

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

[Docket No. 021212307-2307-01; I.D. 110602C]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Area; Interim 2003 Harvest Specifications for Groundfish

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

ACTION: Interim final rule.

SUMMARY: NMFS issues interim 2003 total allowable catch (TAC) amounts for each category of groundfish, Community Development Quota (CDQ) reserve amounts, American Fisheries Act (AFA) pollock allocations and sideboard amounts, and prohibited species catch (PSC) allowances and prohibited species quota (PSQ) reserves for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, which would result in unnecessary closures and disruption within the fishing industry. The intended effect is to conserve and manage the groundfish resources in the BSAI.

EFFECTIVE DATE: The Interim Specifications are effective from 0001 hours, Alaska local time (A.l.t.), January 1, 2003, until the effective date of the Final 2003 Harvest Specifications for BSAI Groundfish, which will be published in the **Federal Register**.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared for this action, the final 2001 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2001, and the final 2002 SAFE report, dated November 2002, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809).

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

SUPPLEMENTARY INFORMATION:**Background**

Federal regulations at 50 CFR part 679 implementing the Fishery Management

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

The Council met in October 2002 to review scientific information concerning groundfish stocks and recommended proposed 2003 specifications which are available for public review (see **ADDRESSES**). The Council recommended a proposed total ABC of 3,176,100 mt and a proposed total TAC of 1,998,540 mt for the 2003 fishing year. The proposed TAC amounts for each species were based on the best available biological and socioeconomic information.

Under § 679.20(c)(1), NMFS published in the **Federal Register** proposed harvest specifications for groundfish and associated management measures in the BSAI for the 2003 fishing year (67 FR 76362, December 12, 2002). That document contains a detailed discussion of the proposed 2003 TACs, initial TACs (ITACs) and related apportionments, CDQ reserves, ABC amounts, overfishing levels, PSC allowances, PSQ reserve amounts, and associated management measures of the BSAI groundfish fishery.

This action provides interim harvest specifications and apportionments thereof for the 2003 fishing year that will become available on January 1, 2003, and remain in effect until superseded by the final 2003 harvest specifications. Background information concerning the 2003 groundfish harvest specification process upon which this interim action is based is provided in the above mentioned proposed specification document.

Establishment of Interim TACs

Regulations at § 679.20(b)(1)(i) require that 15 percent of the TAC for each target species or species group, except for pollock and the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. The AFA supersedes this provision for pollock by requiring that the TAC for this species be fully allocated among the CDQ program, incidental catch allowance (ICA), and inshore, catcher/processor, and mothership directed fishery allowances.

Regulations at § 679.20(b)(1)(iii) require that one-half of each TAC amount placed in the non-specified reserve, with the exception of squid, be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 206(a) of the AFA requires that 10 percent of the pollock TAC be allocated to the pollock CDQ reserve. With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the CDQ reserves are not further apportioned by gear. Regulations at § 679.21(e)(1)(i) also require that 7.5 percent of each PSC limit, with the exception of herring, be withheld as a PSQ reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

Regulations at § 679.20(c)(2) provide that interim specifications become effective at 0001 hours, A.l.t., January 1, and remain in effect until superseded by the final groundfish harvest specifications. The regulations that will be effective with the final rule to implement the Steller sea lion protection measures further provide that the interim specifications will be established as one-fourth of each proposed ITAC amount and apportionment thereof (not including the first seasonal allowance of pollock, Pacific cod and Atka mackerel), one-fourth of each proposed PSQ reserve and PSC allowance established under § 679.21, and the first proposed seasonal allowance of pollock, Pacific cod and Atka mackerel TAC. As stated in the proposed specifications publication (67 FR 76362, December 12, 2002), no harvest of groundfish is authorized prior to the effective date of this action implementing the interim specifications.

Interim 2003 BSAI Groundfish Harvest Specifications

Table 1 provides interim TAC and CDQ amounts and apportionments thereof. Regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for the non-trawl sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota program. As a result, fishing for the non-trawl allocation of CDQ sablefish and sablefish harvested with fixed gear is prohibited until the effective date of the Final 2003 Groundfish Specifications.

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TABLE 1.—INTERIM 2003 TAC AMOUNTS FOR GROUND FISH AND APPORTIONMENTS THEREOF FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA¹.

Species and Component (if applicable)		Area and/or Gear (if applicable)	Interim TAC	Interim CDQ
Pollock ²	AFA Inshore	BS	256,608	
		SCA limit ³	41,580	
	AFA Catcher Processors ⁴	BS	205,286	
	Catch by C/Ps	BS	187,837	
	Catch by CVs ⁴	BS	17,449	
	Restricted C/P cap ⁴	BS	1,026	
		SCA limit ³	143,700	
	AFA Mothership	BS	51,322	
		SCA limit ³	35,925	
	CDQ	BS	.....	59,400
		SCA limit ³	.....	41,580
	ICA	BS	53,460	
	ICA	AI	900	100
	ICA	Bogoslof District	90	10
	Excessive Share Cap ⁵		89,813	
Total Pollock			567,666	59,510
Pacific Cod ⁶		Jig	2,040	
		H/L Catcher Processors	41,376	
		H/L Catcher Vessels	155	
		Pot Vessels	9,465	
		Catcher Vessels <60 H/L, Pot	1,207	
		ICA	500	
		Trawl Catcher Vessels	27,965	
		Trawl Catcher Processors	19,975	
				
				15,000
Total Pacific cod			102,683	15,000
Sablefish ^{7,8}		BS-Trawl	205	14
		BS-H/L & Pot	N/A	N/A
		AI-Trawl	135	11
		AI-H/L & Pot	N/A	N/A
Total Sablefish			340	25
Atka mackerel ⁹		Western AI	10,183	1,797
		HLA Limit	6,110	
		Central AI	12,304	2,171
		HLA Limit	7,382	
		Eastern AI/BS	2,872	502
		Jig gear	57	
		Other gear	2,815	
Total Atka mackerel			25,359	4,470
Yellowfin sole		BSAI	16,150	1,425
Rock sole		BSAI	11,475	1,013
Greenland turbot		BS	1,139	101
		AI	561	50
Total Greenland turbot			1,700	151
Arrowtooth flounder		BSAI	3,400	300
Flathead sole		BSAI	5,313	469
Other flatfish ¹⁰		BSAI	638	56
Alaska plaice		BSAI	2,550	225
Pacific ocean perch		BS	557	49
		Western AI	1,203	106
		Central AI	650	57
		Eastern AI	735	65
Total Pacific ocean perch			3,145	277
Northern Rockfish		BS	3	.25
		AI	996	88

Total Northern rockfish		999	88
Shortraker/Rougheye ¹¹	BS	25	2
	AI	194	17
	AI Trawl	136	
	AI Non-trawl	58	
Total Shortraker/Rougheye		219	19
Other rockfish ¹²	BS	77	7
	AI	144	13
Total other rockfish		221	20
Squid	BSAI	419	
Other Species ¹³	BSAI	6,550	578
Total interim TAC		748,827	83,626

¹ Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) management area unless otherwise specified. With the exception of pollock, and for purposes of these specifications, the BS includes the Bogoslof District.

² After subtraction for the CDQ reserve and ICA, the pollock ITAC is allocated as a directed fishing allowance (DFA). Ten percent of the pollock TAC is allocated to the pollock CDQ reserve under paragraph 206(a) of the AFA. Under authority of the AFA, NMFS is allocating 4 percent of the pollock as an ICA (see section 206(b) of the AFA). The first seasonal apportionment of pollock for all sectors is 40 percent of the annual DFA.

³ The Steller sea lion conservation area (SCA) limits harvest to 28 percent of each sector's annual DFA until April 1. The remaining 1 percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

⁴ Subsection 210(c) of the AFA requires that not less than 8.5 percent of the directed fishing allowance allocated to listed catcher/processors (C/Ps) shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed catcher/processors. The AFA requires that vessels described in section 208(e)(21) be prohibited from exceeding a harvest amount of one-half of one percent of the directed fishing allowance allocated to vessels for processing by AFA catcher/processors.

⁵ Paragraph 210(e)(1) of the AFA specifies that "No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery."

⁶ After subtraction of the reserves, the ITAC amount for Pacific cod is allocated 2 percent to vessels using jig gear, 51 percent to H/L or pot gear, and 47 percent to trawl gear. The Pacific cod allocation to trawl gear is split evenly between catcher vessels and catcher/processor vessels (See § 679.20(a)(7)(i)). The Pacific cod allocation to H/L or pot gear is further allocated as an ICA and as the following directed fishing allowances: 80 percent to H/L catcher processors, 0.3 percent to H/L catcher vessels, 18.3 percent to pot gear vessels, 1.4 percent to catcher vessels under 60 feet LOA using H/L or pot gear (See § 679.20(a)(7)(i)(B)). The first seasonal allowance of the ITAC gear apportionments are in effect on January 1 as an interim TAC. The first seasonal allocations are 60 percent of the annual TAC, except for trawl catcher/processors (50 percent) and trawl catcher vessels (70 percent).

⁷ Sablefish gear allocations are as follows: In the BS subarea, trawl gear is allocated 50 percent and H/L and pot gear are allocated 50 percent of the TAC. In the AI subarea, trawl gear is allocated 25 percent, and H/L and pot gear are allocated 75 percent of the TAC (See § 679.20(a)(4)(iii) and (iv)). One-fourth of the ITAC amount for trawl gear is in effect January 1 as an interim TAC amount.

⁸ The sablefish H/L gear fishery is managed under the Individual Fishing Quota (IFQ) program and subject to regulations contained in subpart D of 50 CFR part 679. Twenty percent of the sablefish H/L and pot gear final TAC amount will be reserved for use by CDQ participants. (See § 679.31(c).) Existing regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for the CDQ nontrawl sablefish reserve or for an interim specification for sablefish managed under the IFQ program. In addition, in accordance with § 679.7(f)(3), retention of sablefish caught with fixed gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 2003, IFQ permits and IFQ cards will not be valid prior to the effective date of the 2003 final specifications. Thus, fishing for sablefish with fixed gear is not authorized under these interim specifications. See subpart D of 50 CFR part 679 and § 679.23(g) for guidance on the annual allocation of IFQ and the sablefish fishing season.

⁹ Regulations at § 679.20 (a)(8) require that up to 2 percent of the Eastern Aleutian subarea and the BS subarea ITAC be allocated to the jig gear fleet. The amount of this allocation is 1 percent. The jig gear allocation is not apportioned by season. The harvest limitation area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (§ 679.2). In 2003, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central AI.

¹⁰ "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, arrowtooth flounder, yellowfin sole and Alaska plaice.

¹¹ Under § 679.20(a)(9), the ITAC of shortraker rockfish and rougheye rockfish specified for the Aleutian Islands subarea is allocated 30 percent to vessels using non-trawl gear and 70 percent to vessels using trawl gear.

¹² "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

¹³ "Other species" includes sculpins, sharks, skates, and octopus. Forage fish, as defined at § 679.2, are not included in the "other species" category.

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

Under § 679.21(e), annual PSC limits are specified for red king crab, *Chionoecetes bairdi* Tanner crab, and *C. opilio* crab in applicable Bycatch Limitation Zones (see § 679.2) of the Bering Sea subarea, and for Pacific halibut and Pacific herring throughout

the BSAI. Regulations under § 679.21(e) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for halibut, crab, and salmon is reserved as a PSQ reserve for use by the groundfish CDQ program.

Regulations at § 679.20(c)(2)(ii) provide that one-fourth of each

proposed PSQ reserve and PSC allowance be made available on an interim basis for harvest at the beginning of the fishing year, until superseded by the final harvest specifications. The PSQ reserves and fishery specific interim PSC allowances for halibut and crab are specified in Table 2 and are in effect at 0001 hours, A.l.t., January 1, 2003.

TABLE 2. INTERIM 2003 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES. PROHIBITED SPECIES AND ZONE

TRAWL FISHERIES	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1 ¹	C. opilio (animals) COBLZ ²	C. bairdi (animals)	
					Zone 1 ¹	Zone 2 ¹
Yellowfin sole	222	35	4,166	694,245	85,211	447,115
Rocksole/oth.flat/flat sole ³	195	5	14,946	242,283	91,330	149,039
RKCSS ³	.....	.....	5,231	.....	.....	.....
Turbot/arrowtooth/sablefish ⁴	.....	2	.....	10,060	.....	.....
Rockfish						
July 1 - December 31	17	2		10,059		2,747
Pacific cod	359	5	2,916	31,184	45,778	81,044
Midwater trawl pollock		296				
Pollock/Atka/other ⁵	58	37	404	18,107	4,306	6,868
TOTAL TRAWL PSC	851	382	22,432	1,005,938	226,625	686,813
NON-TRAWL FISHERIES						
Pacific cod - Total	193					
Other non-trawl - Total	14					
Groundfish pot & jig	exempt					
Sablefish hook & line	exempt					
TOTAL NON-TRAWL PSC	207					
PSQ RESERVE ⁶	86		1,818	81,562	18,375	55,687
GRAND TOTAL	1,144	382	24,250	1,087,500	245,000	742,500

¹ Refer to § 679.2 for definitions of areas.

² C. opilio Bycatch Limitation Zone. Boundaries are defined at § 679.21 (e)(7)(iv)(B).

³ The Council at its October 2002 meeting proposed limiting red king crab for trawl fisheries within the Red King Crab Savings Subarea (RKCSS) to 35 percent of the total allocation to the rock sole, flathead sole, and other flatfish fishery category (§ 679.21(e)(3)(ii)(B)).

⁴ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

⁵ Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.

⁶ With the exception of herring, 7.5 percent of each PSC limit is allocated to the multi-species CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that any allocation or apportionment of a target species or "other species" category has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, 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 (§ 679.20(d)(1)(iii)). Similarly, under § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* Tanner 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 following remaining allocation amounts will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2003 fishing year:

Bogoslof District:	.....
Pollock	90 mt
Aleutian Islands subarea:	
Pollock	900 mt
Northern rockfish	996 mt
Shortraker/rougheye rockfish	194 mt
"Other rockfish"	144 mt
Bering Sea subarea:	
Pacific ocean perch	557 mt
"Other rockfish"	77 mt
Northern rockfish	3 mt
Shortraker/rougheye rockfish	25 mt

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is immediately

prohibiting directed fishing for these species in the specified areas and these closures will remain in effect from 0001 hrs, A.l.t., January 1, 2003, until superseded by the Final 2003 Harvest Specifications for BSAI Groundfish.

In addition, the BSAI Zone 1 annual red king crab allowance specified for the trawl rockfish fishery (§ 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish fishery is 0 mt. The BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories is 0 mt (§ 679.21(e)(3)(iv)(C)). Therefore, in accordance with § 679.21(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI and directed fishing for Greenland turbot/arrowtooth flounder/

sablefish by vessels using trawl gear in the BSAI from 0001 hrs., A.l.t., January 1, 2003, until superseded by the final 2003 harvest specifications for BSAI groundfish. NMFS is also prohibiting directed fishing for rockfish outside Zone 1 in the BSAI until 1200 hrs, A.l.t., July 1, 2003.

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. Refer to § 679.2 for definitions of areas. In the

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

Bering Sea Subarea Inshore Pollock Allocations

Regulations that will be effective with the final rule to implement major provisions of the AFA at § 679.4 set forth procedures for AFA inshore catcher vessel pollock cooperatives to apply for and receive cooperative fishing permits and inshore pollock allocations. Table 3 lists the interim

pollock allocations to the seven inshore catcher vessel pollock cooperatives based on 2002 coop allocations and NMFS' assumption, at this date, that the cooperatives membership will remain unchanged in 2003. Allocations for cooperatives and vessels not participating in cooperatives are not made for the AI subarea because the AI subarea has been closed to directed fishing for pollock. These allocations may be revised in the final 2003 BSAI groundfish harvest specifications pending adjustments to cooperatives membership for the 2003 fishing year.

TABLE 3. INTERIM 2003 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS.

Cooperative name and member vessels	Sum of member vessel's official catch histories ¹	Percentage of inshore sector allocation	Interim cooperative allocation
Akutan Catcher Vessel Association	245,527	28.085%	72,068
ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER			
Arctic Enterprise Association	36,807	4.210%	10,804
BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER			
Northern Victor Fleet Cooperative	73,656	8.425%	21,620
ANITA J, COLLIER BROTHERS, COMMODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL			
Peter Pan Fleet Cooperative	18,693	2.138%	5,487
AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PROVIDIAN, TOPAZ, WALTER N			
Unalaska Cooperative	106,737	12.209%	31,330
ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN			
UniSea Fleet Cooperative	201,566	23.056%	59,164
ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE			
Westward Fleet Cooperative	189,544	21.681%	55,636
A.J., ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, STARWARD, VIKING, WESTWARD I			
Open access AFA vessels	1,707	0.195%	501
Total inshore allocation	874,238	100%	256,608

¹According to regulations that will be effective with the final rule to implement major provisions of the AFA at 679.62(e)(1) the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

According to regulations that will be effective with the final rule to implement major provisions of the AFA at § 679.20(a)(5)(i)(A), NMFS must subdivide the inshore allocation into allocations for cooperatives and vessels not fishing in a cooperative (i.e., the open access sector). In addition, under § 679.22(a)(11)(vii), NMFS must establish harvest limits inside the SCA and provide a set-aside so that catcher vessels less than or equal to 99 ft (30.2

m) LOA have the opportunity to operate entirely within the SCA during the A season. Accordingly, Table 4 lists the interim apportionment of the Bering Sea subarea inshore pollock allocation into allocations for vessels fishing in a cooperative and for vessels not participating in a cooperative and establishes a cooperative-sector SCA set-aside for AFA catcher vessels less than or equal to 99 ft (30.2 m) LOA. The SCA set-aside for sector catcher vessels less

than or equal to 99 ft (30.2 m) LOA that are not participating in a cooperative will be established inseason based on actual participation levels and is not included in Table 4. These allocations may be revised in the final 2003 BSAI groundfish harvest specifications pending adjustments to cooperatives membership for the 2003 fishing year.

TABLE 4. INTERIM 2003 BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY. AMOUNTS ARE EXPRESSED IN MT.

	A/B season TAC	A season inside SCA ¹
Cooperative sector		
Vessels > 99 ft	n/a	154,025
Vessels ≤ 99 ft	n/a	25,250
Total	256,107	179,275
Open access sector	501	351 ²
Total inshore	256,608	179,626

¹Steller sea lion conservation area established at § 679.22(a)(11)(vii).

² SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(11)(vii)(C)(2) which specifies that "the Regional Administrator will prohibit directed fishing for pollock by vessels catching pollock for processing by the inshore component greater than 99 ft (30.2 m) LOA before reaching the inshore SCA harvest limit during the A season to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA for the duration of the inshore seasonal opening."

Unrestricted AFA Catcher/Processor Sideboards

In 2003, the formula for setting AFA catcher/processor sideboard limits for non-pollock groundfish will change from calculations made for sideboard limits in 2000 through 2002. The basis for these sideboard limits is described in

detail in the Proposed Rule for Amendments 61/61/13/8 to Implement Major Provisions of the AFA (66 FR 65028, December 17, 2001). The interim 2003 catcher/processor sideboard limits are set out in Table 5 below.

All non-pollock groundfish that is harvested by unrestricted AFA catcher/processors, whether as targeted catch or incidental catch, will be deducted from the interim sideboard limits in Table 5. However, non-pollock groundfish that is delivered to listed catcher/processors by catcher vessels will not be deducted from the interim 2003 sideboard limits for the listed catcher/processors.

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TABLE 5.—INTERIM 2003 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR GROUNDFISH SIDEBOARDS. AMOUNTS ARE EXPRESSED IN MT.

Target species	Area	1995 - 1997			Interim 2003 TAC available to trawl C/Ps	Interim 2003 C/P sidebar limit
		Retained catch	Available TAC	Ratio		
Pacific cod trawl	BSAI	12,424	51,450	0.241	19,975	4814
Sablefish trawl	BS	8	1,736	0.005	205	1
	AI	0	1,135	0.000	135	0
Atka mackerel	Western AI					
	A season ¹	n/a	n/a	0.200	10,183	2037
	HLA limit ²				6,110	1222
	Central AI					
	A season ¹	n/a	n/a	0.115	12,304	1415
	HLA limit ²				7,382	849
Yellowfin sole	BSAI	100,192	527,000	0.190	16,150	3,069
Rock sole	BSAI	6,317	202,107	0.031	11,475	359
Greenland turbot	BS	121	16,911	0.007	1,139	8
	AI	23	6,839	0.003	561	2
Arrowtooth flounder	BSAI	76	36,873	0.002	3,400	7
Flathead sole	BSAI	1,925	87,975	0.022	5,313	117
Alaska plaice	BSAI	3,243		0.035	2,550	89
Other flatfish	BSAI	3,243	92,428	0.035	638	22
Pacific ocean perch	BS	12	5,760	0.002	557	1
	Western AI	54	12,440	0.004	1,203	5
	Central AI	3	6,195	0.000	650	0
	Eastern AI	125	6,265	0.020	735	15
Northern rockfish	BS	8		0.008	3	0
	AI	83	13,254	0.006	996	6
Shortraker/rougheye	BS	8		0.008	25	0
	AI	42	2,827	0.015	136	2
Other rockfish	BS	18	1,026	0.018	77	1
	AI	22	1,924	0.011	144	2
Squid	BSAI	73	3,670	0.020	419	8
Other species	BSAI	553	65,925	0.008	6,550	52

¹ 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. Unrestricted AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian district and Bering Sea subarea, 20 percent of the available TAC in the Western Aleutian district, and 11.5 percent of the available TAC in the Central Aleutian district.

² HLA limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (§ 679.2). In 2003, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian districts. Pacific cod harvest by trawl gear in the Aleutian Islands HLA, west of 178 degrees W. long. is prohibited during the Atka mackerel HLA directed fisheries.

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Regulations that will be effective with the final rule to implement major provisions of the AFA at § 679.63(a)(2) establish a formula for PSC sidebar limits for unrestricted AFA catcher/processors. These amounts are equivalent to the percentage of prohibited species bycatch limits harvested in the non-pollock groundfish fisheries by the AFA catcher/processors listed in subsection 208(e) and section 209 of the AFA from 1995 through 1997. Prohibited species amounts harvested by these catcher/processors in BSAI non-pollock groundfish fisheries from

1995 through 1997 are shown in Table 6. These data were used to calculate the relative amount of PSC limits harvested by pollock catcher/processors, which were then used to determine the PSC sidebar limits for unrestricted AFA catcher/processors in the 2003 non-pollock groundfish fisheries.

PSC that is caught by unrestricted AFA catcher/processors participating in any non-pollock groundfish fishery listed in Table 6 will accrue against the interim 2003 PSC sidebar limits for the listed catcher/processors. Regulations that will be effective with the final rule to implement major

provisions of the AFA at § 679.21(e)(3)(v), provide NMFS authority to close directed fishing for non-pollock groundfish for unrestricted AFA catcher/processors once an interim 2003 PSC limit listed in Table 6 is reached.

Crab or halibut PSC that is caught by unrestricted 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 § 679.21(e)(3)(iv).

TABLE 6. INTERIM 2003 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR PROHIBITED SPECIES
SIDEBOARD LIMITS.¹

PSC species	1995 - 1997			Interim 2003 PSC avail- able to trawl CPs	Interim 2003 C/P Sideboard limit
	PSC catch	Total PSC	Ratio		
Halibut mortality	955	11,325	0.084	851	71
Red king crab	3,098	473,750	0.007	22,432	157
C. opilio	2,323,731	15,139,178	0.153	1,005,938	153,908
C. bairdi					
Zone 1	385,978	2,750,000	0.140	226,625	31,728
Zone 2	406,860	8,100,000	0.050	686,813	34,341

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

AFA Catcher Vessel Sideboards

Regulations that will be effective with the final rule to implement major provisions of the AFA at § 679.63(b) establish a formula for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits was recommended by the Council and is described in detail in the Proposed Rule

for Amendments 61/61/13/8 to Implement Major Provisions of the AFA (66 FR 65028, December 17, 2001). For 2002, NMFS revised the 2001 ratio of 1995 to 1997 AFA catcher vessel retained catch to the 1995 to 1997 TAC. These revisions are based on Alaska Department of Fish and Game editing of fish tickets and NMFS editing of observer catch data and weekly

production reports. The interim 2003 AFA catcher vessel sideboard limits are shown in Tables 7 and 8.

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 interim sideboard limits listed in Table 7.

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TABLE 7.—INTERIM 2003 BSAI AFA CATCHER VESSEL SIDEBOARDS. AMOUNTS ARE EXPRESSED IN MT.

Species	Fishery by Area/Season/ Processor/ Gear	Ratio of 1995-1997 AFA CV catch to 1995-1997 TAC	Interim 2003 TAC	Interim 2003 catcher vessel sideboard limit
Pacific cod	BSAI			
	jig gear	0.0000	2,040	0
	hook-and-line CV			
	Jan 1 - Jun 10	0.0006	155	0
	Pot gear			
	Jan 1 - Jun 10	0.0006	9,465	6
	CV < 60 feet LOA using hook-and-line or pot gear	0.0006	1,207	1
	trawl gear			
Sablefish	catcher vessel			
	Jan 20 - Apr 1	0.8609	27,965	24,075
	BS trawl gear	0.0906	205	19
Atka mackerel	AI trawl gear	0.0645	135	9
	<u>Eastern AI/BS</u>			
	jig gear	0.0031	57	0
	other gear			
	Jan 1 - Apr 15	0.0032	2,815	9
	<u>Central AI</u>			
	Jan 1 - Apr 15	0.0001	12,304	1
	HLA limit	0.0001	7,382	1
	<u>Western AI</u>			
	Jan 1 - Apr 15	0.0000	10,183	0
Yellowfin sole	HLA limit	0.0000	6,110	0
	BSAI	0.0647	16,150	1,045
Rock sole	BSAI	0.0341	11,475	391
Greenland Turbot	BS	0.0645	1,139	73
	AI	0.0205	561	12
Arrowtooth flounder	BSAI	0.0690	3,400	235
Alaska plaice	BSAI	0.0441	2,550	112
Other flatfish	BSAI	0.0441	638	28
POP	BS	0.1000	557	56
	Eastern AI	0.0077	735	6
	Central AI	0.0025	650	2
	Western AI	0.0000	1,203	0
Northern rockfish	BS	0.0280	3	0
	AI	0.0089	996	9
Shortraker/Rougheye	BS	0.0048	25	0
	AI	0.0035	136	0
Other rockfish	BS	0.0048	77	0
	AI	0.0095	144	1
Squid	BSAI	0.3827	419	160
Other species	BSAI	0.0541	6,550	354
Flathead Sole	BS trawl gear	0.0505	5,313	268

Regulations that will be effective with the final rule to implement major provisions of the AFA at § 679.63(b)

establish a formula for PSC sideboard limits for AFA catcher vessels. The AFA catcher vessel PSC limit for halibut in

the BSAI and GOA, and each crab species in the BSAI for which a trawl bycatch limit has been established, will

be a portion of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997. These interim PSC limits for AFA catcher vessels are listed in Table 8.

Halibut and crab PSC that is caught by AFA catcher vessels participating in any non-pollock groundfish fishery listed in Table 8 will accrue against the interim 2003 PSC limits for AFA catcher vessels. Regulations that will be effective with the final rule to implement major provisions of the AFA at §§ 679.21(d)(8) and (e)(3)(v) provide authority to close directed fishing for

non-pollock groundfish for AFA catcher vessels once an interim 2003 PSC limit listed in Table 8 for the BSAI is reached. PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI will accrue against either the midwater pollock or the pollock/Atka mackerel/other species fishery categories.

TABLE 8.—INTERIM 2003 AFA CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD AMOUNTS FOR THE BSAI.¹

PSC species	Target fishery category ²	Ratio of 1995-1997 AFA CV retained catch to total retained catch	Interim 2003 PSC Limit	Interim 2003 AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	0.6183	359	222
	Pacific cod hook-and-line or pot	0.0022	193	0
	Yellowfin sole	0.1144	222	25
	Rock sole/flat. sole/other flatfish ⁵	0.2841	195	55
	Turbot/Arrowtooth/Sablefish	0.2327	0	0
	Rockfish	0.0245	17	0
	Pollock/Atka mackerel/Other sp.	0.0227	58	1
Red King Crab Zone 1 ⁴	Pacific cod	0.6183	2,916	1,803
	Yellowfin sole	0.1144	4,166	477
	Rock sole/flat. sole/other flatfish ⁵	0.2841	14,946	4,246
	Pollock/Atka mackerel/Other sp.	0.0227	404	9
<u>C. opilio</u> COBLZ ³	Pacific cod	0.6183	31,184	19,281
	Yellowfin sole	0.1144	694,245	79,422
	Rock sole/flat. sole/other flatfish ⁵	0.2841	242,283	68,833
	Pollock/Atka mackerel/Other sp.	0.0227	18,107	411
	Rockfish	0.0245	10,059	246
	Turbot/Arrowtooth/Sablefish	0.2327	10,060	2,341
<u>C. bairdi</u> Zone 1	Pacific cod	0.6183	45,778	28,305
	Yellowfin sole	0.1144	85,211	9,748
	Rock sole/flat. sole/other flatfish ⁵	0.2841	91,330	25,947
	Pollock/Atka mackerel/Other sp.	0.0227	4,306	98
<u>C. bairdi</u> Zone 2	Pacific cod	0.6183	81,044	50,110
	Yellowfin sole	0.1144	447,115	51,150
	Rock sole/flat. sole/other flatfish ⁵	0.2841	149,039	42,342
	Pollock/Atka mackerel/Other sp.	0.0227	6,868	156
	Rockfish	0.0245	2,747	67

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 C. opilio Bycatch Limitation Zone. Boundaries are defined at Figure 13 of 50 CFR part 679.

⁴ The Council at its October 2002 meeting recommended that the red king crab bycatch for trawl fisheries within the Red King Crab Savings Subarea be limited to 35 percent of the total allocation to the rock sole/flathead sole/"other flatfish" fishery category (§ 679.21(e)(3)(ii)(B)).

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

Sideboard Directed Fishing Closures and AFA Catcher/Processor Sideboard Closures

The Regional Administrator has determined that many of the interim AFA catcher/processor sideboard limits listed in Table 5 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2003 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the limits listed in Table 5 as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by unrestricted AFA catcher/processors for the species in the specified areas set out in Table 9.

TABLE 9. INTERIM AFA UNRESTRICTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES.¹ THESE CLOSURES TAKE EFFECT 1200 HRS, A.L.T., JANUARY 20, 2003 AND REMAIN IN EFFECT UNTIL SUPERSEDED BY THE FINAL 2003 HARVEST SPECIFICATIONS FOR GROUNDFISH.

Species	Area	Gear types
Sablefish trawl	BSAI	all
Greenland turbot	BSAI	all
Arrowtooth flounder	BSAI	all
Pacific ocean perch	BSAI	all
Northern rockfish	BSAI	all
Shortraker/Rougheye rockfish	BSAI	all
Other rockfish	BSAI	all
Squid	BSAI	all
Other species	BSAI	all

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

AFA Catcher Vessel Sideboard Closures

The Regional Administrator has determined that many of the interim AFA catcher vessel sideboard limits listed in Table 7 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2003 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the limits listed in Table 7 as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels for the

species in the specified areas set out in Table 10.

TABLE 10. INTERIM AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES.¹ THESE CLOSURES TAKE EFFECT 1200 HRS, A.L.T., JANUARY 20, 2003 AND REMAIN IN EFFECT UNTIL SUPERSEDED BY THE FINAL 2003 HARVEST SPECIFICATIONS FOR GROUNDFISH.

Species	Area	Gear types
Pacific cod	BSAI	all
Sablefish	BSAI	all
Atka mackerel	BSAI	all
Greenland Turbot	BSAI	all
Arrowtooth flounder	BSAI	all
Pacific ocean perch	BSAI	all
Northern rockfish	BSAI	all
Shortraker/Rougheye rockfish	BSAI	all
Other rockfish	BSAI	all
Squid	BSAI	all
Other species	BSAI	all

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

Classification

This action is necessary to establish interim harvest limits for the BSAI groundfish fisheries for the 2003 fishing year. The groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR 679 that require NMFS, after consultation with the Council, to publish and solicit public comments on proposed annual TACs and PSC allowances.

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

The Assistant Administrator for Fisheries, NOAA, finds that the need to establish interim TACs and related management measures for groundfish fisheries in the BSAI, effective January 1, 2003, makes it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this action. Because this action is a final action by NMFS, analyses and consultations required under the Magnuson-Stevens Act, the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) must be completed and considered by the agency prior to promulgation of the interim harvest specifications. However, the information on which the EA and the section 7 consultations are based was not available until early December 2002. The Council's BSAI and GOA groundfish Plan Teams met in mid-November 2002 to develop stock

assessment reports and to provide recommendations on acceptable biological catch (ABC) levels for the upcoming fishing year. The stock assessment reports and ABC recommendations developed by the Plan Teams in mid-November incorporate scientific and fishery data from the current fishing year and enable NMFS to base this rulemaking on the best available science, as required by national standard 2 of the Magnuson-Stevens Act. The Plan Teams prepared the final reports during the last two weeks of November. The EA and Section 7 consultations were then based on these final reports.

Regulations at 50 CFR 679.20(c)(2) require NMFS to specify interim harvest specifications to be effective January 1 and remain in effect until superseded by the final specifications. Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open, resulting in unnecessary closures and disruption within the fishing industry. Because NMFS cannot publish interim specifications until all analyses and consultations are complete, and those analyses and consultations could not be completed until early December 2002, there is not sufficient time to provide the public with an opportunity to comment on the interim specifications before they must be in place on January 1. Additionally, the proposed 2003 BSAI groundfish harvest specifications, on which the interim specifications are based, provide the opportunity for public comment. Given these reasons, good cause exists under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this action.

Likewise, the Assistant Administrator for Fisheries, NOAA, finds that the need to establish interim TACs and other management measures in the BSAI effective on January 1, 2003, provides good cause to waive the 30-day delay in effective date of the interim specifications. In order for the BSAI groundfish fishing season to begin on January 1, 50 CFR 679.20(c)(2) requires NMFS to establish interim harvest specifications to be effective on January 1 and to remain in effect until superseded by the filing of final harvest specifications with the Office of the **Federal Register**. NMFS interprets regulations at § 679.20(c)(2) as requiring the filing of interim specifications with the Office of the **Federal Register** before any harvest of groundfish is authorized. Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, resulting in unnecessary closures and

disruption within the fishing industry. Based on these reasons, the need to publish these measures in a timely manner constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

Because these interim specifications are not required to be issued with prior

notice and opportunity for public comment, the analytical requirements of the Regulatory Flexibility Act do not apply. Consequently, no regulatory flexibility analysis has been prepared for this action.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

Dated: December 16, 2002.

Rebecca Lent,

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

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