest Specifications. Copies of the Final EIS, ROD, and SIR for this action are available from NMFS, Alaska Region (see **ADDRESSES**). The Final EIS analyzes the environmental consequences of the proposed action and its alternatives on resources in the action area. The Final EIS found no significant environmental consequences from the proposed action or its alternatives. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2008 and 2009 groundfish harvest specifications.

An SEIS should be prepared if (1) the agency makes substantial changes in the

proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing all relevant information, including the information contained in the SIR and SAFE reports, the Administrator for the Alaska Region has determined that (1) approval of the 2008 and 2009 harvest specifications, which were set according to the preferred harvest strategy in the final EIS, do not constitute substantial changes in the action, and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Moreover, the 2008 and 2009 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental NEPA documentation is not necessary to implement the 2008 and 2009 harvest specifications.

The proposed harvest specifications were published in the **Federal Register** on December 6, 2007 (72 FR 68833). An Initial Regulatory Flexibility Analysis (IRFA) was prepared to evaluate the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the Exclusive Economic Zone (EEZ) off Alaska on small entities. The public comment period ended on January 16, 2007. No comments were received regarding the IRFA or the economic impacts of this action. A Final Regulatory Flexibility Analysis (FRFA) was prepared that meets the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601–612). Copies of the IRFA and FRFA prepared for this action are available from NMFS, Alaska Region (see **ADDRESSES**). A summary of the FRFA follows.

The action under consideration is adoption of a harvest strategy to govern the harvest of groundfish in the BSAI. The preferred alternative is the status quo harvest strategy in which TACs fall within the range of ABCs recommended through the Council's harvest specification process and TACs recommended by the Council. This action is taken in accordance with the FMP and adopted by the Council pursuant to the Magnuson-Stevens Act.

The need for and objectives of this rule are described in the preamble and not repeated here.

Significant issues raised by public comment are addressed in the preamble and not repeated here.

The directly regulated small entities include approximately 747 small catcher vessels, fewer than 17 small catcher-processors, and six Community Development Quota (CDQ) groups. The entities directly regulated by this action are those that harvest groundfish in the EEZ of the BSAI, and in parallel fisheries within State of Alaska waters. These include entities operating catcher vessels and catcher/processor vessels within the action area, and entities receiving direct allocations of groundfish. Catcher vessels and catcher-processors were considered to be small entities if their annual gross receipts from all economic activities, including the revenue of their affiliated operations, totaled \$4 million per year or less. Data from 2005 were the most recent available to determine the number of small entities. CDQ groups receive direct allocations of groundfish, and these were considered to be small entities because they are non-profit entities. The Aleut Corporation is not a small entity because it is a holding company which does not meet the Small Business Administration's \$6 million threshold for holding companies (13 CFR 121.201).

Estimates of first wholesale gross revenues for the BSAI non-CDQ and CDQ sectors were used as indices of the potential impacts of the alternative harvest strategies on small entities. Revenues were projected to decline from 2007 levels in 2008 and 2009 under the preferred alternative due to declines in ABCs for key species.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would have set TACs so as to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the regional optimum yield (OY), in which case harvests would have been limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent five year average of fishing rates. Alternative 4 would have set TACs to equal the lower limit of the regional OY range. Alternative 5 would have set TACs equal to zero.

Alternatives 3, 4, and 5 produced smaller first wholesale revenues for each of the three groupings, than Alternative 2. Thus, Alternatives 3, 4 and 5 had greater adverse impacts on small entities. Alternative 1 sets the TACs equal to the maximum permissible ABC unless the sum of these TACs exceed the OY. In 2008 and 2009, the sum of the maximum permissible ABCs exceeded the OY. Therefore, the TACs under Alternative 1

were set equal to the OY. Also, Alternative 2 TACs are constrained by the ABCs that the Plan Team and SSC recommend to the Council on the basis of a full consideration of biological issues. These ABCs are often less than Alternative 1 maximum permissible ABCs. Therefore higher TACs under Alternative 1 may not be consistent with prudent biological management of the resource. For these reasons, Alternative 2 is the preferred alternative in the BSAI (for both non-CDQ and CDQ groups).

This action does not modify any recordkeeping or reporting requirements.

Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the Final EIS (see **ADDRESSES**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2007, Council consideration and recommendations in December 2007, and NOAA Fisheries review and development in January–February 2008. For all fisheries not currently closed because the TACs established under the 2007 and 2008 final harvest specifications (72 FR 9451, March 2, 2007) were not reached, the likely possibility exists that they will be closed prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. For example, pollock, Pacific cod, and Atka mackerel are intensive, fast-paced fisheries. The TACs for these fisheries are likely to be reached quickly, possibly within 30-days and, as a result, those fisheries could close for the A season before the rulemaking took effect. Similarly, other fisheries, such as those for flatfish, rockfish, and “other species,” are critical as directed fisheries and as incidental catch in other fisheries. If the TACs for these fisheries were reached before the rulemaking took effect, these species may have to be discarded while fishing continued under the existing, 2007 regulations. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in all these fisheries. Any delay in allocating the final TACs in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by

freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

If the final harvest specifications are not effective by March 8, 2008, which is the start of the Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut season. This would result in the needless discard of sablefish that are caught along with Pacific halibut as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2008 and 2009 harvest specifications will allow the sablefish fishery to begin concurrently with the Pacific halibut season. Also, the immediate effectiveness of this action is required to provide consistent

management and conservation of fishery resources based on the best available scientific information, and to give the fishing industry the earliest possible opportunity to plan its fishing operations. Therefore NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

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 measures are to announce final 2008 and 2009 harvest specifications and prohibited species bycatch allowances for the groundfish fishery of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2008 and 2009

fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the BSAI fishery. The specific amounts of OFL, ABC, TAC, and PSC amounts are provided in tabular form to assist the reader.

NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773, *et seq.*, 1801, *et seq.*, 3631, *et seq.*; Pub. L. 108-447.

Dated: February 19, 2008.

Samuel D. Rauch III,

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

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