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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298-8055-02; I.D. 112097B]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 1998 Harvest Specifications for Groundfish

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

ACTION: Final 1998 specifications for groundfish and associated management measures; apportionment of reserves.

SUMMARY: NMFS announces final 1998 harvest specifications, prohibited species bycatch allowances, and associated management measures for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish during the 1998 fishing year. The intended effect of this action is to conserve and manage the groundfish resources in the BSAI.

DATES: The final 1998 harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), March 11, 1998 through 2400 hrs, A.l.t., December 31, 1998. Comments on the apportionment of reserves must be submitted by March 31, 1998.

ADDRESSES: The final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis prepared for the 1998 Total Allowable Catch Specifications may be obtained from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or by calling 907-586-7229. Comments on the apportionment of reserves may be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, at the same address. The final 1998 Stock Assessment and Fishery Evaluation (SAFE) Report, dated November 1997, is available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306,

Anchorage, AK 99510-2252 (907-271-2809).

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson-Stevens Fishery Conservation and Management Act.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and the "other species" category, the sum of which must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 679.20(a)(1)(i)). Regulations under § 679.20(c)(1) further require NMFS to publish annually and solicit public comment on proposed annual TACs, prohibited species catch (PSC) allowances, seasonal allowances of the pollock TAC, and amounts for the Community Development Quota (CDQ) and Prohibited Species Quota (PSQ) reserves. The final specifications set forth in Tables 1 through 7 of this action satisfy these requirements. For 1998, the sum of the TAC is 2 million mt.

The proposed BSAI groundfish specifications and specifications for prohibited species bycatch allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 15, 1997 (62 FR 65638), and corrected on December 17, 1997 (62 FR 67041). Comments were invited through January 14, 1998. Five comments were received and are summarized and responded under in the Response to Comments section. Public consultation with the Council occurred during the December 1997 Council meeting in Anchorage, AK. After considering public comments received, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 1998 specifications as recommended by the Council.

Regulations at § 679.20(c)(2)(ii) require that one-fourth of each proposed initial TAC (ITAC) amount and apportionment thereof, one-fourth of each proposed PSC allowance established under § 679.21, and the first

seasonal allowances of pollock become available at 0001 hours Alaska local time (A.l.t.), January 1, on an interim basis and remain in effect until superseded by the final specifications. Regulations at § 679.20(c)(2)(ii) do not provide for an interim specification either for sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota management plan. NMFS published the interim 1998 specifications in the **Federal Register** on December 15, 1997 (62 FR 65626). The final 1998 groundfish harvest specifications and prohibited species bycatch allowances contained in this action supersede the interim 1998 specifications.

Acceptable Biological Catch (ABC) and TAC Specifications

The specified ABC and TAC for each species are based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) reviewed current biological information about the condition of groundfish stocks in the BSAI at their September and December 1997 meetings. This information was compiled by the Council's BSAI Groundfish Plan Team (Plan Team) and is presented in the final 1998 SAFE report for the BSAI groundfish fisheries, dated November 1997. The SAFE report, produced annually by the Plan Team, reviews the latest scientific analyses and estimates of each species' biomass and of other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates an ABC for each species or species category.

The ABC amounts adopted by the Council for the 1998 fishing year are based on the best available scientific 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 ABC and overfishing levels involves sophisticated statistical analyses of fish populations and is based on a successive series of six levels, or tiers, of reliable information available to fishery scientists. Details of the Plan Team's recommendations for 1998 overfishing and ABC amounts for each species are provided in the final 1998 SAFE report.

At its September 1997 meeting, the SSC, AP, and Council reviewed the Plan Team's preliminary recommendations for the 1998 proposed ABC amounts.

The preliminary ABCs for each species for 1998 and other biological data from the September 1997 draft SAFE report were provided in the discussion supporting the proposed 1998 specifications (62 FR 65638, December 15, 1997). Based on the SSC's comments concerning technical methods and new biological data not available in September, the Plan Team revised its ABC recommendations in the final SAFE report. The revised ABC recommendations were again reviewed and endorsed by the SSC, AP, and Council at their December 1997 meetings. The final ABCs as adopted by the Council are listed in Table 1.

The Council adopted the AP's recommendations for TAC amounts. These recommendations were based on the final ABCs as adjusted for other

biological and socioeconomic considerations, including maintaining the total TAC in the required OY range of 1.4 million to 2.0 million mt. None of the Council's recommended TACs for 1998 exceeds the final ABC for any species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks.

The Council recently adopted Amendment 36 to the FMP, which would establish a new species category for forage fish species. A notice of availability of Amendment 36 was published in the **Federal Register** on November 12, 1997 (62 FR 60682). A proposed rule to implement Amendment 36 was published in the **Federal Register** on December 12, 1997 (62 FR 65402). As approved by NMFS

on February 6, 1998, Amendment 36 removes capelin, eulachon, and smelt from the "other species" category and places them in a new forage fish species category. However, this action does not affect the TAC for the remaining species in the "other species" category. Under Amendment 36, ABC and TAC amounts would not be specified for forage fish species. Instead, these species would be placed on permanent bycatch status with a maximum retainable bycatch amount of 2 percent.

Table 1 lists the 1998 ABC, TAC, ITAC, and CDQ reserve amounts, overfishing levels, and initial apportionments of groundfish in the BSAI. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1.—1998 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION AND OVERFISHING LEVELS OF GROUND FISH IN THE BERING SEA (BS) AND ALEUTIAN ISLANDS AREA (AI) ¹

Species	Area	ABC	TAC	ITAC ^{2,3}	CDQ re-serve	Overfishing level
Pollock	BS	1,110,000	1,110,000	943,500	83,250	2,060,000
	AI	23,800	23,800	20,230	1,785	31,700
	Bogoslof District	6,410	1,000	850	75	8,750
Pacific cod	BSAI	210,000	210,000	178,500	15,750	336,000
	BS	1,300	1,300	553	179	2,160
Sablefish ⁴	AI	1,380	1,380	293	233	2,230
	Total	64,300	64,300	54,655	4,823	134,000
Atka mackerel ⁵	Western AI	27,000	27,000	22,950	2,025	.....
	Central AI	22,400	22,400	19,040	1,680	.....
	Eastern AI/BS	14,900	14,900	12,665	1,118	.....
Yellowfin sole	BSAI	220,000	220,000	187,000	16,500	314,000
Rock sole	BSAI	312,000	100,000	85,000	7,500	449,000
Greenland turbot	Total	15,000	15,000	12,750	1,125	22,300
	BS	.....	10,050	8,543	754	.....
	AI	.....	4,950	4,208	371	.....
Arrowtooth flounder	BSAI	147,000	16,000	13,600	1,200	230,000
Flathead sole	BSAI	132,000	100,000	85,000	7,500	190,000
Other flatfish ⁶	BSAI	164,000	89,434	76,019	6,708	253,000
Pacific ocean perch	BS	1,400	1,400	1,190	105	3,300
	AI Total	12,100	12,100	10,285	908	20,700
	Western AI	5,580	5,580	4,743	419	.....
	Central AI	3,450	3,450	2,933	259	.....
	Eastern AI	3,070	3,070	2,610	230	.....
Other red rockfish ⁷	BS	267	267	227	20	356
Sharpchin/Northern	AI	4,230	4,230	3,596	317	5,640
Shortraker/rougheye	AI	965	965	820	72	1,290
Other rockfish ⁸	BS	369	369	314	28	492
	AI	685	685	582	51	913
Squid	BSAI	1,970	1,970	1,675	148	2,620
Other species ⁹	BSAI	25,800	25,800	21,930	1,935	134,000
	Total	2,454,976	2,000,000	1,698,568	150,211	4,202,451

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

² Except for the portion of the sablefish TAC allocated to hook-and-line and pot gear, 15 percent of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves. Except for sablefish (see footnote 3), one half of the amount of the TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (see § 679.31(a)(1)).

³ Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear is reserved for use by CDQ participants (see § 679.31(c)). Regulations at § 679.20(b)(1) do not provide for the establishment of an ITAC for the hook-and-line and pot gear allocation for sablefish. The ITAC for sablefish reflected in Table 1 is for trawl gear only.

⁴ Regulations at § 679.20(a)(4) require sablefish TACs for BSAI subareas be divided between trawl and hook-and-line/pot gear in the following proportions: BS subarea; trawl gear 50 percent, hook-and-line/pot gear 50 percent; AI subarea; trawl gear 25 percent, hook-and-line/pot gear 75 percent.

⁵ Regulations at § 679.20(a)(8) require that up to 2 percent of Atka mackerel TAC specified for the Eastern Aleutian Islands District and Bering Sea subarea, after subtraction for reserves, be allocated to vessels using jig gear. For 1998, 1 percent of ITAC, or 127 mt, is allocated to jig gear.

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

⁷“Other red rockfish” includes shortraker, roughey, sharpchin, and northern.

⁸“Other rockfish” includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and roughey.

⁹“Other species” includes sculpins, sharks, skates, and octopus.

Reserves

Fifteen percent of the TAC for each target species or species group, except the hook-and-line and pot gear allocation of sablefish, is automatically placed in a non-specified reserve (§ 679.20(b)(1)). A portion of the non-specified reserve is allocated to the CDQ reserve. The remainder of the non-specified reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the “other species” category during the year, providing that such reapportionments do not result in overfishing.

Amendment 39 to the FMP was approved by NMFS on September 12, 1997. Under amendment 39, the portion of the non-specified reserve that is placed in the CDQ reserve is increased to accommodate the multi-species CDQ program. Except for sablefish, one half of each TAC amount placed in the non-specified reserve (7.5 percent of the total TAC amount) is allocated to the CDQ reserve. Regulations at § 679.31(c) require NMFS to withhold 20 percent of the hook-and-line and pot gear sablefish allocation as CDQ reserve. Amendment

39 also requires NMFS to withhold 7.5 percent of each PSC limit as a separate 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.

A final rule partially implementing Amendment 39 was published February 19, 1998 (63 FR 8356). The rule authorizes the establishment of multi-species CDQ reserves for those groundfish TAC categories for which there is no existing CDQ program. It does not include measures that allow fishing to begin on those reserves. The multi-species CDQ program will be implemented by a separate final rule establishing management measures for the multi-species CDQ program. Pending timely approval of the final rule and the associated Community Development Plans, multi-species CDQ fishing could take place in 1998. Under the final rule partially implementing Amendment 39, NMFS may add any amount of the 1998 CDQ reserve back to the non-specific reserve if the Administrator, Alaska Region, NMFS (Regional Administrator) determines that the amount will not be used by CDQ groups during the remainder of the 1998 fishing year.

The Council recommended that the CDQ pollock reserve be seasonally apportioned so that no more than 45 percent of the 1998 Bering Sea allocation may be harvested during the pollock roe season, January 1 through April 15. Up to 100 percent of the 1998 Aleutian Islands or of the Bogoslof District pollock CDQ allocation could be harvested during this time period. The same apportionment was recommended for the non-CDQ pollock ITAC. Apportionment of the Nonspecified Reserve.

The Regional Administrator has determined that the ITACs specified for the species listed below need to be supplemented from the nonspecified reserve because U.S. fishing vessels have demonstrated the capacity to harvest the full TAC amounts. ITACs for these species have been supplemented from the nonspecified reserve during the past 5 years, and no reason exists to not make the full TAC amount, minus the CDQ reserves, available at the beginning of the fishing year. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the nonspecified reserve to increase the ITAC.

TABLE 2.—APPORTIONMENT OF THE NONSPECIFIED RESERVE TO ITAC CATEGORIES.

Species—area or subarea	Reserve amount (mt)
Pollock—Bering Sea	83,250
Pollock—Aleutian Islands	1,785
Atka mackerel—Western Aleutian Islands	2,025
Atka mackerel—Central Aleutian Islands	1,680
Atka mackerel—Eastern Aleutian Is. & Bering Sea subarea	1,118
Pacific ocean perch—Western Aleutian Islands	419
Pacific ocean perch—Central Aleutian Islands	259
Pacific Ocean perch—Eastern Aleutian Islands	230
Pacific cod—BSAI	15,750
Total	106,516

Seasonal Allowances of Pollock TACs

Under § 679.20(a)(5)(i)(A), the pollock ITAC for each subarea or district of the BSAI is divided into two seasonal allowances. The first allowance is made available for directed fishing from January 1 to April 15 (roe season), and the second allowance is made available from September 1 until November 1 (non-roe season). The Council recommended that the seasonal allowances for the Bering Sea pollock roe and non-roe seasons be specified at

45 percent and 55 percent of the ITAC amounts, respectively (Table 3). As in past years, 100 percent of the pollock TAC amounts specified for the Aleutian Islands subarea and the Bogoslof District will be apportioned to the roe season, with any TAC remaining following the end of roe season made available during non-roe season.

When specifying seasonal allowances of the pollock TAC, the Council and NMFS considered the factors specified in section 14.4.10 of the FMP. A

discussion of these factors relative to the roe and non-roe seasonal allowances was presented in the final 1993 specifications for BSAI groundfish (58 FR 8703, February 17, 1993). At this time, the Council’s findings are unchanged from those set forth for 1993, given that the relative seasonal allowances are the same.

Allocation of the Pollock TAC to the Inshore and Offshore Components

Regulations at § 679.20(a)(6)(i) require that pollock ITAC amounts be allocated

35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the

offshore component. Definitions of these components are found at § 679.2. The 1998 TAC specifications are consistent with these requirements (Table 3).

TABLE 3.—SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS ¹

Subarea and component	TAC	Nonspeci- fied reserve	CDQ re- serve	ITAC	Roe sea- son ²	Non-roe season ³
Bering Sea	1,110,000	(⁴)	83,250	1,026,750	462,038	564,713
Inshore .....	.....	.....	.....	359,363	161,713	197,649
Offshore .....	.....	.....	.....	667,388	300,324	367,063
Aleutian Islands	23,800	(⁴)	1,785	22,015	22,015	(⁵)
Inshore .....	.....	.....	.....	7,705	7,705	(⁵)
Offshore .....	.....	.....	.....	14,310	14,310	(⁵)
Bogoslof District	1,000	75	75	850	850	(⁵)
Inshore .....	.....	.....	.....	298	298	(⁵)
Offshore .....	.....	.....	.....	553	553	(⁵)

¹ Based on an offshore component allocation of 0.65 (ITAC) and on an inshore component allocation of 0.35 (ITAC).

² January 1 through April 15—based on a 45/55 split (roe = 45 percent).

³ September 1 until November 1—based on a 45/55 split (non-roe equals 55 percent).

⁴ Released.

⁵ Remainder.

Allocation of the Atka Mackerel TAC

A final rule implementing Amendment 34 to the FMP was published December 31, 1997 (62 FR 68228), and became effective January 30, 1998. This amendment requires that up to 2 percent of the Eastern Aleutian Islands district and the Bering Sea subarea Atka mackerel TAC, after subtraction for reserves, be allocated to the jig gear fleet. The amount of this allocation is determined annually by the Council based on the anticipated harvest capacity of the jig gear fleet. At its June 1997 meeting, the Council noted its intent to allocate 1 percent of Atka mackerel TAC in the Eastern Aleutian Islands district/Bering Sea subarea to the jig gear fleet. Based on an ITAC of 12,665 mt, the jig gear allocation is 127 mt.

Allocation of the Pacific Cod TAC

Based on information not available at the time of the publication of the

proposed specifications and the use of a new, more risk adverse model for determining stock status, the final Pacific cod TAC recommended by the Council is 20 percent, or 60,000 mt lower than the amount published in the proposed specifications.

Under § 679.20(a)(7), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear. The portion of the Pacific cod TAC allocated to trawl gear is further allocated 50 percent to catcher vessels and 50 percent to catcher processor vessels (§ 679.20(a)(7)(i)(B)). At its December 1997 meeting, the Council recommended seasonal allowances for the portion of the Pacific cod TAC allocated to the hook-and-line and pot gear fisheries. The seasonal allowances are authorized under § 679.20(a)(7)(iv) and are intended to provide for the harvest of Pacific cod when flesh quality

and market conditions are optimum and Pacific halibut bycatch rates are low. The Council's recommendations for seasonal apportionments are based on the following factors: (1) Seasonal distribution of Pacific cod relative to prohibited species distributions, (2) variations in prohibited species bycatch rates in the Pacific cod fisheries throughout the year, and (3) economic effects of seasonal allowances of Pacific cod on the hook-and-line and pot gear fisheries. Table 4 lists the 1998 allocations and seasonal apportionments of the Pacific cod TAC, minus the CDQ reserves. Consistent with § 679.20(a)(7)(iv)(C), any portion of the first seasonal allowance of the hook-and-line and pot gear allocation that is not harvested by the end of the first season will become available on September 1, the beginning of the third season.

TABLE 4.—1998 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD ITAC

Gear	Percent TAC	Share ITAC ¹ (mt)	Seasonal apportionment		
			Date	Percent	Amount
Jig	2	3,885	Jan1-Dec 31	100	3,885
Hook-&-line/pot gear	51	99,068	Jan 1-Apr 30 ² ..	71	70,735
			May 1-Aug 31 ...	15	15,000
			Sep 1-Dec 31 ...	13	13,332
Trawl gear	47	91,298	Jan 1-Dec 31	100	91,298
Catcher vessel (50%)		45,649			
Catcher/processor (50%)		45,649			
Total	100	194,250			

¹ ITAC for Pacific cod is equal to the TAC less the CDQ reserve.

² Any unused portion of the first seasonal Pacific cod allowance specified for the Pacific cod hook-and-line or pot gear fishery will be reapportioned to the third seasonal allowance.

Sablefish Gear Allocation

Regulations at § 679.20(a)(4) require that sablefish TACs for the BSAI subareas be divided between trawl and hook-and-line/pot gear types. Gear allocations of TACs are established in

the following proportions: Bering Sea subarea: Trawl gear—50 percent and hook-and-line/pot gear—50 percent; and Aleutian Islands subarea: Trawl gear—25 percent and hook-and-line/pot gear—75 percent. In addition, regulations

under § 679.31(c) require NMFS to withhold 20 percent of the hook-and-line/pot gear sablefish allocation as sablefish CDQ reserve. Gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 5.

TABLE 5.—1998 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

Subarea & gear	Percent of TAC	Share of TAC (mt)	Initial TAC (mt) ¹	CDQ Reserve
Bering Sea:				
Trawl ²	50	650	553	49
Hook-&-line/pot gear ³	50	650	N/A	130
Total		1,300	553	179
Aleutian Islands:				
Trawl	25	345	293	26
Hook-&-line/pot gear	75	1,035	N/A	207
Total		1,380	293	233

¹ Except for the sablefish hook-and-line and pot gear allocation, 15 percent of TAC is apportioned to 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 trawl gear, one half of the reserve (7.5 percent of the specified TAC) is reserved for the multi-species CDQ program.

³ 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. Regulations in § 679.20(b)(1) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Allocation of Prohibited Species Catch (PSC) Limits for Halibut, Crab and Herring

Under Amendment 39, 7.5 percent of each PSC limit is reserved as a PSQ reserve for use by the multi-species CDQ program. NMFS may return any unused 1998 PSQ reserve to the non-CDQ fisheries if the Regional Administrator determines that it will not be used during the remainder of the 1998 fishing year.

PSC limits for halibut are set in regulations at § 679.21(e). For the BSAI trawl fisheries, the limit is 3,775 mt mortality of Pacific halibut (§ 679.21(e)(1)(iii)) and for non-trawl fisheries, the limit is 900 mt mortality (§ 679.21(e)(2)). PSC limits for crab and herring are specified annually based on abundance and spawning biomass.

For 1998, the PSC limit of red king crab in Zone 1 for trawl vessels is 100,000 crab based on the criteria set out at § 679.21(e)(1)(i). The number of mature female red king crab is estimated to be above the threshold of 8.4 million animals, and the effective spawning biomass is estimated to be greater than 14.5 million lb (6,577 mt) but less than 55 million lb (24,948 mt) (§ 679.21(e)(1)(i)(B)).

As specified under § 679.21(e)(3)(ii)(B)(I), vessels using nonpelagic trawl gear may engage in directed fishing for groundfish in 1998 in the red king crab savings subarea (RKCSS) because the Alaska Department of Fish and Game established a 1997

guideline harvest level for the commercial red king crab fishery in Bristol Bay. Regulations at § 679.21(e)(3)(ii)(B)(2) specify that the amount of the red king crab bycatch limit specified for the RKCSS, defined at § 79.21(e)(3)(ii)(B)(I) will not exceed an amount equivalent to 35 percent of the red king crab PSC limit for the rock sole/flathead sole/other flatfish fishery category. Based on the Council's recommendation, the 1998 red king crab bycatch allowance for the RKCSS is 24,281 crabs, or 35 percent of the red king crab bycatch allowance recommended by the Council for the rock sole/flathead sole/other flatfish fishery category. The bycatch allowance specified for the rock sole/flathead sole/other flatfish fishery category is reduced correspondingly to 45,094 crabs. When the total number of red king crab taken by trawl vessels fishing in the RKCSS reaches the specified bycatch allowance, further directed fishing for groundfish in the RKCSS by vessels using nonpelagic trawl gear will be prohibited.

The 1998 *C. bairdi* PSC limit for trawl gear is 750,000 animals in Zone 1 and 2.1 million animals in Zone 2. These numbers are based on the criteria set out at § 679.21(e)(1)(ii). In Zone 1, *C. bairdi* abundance is estimated to be greater than 150 million and less than 270 million animals (§ 679.21(e)(1)(ii)(A)(2)). In Zone 2, *C. bairdi* abundance is estimated to be greater than 175 million

and less than 290 million animals (§ 679.21(e)(1)(ii)(B)(2)).

A final rule implementing Amendment 40 was published December 22, 1997 (62 FR 66829) and became effective January 21, 1998. This amendment establishes a PSC limit for *C. opilio* based on total abundance as indicated by the NMFS standard trawl survey. The *C. opilio* PSC limit is set at 0.1133 percent of the 1997 Bering Sea abundance index, with a minimum PSC of 4.5 million crabs and a maximum PSC of 13 million crabs. Based on the 1997 survey estimate of 4.1 billion crabs, the 1998 *C. opilio* PSC limit for 1998 is 4,654,000 crabs.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass (§ 679.21(e)(1)(v)). NMFS's best estimate of 1998 herring biomass is 171,450 mt. This amount was derived using 1997 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 1998 is 1,714 mt.

Regulations at § 679.21(e)(3) authorize the apportionment of each trawl PSC limit into PSC bycatch allowances for seven specified fishery categories. Regulations at § 679.21(e)(4)(ii) authorize the apportionment of the

nontrawl halibut PSC limit among five fishery categories. The fishery bycatch allowances for the trawl and nontrawl fisheries are listed in Table 6. Because actual *C. opilio* bycatch rates for trawl fisheries within the *C. opilio* bycatch limitation zone are unknown, representatives from the trawl industry and the Council's AP requested that the *C. opilio* PSC limit not be apportioned among fisheries for 1998. However, § 679.21(e)(3)(ii) requires that the PSC limit be apportioned among trawl categories. To accommodate the request of the trawl industry for 1998, NMFS apportions each of the five fisheries a bycatch allowance of *C. opilio* that, when added with the amount of *C. opilio* taken in the other four fisheries, equals 4,304,950 crabs. The remaining 349,050 crabs are allocated to the multispecies PSQ program. New recordkeeping and reporting requirements proposed for 1998 and beyond would provide information necessary to monitor and allocate the *C. opilio* PSC limit among fisheries after 1998.

Regulations at § 679.21(e)(4)(ii) authorize the exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, the Council recommended that pot gear, jig gear, and sablefish hook-and-line gear fishery categories be exempt from halibut bycatch restrictions because these fisheries use selective gear types that experience low halibut bycatch mortality. In 1997, total groundfish catch for the pot gear fishery in the BSAI was approximately 22,598 mt, with an associated halibut bycatch mortality of about 14 mt. The 1997 groundfish jig gear fishery harvested about 201 mt of groundfish. Vessels in the jig gear fleet are less than 60 ft (18.3 m) length overall and are exempt from observer coverage requirements. As a result, no observer data are available on halibut bycatch in the jig gear fishery. Nonetheless, it is probable that the selective nature of this gear type and the relatively small amount of groundfish

harvested with jig gear result in a negligible amount of halibut bycatch mortality.

As in past years, the Council recommended that the sablefish Individual Fishing Quota (IFQ) fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (subpart D of part 679). The IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ, resulting in lowered amounts of halibut discard in the fishery. In 1995, about 36 mt of halibut discard mortality was estimated for the sablefish IFQ fishery. A similar estimate for the 1996 or 1997 fishery has not been calculated, but NMFS believes that it would not be significantly different.

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances. At its December 1997 meeting, the Council recommended that halibut bycatch allowances be seasonally apportioned as shown in Table 6. The recommended seasonal apportionments reflect recommendations made to the Council by its AP.

The Council recommended seasonal apportionments of the halibut bycatch allowances specified for the trawl flatfish fisheries to provide additional fishing opportunities in the BSAI early in the year and to reduce the incentive for trawl vessel operators to move from the BSAI to the Gulf of Alaska after the rock sole roe fishery is closed, typically by early March. Halibut bycatch allowances to the rockfish fisheries were apportioned in a manner that prevents a directed rockfish fishery from opening until July 1. This action was taken for three reasons: (1) To minimize halibut bycatch during the first half of the year; (2) to reduce bycatch of shortraker and roughey rockfish, for which there are overfishing concerns; and (3) to help

distribute effort between the Gulf of Alaska and the BSAI rockfish fisheries through concurrent July 1 openings in both areas.

The recommended seasonal apportionment of the halibut bycatch allowance for the pollock/Atka mackerel/other species category is based on the seasonal allowances of the Bering Sea pollock TAC recommended for the roe and non-roe seasons. Most of the pollock harvested during the roe season will be taken with pelagic trawl gear, which has low halibut bycatch rates. Any unused halibut bycatch mortality apportioned to the roe season will be available after the roe season.

The Council recommended three seasonal apportionments of the halibut bycatch allowance specified for the Pacific cod hook-and-line fishery. This recommendation reflects the seasonal apportionment of Pacific cod TAC shown in Table 4. It also serves to limit a hook-and-line fishery for Pacific cod during summer months when halibut bycatch rates are high. The third seasonal allowance of halibut PSC will become available September 15, even though the third seasonal allowance of Pacific cod becomes available September 1 (Table 4). As in past years, the second seasonal allowance of halibut PSC will probably be used prior to September 1. If this is the case, directed fishing for the third seasonal allowance of Pacific cod by vessels using hook-and-line gear will be prohibited until September 15. The intent of the Council's recommendation was to limit fishing for Pacific cod by vessels using hook-and-line gear during the first half of September when halibut bycatch rates are relatively high. As authorized under § 679.21(e)(5)(iv), the Council further recommended that any unused portion of the first seasonal bycatch allowance specified for the Pacific cod hook-and-line fishery be reapportioned to the third seasonal allowance to limit hook-and-line Pacific cod fishing prior to September 15.

TABLE 6.—1998 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES

Trawl Fisheries	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1	C. opilio (animals) COBLZ ¹	C. bairdi (animals)	
					Zone 1	Zone 2
Yellowfin sole	930	248	9,250	.....	255,592	990,675
Jan. 20–Mar. 31	264	.....	.....	.....	.....	.....
Apr. 1–May 10	194	.....	.....	.....	.....	.....
May 11–Aug. 14	93	.....	.....	.....	.....	.....
Aug. 15–Dec. 31	379	.....	.....	.....	.....	.....
Rocksole/oth.flat/flat sole ²	735	20	45,094	.....	273,848	330,225
Jan. 20–Mar. 29	449	.....	.....	.....	.....	.....

TABLE 6.—1998 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES—Continued

Trawl Fisheries	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1	C. opilio (animals) COBLZ ¹	C. bairdi (animals)	
					Zone 1	Zone 2
Mar. 30–June 30	120	.....	.....	.....	.....	.....
July 1–Dec. 31	167	.....	.....	.....	.....	.....
Turbot/sablefish/arrowtooth ³ .....	.....	.....	.....	.....	.....	.....
Rockfish	69	7	.....	.....	.....	6,475
Jan. 1–June 30	0	0	.....	.....	.....	.....
July 1–Dec. 31	69	7	.....	.....	.....	.....
Pacific cod	1,434	20	6,938	.....	123,232	180,375
Midwater pollock ⁴ .....	.....	1,146	.....	.....	.....	.....
Pollock/Atka/other ⁵	324	143	6,938	.....	41,077	434,750
Jan. 20–Apr. 15	278	.....	.....	.....	.....	.....
Apr. 16–Dec 31	46	.....	.....	.....	.....	.....
RKC savings subarea ⁶ .....	.....	.....	24,281	.....	.....	.....
Total Trawl PSC	3,492	1,585	92,500	4,304,950	693,750	1,942,500
Nontrawl Fisheries						
Pacific cod	777	.....	.....	.....	.....	.....
Jan. 1–Apr. 30	458	.....	.....	.....	.....	.....
May 1–Sep. 14	37	.....	.....	.....	.....	.....
Sep. 14–Dec. 31	282	.....	.....	.....	.....	.....
Other non-trawl	56	.....	.....	.....	.....	.....
Groundfish pot & jig	(⁸)	.....	.....	.....	.....	.....
Sablefish hook & line	(⁸)	.....	.....	.....	.....	.....
Total Nontrawl	833	.....	.....	.....	.....	.....
PSQ Reserve⁷	351	129	7,500	349,050	56,250	157,500

¹ C. opilio Bycatch Limitation Zone. Boundaries are defined at § 679.21 (e)(7)(iv)(B).

² Rock sole, flathead sole, and other flatfish fishery category.

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

⁴ Halibut and crab bycatch in the midwater pollock fishery is deducted from the allowances for the pollock/Atka mackerel/other species category. Once bycatch allowances are reached, directed fishing for Pollock with non-pelagic trawl gear is prohibited.

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

⁶ The red king crab savings subarea is defined at § 679.21(e)(3)(ii)(B) as the portion of the red king crab savings area between 56°00' and 56°10' N. lat. The amount of the red king crab bycatch limit specified for this area under § 679.21(e)(3)(ii)(B)(2) is not designated by fishery and, when reached, will result in closure of the subarea to directed fishing for groundfish with nonpelagic gear (§ 679.21(e)(7)(ii)(B)).

⁷ 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.

⁸ Exempt.

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator will use observed halibut bycatch rates, assumed mortality rates, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The Regional Administrator monitors a fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the annual SAFE report.

The Council recommended that the assumed halibut mortality rates

developed by staff of the International Pacific Halibut Commission for the 1997 BSAI groundfish fisheries be adopted for purposes of monitoring halibut bycatch allowances established for 1998. These rates generally are based on an average of mortality rates determined from NMFS observer data collected during the past 2 years. Assumed Pacific halibut mortality rates for BSAI fisheries for 1998 are listed in Table 7.

TABLE 7.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1998

Fishery	As- sumed mortality (per- cent)
Hook-and-line gear fisheries:	
Rockfish	22
Pacific cod	12
Greenland turbot	12
Sablefish	18
Other Species	12
Trawl gear fisheries:	
Midwater pollock	81
Nonpelagic pollock	76

TABLE 7.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1998—Continued

Fishery	Assumed mortality (percent)
Yellowfin sole	77
Rock sole	74
Flathead sole	64
Other flatfish	68
Rockfish	70
Pacific cod	71
Atka mackerel	83
Greenland turbot	73
Sablefish	23
Other species	71
Pot gear fisheries:	
Pacific cod	9
Other species	9

Response to Comments

Comment 1. The draft EA prepared for the 1998 specifications is an inadequate basis for a Finding of No Significant Impact. The environmental impact statement (EIS) prepared for the BSAI groundfish fishery was drafted 16 years ago. Since that time, the conduct of the fisheries has changed; new information regarding the affected groundfish species exists; and substantial and unanalyzed questions exist regarding the impact of the groundfish fisheries on the BSAI ecosystem. NMFS should prepare a supplement to the EIS which fully evaluates the potential impacts of the groundfish TACs on the BSAI ecosystem.

Response. NMFS acknowledges that the final EIS prepared for the BSAI groundfish fishery is 16 years old. A supplement to the EIS is being prepared, and a public review draft is scheduled for release in April 1998. However, NMFS believes the final EA prepared for the 1998 BSAI groundfish specifications, as well as the documents incorporated by reference into the EA, adequately support a Finding of No Significant Impact.

Comment 2. The draft EA does not adequately assess the impact of proposed 1998 fishing levels on endangered Steller sea lions or on the unlisted species also suffering population declines. The draft EA also neglects to address dramatic increases in catches of pollock and Atka mackerel in areas designated as critical foraging habitat for Steller sea lions, the increasing effort directed on spawning pollock in the winter months, and the geographic and temporal concentration of fishing in the areas of the BSAI where the greatest declines of sea lion, other

marine mammals, and seabirds have occurred. The EA fails to consider a viable range of alternatives, such as reducing TACs for ecosystem based reasons and time/area restrictions for fisheries

Response. The issues of concern identified in Comment 2 are addressed in the final EA, as well as in the documents incorporated by reference into the final EA. Efforts to identify relationships between the Alaska groundfish fisheries and Steller sea lions are ongoing, but any potential linkages remain unclear. Overlaps between Steller sea lion prey and harvested species have been identified, particularly with reference to pollock and Atka mackerel stocks. However, participants in the Alaskan groundfish fisheries are not expected to alter their fishing practices significantly either spatially or temporally as a result of the 1998 groundfish specifications, nor to operate in any manner that would predictably pose impacts to Steller sea lions.

Comment 3. NMFS needs to more fully incorporate ecosystem level concerns into the TAC setting process. Harvest levels are based on single-species models that fail to adequately consider interspecies linkages and the impact of fish removal on other ecosystem components. The EA does not discuss or analyze the changing community structure of the groundfish complex resulting from disproportionate fishing pressure on a small set of commercially targeted species.

Response. NMFS acknowledges the importance of ecosystem based management for groundfish stocks. The Council's Ecosystem Committee, established in 1996, met during the December Council meeting to review the status of groundfish stocks and make recommendations to the Council. Based on ecosystem concerns, the Council has taken a precautionary approach to setting groundfish TACs. The final EA, as well as content incorporated by reference into the final EA (especially the Ecosystem Committee's chapter of the 1998 SAFE report), extensively examine ecosystem level impacts of the groundfish fisheries.

Comment 4. The recommended BSAI pollock ABC and TAC are too high and should be lowered by at least 30 percent. The SAFE document upon which the recommendation was based failed to adequately consider the potential impact of the Russian fishery on Bering Sea pollock stocks, uncertainties associated with the current pollock assessment and its dependence on a continued strong 1996

year class, and the spatial and temporal compression of the pollock harvest.

Response. NMFS believes that the recommended pollock ABC is both conservative and scientifically sound. The spawning stock remains at levels above or near the long-term expected target; the 1996 year class appears to be above average; the pollock population is estimated to remain above the level that would produce maximum sustainable yield; and the recommended ABC is based upon both a conservative projection of future year-class strength and a conservative choice of fishing mortality rate.

Comment 5. Atka mackerel harvest guidelines fail to account for potential localized depletions of Atka mackerel. The fishery is overly concentrated both temporally and spatially, and measures need to be taken to spread effort out over larger areas. The Atka mackerel assessment failed to address concentration of harvest near Steller sea lion haulouts and rookeries and its impact upon the endangered Steller sea lion.

Response. The EA and the documents incorporated into it by reference examined the potential impacts of localized depletion of the Atka mackerel resource. Because Atka mackerel tend to concentrate in large, easily targeted schools, it appears likely that such depletions do occur. It also appears that Atka mackerel are an important component of the Steller sea lion diet. However, the evidence indicates that these depletions are of short duration and that schools rapidly reform. Given this evidence, NMFS believes that the 1998 Atka mackerel fishery, as currently prosecuted, will not jeopardize the continued existence of Steller sea lions. NMFS will continue to study the interactions between the Atka mackerel fishery and Steller sea lions and, if necessary, develop management measures to minimize any impacts.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under E.O. 12866.

This action adopts final 1998 harvest specifications for the BSAI and revises associated management measures. Generally, this action does not significantly revise management measures in a manner that would require time to plan or prepare for those revisions. In some cases, the interim specifications in effect would be insufficient to allow directed fisheries to operate during a 30-day delayed effectiveness period, which would result in unnecessary closures and disruption within the fishing industry.

In many of these cases, the final specifications will allow the fisheries to continue, thus relieving a restriction. Provisions of a relieving a restriction under 5 U.S.C. 553(d)(1) are not subject to a delay in the effective date. The immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources and to give the fishing industry the earliest possible opportunity to plan its fishing operations. Accordingly, the Assistant Administrator for Fisheries, NOAA (AA) finds there is good cause to waive the 30-day delayed effectiveness period under 5 U.S.C. 553(d)(3) with respect to such provisions and to the apportionment discussed above.

The apportionment of a portion of the unspecified reserve is necessary to provide increased ITAC to minimize the effect of a reduction in Pacific cod TAC on hook-and-line vessels, to provide for more efficient operation of intensive fast-paced fisheries for Atka mackerel and Pacific ocean perch, and to allow for the orderly conduct of pollock fisheries. Therefore, a delay for prior notice and public procedure is contrary to the public interest. Accordingly, the AA finds there is good cause to waive the requirement for prior notice under 5 U.S.C. 553(b)(3). In accordance with 50 CFR 679(b)(3), comments on the apportionment of reserves are invited by March 31, 1998.

Pursuant to section 7 of the Endangered Species Act, NMFS and the Fish and Wildlife Service have determined that the groundfish fishery operating under the 1998 BSAI TAC specifications is not likely to jeopardize the continued existence or recovery of species listed as endangered or threatened and is not likely to destroy or adversely modify critical habitat.

NMFS prepared an EA on the 1998 TAC specifications. The total harvest levels examined in the EA do not exceed the OY. The models used to derive catch levels are both conservative and based on the best scientific information available. The AA concluded that no significant impact on the human environment will result from implementation of the 1998 specifications. A copy of the EA is available (see ADDRESSES).

At the proposed rule stage, the Assistant General Counsel for Legislation and Regulation of the

Department of Commerce certified to the Chief Counsel for the Advocacy of the Small Business Administration that the proposed specifications would not have a significant economic impact on a substantial number of small entities. However, comments received by the Council at its December 1997 meeting, as well as changes in TAC amounts between the proposed and final specifications, led NMFS to conclude that the final specifications may have a significant impact on small entities, and a FRFA has been prepared. The analysis examines the economic effects of changes between the 1997 and 1998 specifications and concludes that, in most cases, TAC amounts are not significantly different between 1997 and 1998 and that the overall impact to the groundfish fishery will be minimal. However, the 22-percent reduction in Pacific cod TAC may cause significant economic impacts to the 100 vessel hook-and-line fleet (a mix of small and large entities) that participates in the Pacific cod fishery.

In taking this action, the Council attempted to minimize this impact by setting Pacific cod TAC equal to ABC, increasing the percentage of Pacific cod allocated to the third seasonal allowance, releasing the nonspecific reserves, and increasing Greenland turbot TAC. A copy of the FRFA is available from NMFS (see ADDRESSES).

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

Dated: March 10, 1998.

David L. Evans,
Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297-8054-02; I.D. 031098C]

Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing specified groundfish fisheries in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the directed fishing allowances specified for the 1998 total allowable catch (TAC) amounts for the GOA.

DATES: Effective March 11, 1998, until 2400 hrs, A.l.t. December 31, 1998.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone of the GOA is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(d)(1)(i), if the Administrator, Alaska Region, NMFS (Regional Administrator), determines that the amount of a target species or "other species" category apportioned to a fishery or, with respect to pollock and Pacific cod, to an inshore or offshore component allocation, 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 GOA Regulatory Area or district (§ 697.20(d)(1)(iii)).

The Regional Administrator has determined that the following TAC amounts are necessary as incidental catch to support other anticipated groundfish fisheries for the 1998 fishing year:

Species	Area	TAC (mt)
Thornyhead rockfish	Entire GOA	2,000
Atka mackerel	Entire GOA	600
Sablefish	Trawl apportionment, entire GOA	1,930
"Other rockfish"	Entire GOA	2,170