

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 prohibiting directed fishing for these species in the specified areas. These closures will be in effect from February 15, 2000 until 12 midnight, Alaska local time, December 31, 2000.

Under authority of the interim 2000 GOA specifications (65 FR 65, January 3, 2000), pollock fishing opened on January 1, 2000, for amounts specified in that notice. NMFS has since closed Statistical Area 610 to directed fishing for pollock effective 1200 hrs, A.l.t., January 31, 2000 (65 FR 5285, February 3, 2000), Statistical Area 620 outside the Shelikof Strait conservation area to directed fishing for pollock effective 1200 hrs, A.l.t., January 27, 2000 (65 FR 5283, February 3, 2000), Statistical Area 630 outside the Shelikof Strait conservation area to directed fishing for pollock effective 1200 hrs, A.l.t., January 25, 2000 (65 FR 4891, February 2, 2000), and directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area, effective 1200 hrs, February 7, 2000 (65 FR 6561, February 10, 2000). The closures for Statistical Areas 610, 620 and 630 will remain in effect until 1200 hrs, A.l.t., March 15, 2000.

These closures supersede the closures announced in the interim 2000 GOA harvest specifications (65 FR 65, January 3, 2000). While these closures are in effect, the maximum retainable bycatch 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. The definitions of GOA deep-water flatfish and "Other rockfish" species categories are provided in the **Federal Register** publication of the Final 2000 Harvest Specifications.

NMFS may implement other closures during the 2000 fishing year, as necessary for effective conservation and management.

#### Classification

This action is required by § 679.20 and is exempt from review under E.O. 12866.

This action responds to the TAC limitations and other restrictions on the fisheries established in the Final 2000 Harvest Specifications for Groundfish for the GOA. It must be implemented immediately to prevent overharvesting the 2000 TACs for several groundfish species in the GOA. A delay in the

effective date is impracticable and contrary to the public interest. The fleet is currently harvesting groundfish, and further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

Dated: February 14, 2000.

**Bruce Morehead,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 000211040-0040-01; I.D. 111899B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2000 Harvest Specifications for Groundfish

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

**ACTION:** Final 2000 specifications for groundfish and associated management measures; apportionment of reserves; request for comments.

**SUMMARY:** NMFS announces final 2000 harvest specifications, prohibited species bycatch allowances, and associated management measures for the groundfish fishery of the Bering Sea and Aleutian Islands Area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish during the 2000 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI.

**DATES:** The final 2000 harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), February 15, 2000 through 2400 hrs, A.l.t., December 31, 2000. Comments on the apportionment of reserves must be received by March 6, 2000.

**ADDRESSES:** Comments on the apportionment of reserves may be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action and the Final 2000 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 1999, 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:** Shane Capron, 907-586-7228 or shane.capron@noaa.gov.

#### SUPPLEMENTARY INFORMATION:

#### Background for the 2000 Final Harvest Specifications

Federal regulations at 50 CFR part 679 that implement the FMP govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and for the "other species" category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (§ 679.20(a)(1)(i)). Regulations at § 679.20(c)(3) further require NMFS to consider public comments received on proposed annual TACs and apportionments thereof and on proposed prohibited species catch (PSC) allowances and to publish final specifications in the **Federal Register**. The final specifications set forth in Tables 1 through 8 of this action satisfy these requirements. For 2000, the sum of TACs is 2 million mt.

The proposed BSAI groundfish specifications and prohibited species bycatch allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 13, 1999 (64 FR 69464). Comments were invited and accepted through January 12, 2000. NMFS received one letter of comment on the proposed specifications. This comment is

summarized and responded to in the Response to Comments section. Public consultation with the Council occurred during the December 1999 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 2000 groundfish specifications as recommended by the Council.

In accordance with regulations at § 679.20(c)(2)(ii), NMFS established interim amounts of each proposed initial TAC (ITAC), and allocations thereof, and proposed PSC allowances established under § 679.21 that become available at 0001 hours Alaska local time (A.l.t.), January 1, and remain available until superseded by the final specifications. NMFS published the interim 2000 groundfish harvest specifications in the **Federal Register** on January 3, 2000 (65 FR 60). The interim TACs for pollock subsequently were revised by an emergency interim rule effective January 20, 2000 (65 FR 3892; January 25, 2000). Regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for either the hook-and-line and pot gear sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota management plan.

With the exception of the sideboard provisions for groundfish and prohibited species under the American Fisheries Act (AFA), the final 2000 groundfish harvest specifications and prohibited species bycatch allowances contained in this action supersede the interim 2000 groundfish harvest specifications. The emergency interim rule implementing AFA cooperative harvest limit provisions (65 FR 4520; January 28, 2000) specified allocations of inshore pollock between cooperative and vessels not participating in cooperatives, as well as harvest amounts and PSC limits for AFA catcher/

processors and catcher vessels. These specifications will remain effective for the duration of the AFA emergency interim rule or until superseded by completion of a notice and comment rulemaking to implement the AFA.

#### Acceptable Biological Catch (ABC) and TAC Specifications

The final ABC levels 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. The FMP specifies the formulas, or tiers, to be used in computing ABCs and overfishing levels. The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to fishery scientists. This information is categorized into a successive series of six tiers.

At its December 1999 meeting, the Council's Scientific and Statistical Committee (SSC), the Council's Advisory Panel (AP), and Council itself reviewed current biological information about the condition of groundfish stocks in the BSAI. This information was compiled by the Council's Plan Team and is presented in the final 2000 SAFE report for the BSAI groundfish fisheries, dated November 1999. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates an ABC for each species or species category.

In December 1999, the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for pollock and the "other species" category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. Based on the best available information, the

SSC recommended slightly higher ABCs for pollock and "other species" than the Plan Team recommended. For pollock, the maximum ABC under the overfishing definition results in an amount of 1.2 million mt. The Plan Team recommended using a lower fishing mortality to account for uncertainties in recruitment because there is a limited range of age-classes supporting the fishery. The SSC agreed with the Plan Team's rationale, but disagreed with the extent of the decrease in the fishing mortality rate. The SSC adopted a mortality rate lower than the maximum permissible, but higher than the Plan Team's, resulting in an ABC of 1.139 million mt. For "other species", the Plan Team recommended an ABC based on mean catch since 1977. The SSC disagreed with this approach and recommended using a Tier 5 approach under the FMP. For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted them. The final ABCs, as adopted by the Council, are listed in Table 1.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's TAC recommendations. None of the Council's recommended TACs for 2000 exceeds the final ABC for any species category. NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks as described in the 2000 SAFE document and approved by the Council.

Table 1 lists the 2000 ABC, TAC, ITAC and Community Development Quota (CDQ) reserve amounts, overfishing levels, and initial apportionments of groundfish in the BSAI. The apportionment of TAC amounts among fisheries and seasons is discussed in the following sections.

TABLE 1.—2000 ABC, TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI) <sup>1</sup>

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC <sup>2</sup>	CDQ reserve <sup>3</sup>
Pollock <sup>4</sup>	Bering Sea (BS)	1,680,000	1,139,000	1,139,000	973,845	113,900
	Aleutian Islands (AI)	31,700	23,800	2,000	1,800	200
	Bogoslof District	30,400	22,300	1,000	900	100
Pacific cod	BSAI	240,000	193,000	193,000	164,050	14,475
Sablefish <sup>5</sup>	BS	1,750	1,470	1,470	624	202
	AI	3,090	2,430	2,430	516	410
Atka mackerel	Total	119,000	70,800	70,800	60,180	5,309
	Western AI		29,700	29,700	25,245	2,227
	Central AI		24,700	24,700	20,995	1,852
	Eastern AI/BS		16,400	16,400	13,940	1,230

TABLE 1.—2000 ABC, TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND OVERFISHING LEVELS OF GROUND FISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI)<sup>1</sup>—Continued

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC <sup>2</sup>	CDQ reserve <sup>3</sup>
Yellowfin sole .....	BSAI .....	226,000	191,000	123,262	104,773	9,244
Rock sole .....	BSAI .....	273,000	230,000	134,760	114,546	10,107
Greenland turbot .....	Total .....	42,000	9,300	9,300	7,906	697
	BS .....	.....	6,231	6,231	5,297	467
	AI .....	.....	3,069	3,069	2,609	230
Arrowtooth flounder .....	BSAI .....	160,000	131,000	131,000	111,350	9,825
Flathead sole .....	BSAI .....	90,000	73,500	52,652	44,755	3,948
Other flatfish <sup>6</sup> .....	BSAI .....	141,000	117,000	83,813	71,242	6,285
Pacific ocean perch .....	BS .....	3,100	2,600	2,600	2,210	195
	AI Total .....	14,400	12,300	12,300	10,456	922
	Western AI .....	.....	5,670	5,670	4,820	425
	Central AI .....	.....	3,510	3,510	2,984	263
	Eastern AI .....	.....	3,120	3,120	2,652	234
Other red rockfish <sup>7</sup> .....	BS .....	259	194	194	165	14
Sharpchin/Northern .....	AI .....	6,870	5,150	5,150	4,378	386
Shortraker/rougheye .....	AI .....	1,180	885	885	753	66
Other rockfish <sup>8</sup> .....	BS .....	492	369	369	314	27
	AI .....	913	685	685	583	51
Squid .....	BSAI .....	2,620	1,970	1,970	1,675	147
Other species <sup>9</sup> .....	BSAI .....	71,500	31,360	31,360	26,656	2,352
Total .....	.....	3,139,274	2,260,113	2,000,000	1,703,677	178,862

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

<sup>2</sup> Except for pollock and 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.

<sup>3</sup> Except for pollock and the hook-and-line or pot gear allocation of sablefish, 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)). Fifteen percent of the groundfish CDQ reserve established for arrowtooth flounder and "other species" is allocated to a non-specific CDQ reserve found at § 679.31(g).

<sup>4</sup> The AFA requires that 10 percent of the annual pollock TAC be allocated as a directed fishing allowance for the CDQ sector. Then, NMFS is subtracting 5 percent of the remainder as an incidental catch allowance for pollock, which is not apportioned by season or area. The remainder of this amount is further allocated by sector as follows: inshore, 50 percent; catcher/processor, 40 percent; and motherships, 10 percent. NMFS, under regulations at § 679.20(a)(5)(i)(B), allocates zero mt of pollock for directed fishing by vessels using nonpelagic trawl gear. This action is based on Council intent to prohibit the use of nonpelagic trawl gear in the directed pollock fishery in 2000 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery.

<sup>5</sup> 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. 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)).

<sup>6</sup> "Other flatfish" includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

<sup>7</sup> "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern rockfish.

<sup>8</sup> "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye rockfish.

<sup>9</sup> "Other species" includes sculpins, sharks, skates and octopus. Forage fish, as defined at § 679.2 are not included in the "other species" category.

### Reserves and the Incidental Catch Allowance (ICA) for Pollock

Regulations at § 679.20(b)(1)(i) require that 15 percent of the TAC for each target species or species group, except for 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 2000 TAC for this species be fully allocated among the CDQ program, the ICA, 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 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 regulations do not further apportion the CDQ reserves 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 prohibited species quota (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.

Pursuant to section 206(b) of the AFA, NMFS allocates a pollock ICA of 5 percent of the pollock TAC after subtraction of the 10-percent CDQ

reserve. This allowance is based on an examination of the incidental catch of pollock in non-pollock target fisheries from 1996 through 1999. During this 4-year period, the incidental catch of pollock ranged from a low of 3 percent in 1998 to a high of about 6 percent in 1997, with a 4-year average of 5 percent.

The regulations do not designate the remainder of the non-specified reserve by species or species group, and any amount of the reserve may be reapportioned to a target species or to the "other species" category during the year, providing that such reapportionments do not result in overfishing. The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified

reserve because U.S. fishing vessels have demonstrated the capacity to harvest their full TAC allocations.

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 to an amount that is equal to the TAC minus the CDQ reserve.

TABLE 2.—APPORTIONMENT OF RESERVES TO ITAC CATEGORIES  
[All amounts are in metric tons]

Species—area or subarea	Reserve amount	Final ITAC
Atka mackerel—Western Aleutian Islands .....	2,227	27,472
Atka mackerel—Central Aleutian Islands .....	1,852	22,847
Atka mackerel—Eastern Aleutian Is. & Bering Sea subarea .....	1,230	15,170
Pacific ocean perch—Western Aleutian Islands .....	425	5,245
Pacific ocean perch—Central Aleutian Islands .....	263	3,247
Pacific ocean perch—Eastern Aleutian Islands .....	234	2,886
Pacific cod—BSAI .....	14,475	178,525
Shorthead/rougheye rockfish—Aleutian Islands .....	66	819
Sharpchin/Northern rockfish—Aleutian Islands .....	386	4,764
Greenland turbot—Bering Sea subarea .....	467	5,764
Greenland turbot—Aleutian Islands .....	230	2,839
<b>Total .....</b>	<b>21,855</b>	<b>269,578</b>

**Apportionment of Pollock TAC to Vessels Using Nonpelagic Trawl Gear**

Regulations at § 679.20(a)(5)(i)(B) authorize NMFS, in consultation with the Council, to limit the amount of pollock that may be taken in the directed fishery for pollock using nonpelagic trawl gear. In June 1998, the Council adopted management measures that, if approved by NMFS, would prohibit the use of nonpelagic trawl gear in the directed fishery for pollock and reduce specified prohibited species bycatch limits by amounts equal to anticipated savings in bycatch or bycatch mortality that would be expected from this prohibition. These measures could be effective by mid-2000. Therefore, NMFS allocates zero mt of pollock to non-pelagic trawl gear.

**Pollock Allocations Under the AFA**

Section 206(a) of the AFA requires the allocation of 10 percent of the BSAI pollock TAC as a directed fishing allowance to the CDQ program. The remainder of the BSAI pollock TAC, after the subtraction of an allowance for the incidental catch of pollock by vessels, including CDQ vessels, harvesting other groundfish species, must be allocated as follows: 50 percent to catcher vessels harvesting pollock for processing by the inshore component, 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component, and 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component. These amounts are listed in Table 3.

The AFA also contains several specific requirements concerning pollock and pollock allocations. First,

paragraph 210(c) of the AFA requires that not less than 8.5 percent of the pollock allocated to vessels for processing by offshore catcher/processors be available for harvest by offshore catcher vessels listed in section 208(b) harvesting pollock for processing by offshore catcher/processors listed in paragraph 208(e). Second, paragraph 208(e)(21) of the AFA specifies that catcher/processors eligible to fish for pollock under such paragraph are prohibited from harvesting in the aggregate a total of more than one-half of a percent (0.5) of the pollock allocated to vessels for processing by offshore catcher/processors. Other provisions of the AFA, including inshore pollock cooperative allocations, AFA catcher vessel harvest limitations, and excessive harvest and processing shares as well as their rationale are described in the emergency interim rule that implements the AFA (65 FR 4520; January 28, 2000). Table 3 lists the 2000 allocations of pollock TAC as described by the AFA.

**Implementation of Steller Sea Lion Conservation Measures**

In an emergency interim rule published January 25, 2000 (65 FR 3892), NMFS implemented revised final reasonable and prudent alternatives (RFRPAs) to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. The emergency interim rule implements three types of management measures for the pollock fisheries of the BSAI and GOA: (1) Measures to temporally disperse fishing effort, (2) measures to spatially disperse fishing

effort, and (3) measures to provide sufficient protection from competition with pollock fisheries for prey in waters immediately adjacent to rookeries and important haulouts.

The emergency rule established a Steller Sea Lion Conservation Area (SCA) to facilitate regulation of total removals of pollock in an area considered to be critical to the recovery of the endangered western population of Steller sea lions. This area was referred to as the Critical Habitat/Catcher Vessel Operational Area (CH/CVOA) in previous emergency rulemaking and in the 1999 specifications. The emergency rule restricts pollock harvests within the SCA to a percentage of each sector's seasonal allocation as recommended by the Council. The seasonal apportionments and SCA limits described in Table 3 are consistent with the requirements of the RFRPAs in order to avoid jeopardy and adverse modification of critical habitat.

Additionally, directed fishing for pollock is prohibited within the Aleutian Islands subarea. The amounts of pollock specified are for incidental catch only. NMFS determined that this region is especially sensitive to the recovery of the western population of Steller sea lions because of the significant reductions in the population over the past 20 years. The emergency rule also implements fishing closures or partial closures for 25 sites in the Bering Sea subarea. These fishing closures alleviate competition for pollock prey resources in critical foraging areas around Steller sea lion rookeries and haulouts.

NMFS has concluded that these harvest specifications are not an irreversible or irretrievable commitment

of resources that has the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives that might be developed as part of the biological opinion that is currently under development for the BSAI and GOA groundfish fishery management plans. This conclusion is based on the best scientific and commercial data available on population dynamics, fish stock dynamics, fishery management measures, the population dynamics of groundfish stocks in the Aleutian Islands, Bering Sea, and Gulf of Alaska, and interactions between these fisheries and the endangered western population of Steller sea lions. In reaching the conclusion that the year 2000 groundfish fisheries in the BSAI and GOA can proceed as approved at the levels contained in the final harvest specifications for the BSAI and GOA, and as dictated by the groundfish FMPs for the BSAI and GOA, we considered factors pertinent to section 7(d) of the ESA.

Our concerns about the effect of these groundfish fisheries on the Steller sea lions' likelihood of survival and recovery in the wild has resulted from apparent competition between some of the fisheries and sea lions when and where sea lions forage. The total number or biomass of the groundfish species (*e.g.*, pollock, Pacific cod, Atka mackerel, and flatfish) has not been, and does not appear to be, an issue with these fish stocks: the high recruitment rates, relatively short life-histories, and

migratory patterns of these species throughout the BSAI and GOA should allow these species to recover relatively quickly. The substantial basis for this assumption comes from the scientific literature on sustainable harvest rates (*e.g.*, Beddington and Cooke, 1983; Clarke, 1991; Sissenwine and Shepard, 1987). The issue is whether the way these fisheries are managed allows the fish stocks to recover and become available again to foraging Steller sea lions before the fishery can compete with the sea lions.

The spatial and temporal distribution of the groundfish fisheries, as opposed to the allowable catch, has been the essence of our concern for Steller sea lions, which was also expressed by the National Research Council in its 1996 review of these issues in the Bering Sea (National Research Council, Committee on the Bering Sea Ecosystem: The Bering Sea Ecosystem, 1996). The need for spatial and temporal distribution has also been the foundation for our development and implementation of management measures that avoid competition between the fisheries and foraging Steller sea lions.

The TAC-setting process, specified in the FMPs, is very conservative with respect to harvest rate by internationally accepted scientific standards (*e.g.*, Precautionary Approach to Capture Fisheries and Species Introductions, FAO, 1996; Code of Conduct for Responsible Fisheries, FAO, 1995). Harvesting of the TACs established by this process is not expected to deplete

groundfish resources. Conducting a fishery in 2000 should not irreversibly or irretrievably alter the ability of these groundfish species to recover from the proposed harvest. A fishery in 2000 would not alter recruitment rates for any of these species and it would not alter their ability to redistribute throughout the area of concern in a way that would reduce their availability for foraging Steller sea lions. While the biological opinion will examine the TAC setting process, we do not believe that the 2000 TAC specifications will threaten the survival and recovery of Steller sea lions or diminish the value of designated critical habitat for sea lions. Groundfish species should be able to recover quickly enough after the 2000 harvest to effect reasonable and prudent alternatives that avoid the likelihood of jeopardizing Steller sea lions or adversely modifying critical habitat designated for them.

The conduct of this fishery, therefore, would not foreclose any of our options to develop and implement reasonable and prudent alternatives that avoid the likelihood of jeopardizing the sea lions. We intend to complete the comprehensive biological opinion, which will evaluate all activities that govern the groundfish fisheries authorized and managed under the current fishery management plans, prior to the start of the 2001 fisheries. These same activities are also being evaluated in the programmatic supplemental environmental impact statement that we currently are drafting.

TABLE 3.—ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS <sup>1</sup>

[All amounts are in metric tons]

Area and sector	2000 DFA	A/B Season			C/D Season <sup>2</sup>		
		A/B DFA	A SCA limit	B SCA Limit	C/D DFA	C SCA Limit	D SCA Limit
Bering Sea subarea	1,139,000	440,794	166,751	55,497	646,951	48,210	80,142
CDQ .....	113,900	45,560	28,247	9,339	68,340	9,567	15,718
ICA <sup>3</sup> .....	51,257	.....	.....	.....	.....	.....	.....
AFA Inshore .....	486,922	194,769	81,802	27,267	292,153	39,440	65,734
AFA C/Ps <sup>4</sup> .....	389,537	155,815	38,564	12,854	233,722	0	0
Catch by C/Ps .....	356,426	142,570	.....	.....	213,855	.....	.....
Catch by CVs <sup>4</sup> .....	33,111	13,245	.....	.....	19,867	.....	.....
Restricted C/P cap <sup>5</sup> .....	1,848	779	.....	.....	1,069	.....	.....
AFA Motherships .....	97,384	38,954	14,607	4,869	58,430	0	0
Excessive shares cap <sup>6</sup> .....	170,442	.....	.....	.....	.....	.....	.....
Aleutian Islands							
ICA <sup>7</sup> .....	2,000	.....	.....	.....	.....	.....	.....
Bogoslof District							
ICA <sup>7</sup> .....	1,000	.....	.....	.....	.....	.....	.....

<sup>1</sup> After subtraction for the CDQ reserve and the incidental catch allowance, the pollock TAC is allocated as follows: inshore component—50 percent, catcher/processor component—40 percent, and mothership component—10 percent. Under paragraph 206(a) of the AFA, the CDQ reserve for pollock is 10 percent. NMFS, under regulations at § 679.20(a)(5)(i)(B), allocates zero mt of pollock to nonpelagic trawl gear. This action is based on Council intent to prohibit the use of nonpelagic trawl gear in 2000 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery.

<sup>2</sup> Emergency interim regulations (65 FR 3892; January 25, 2000) for pollock in the BS subarea which specify A/B and C/D season dates and SCA limitations, expire on July 19, 2000, before the C/D season is scheduled to begin. Therefore, the C/D season is not authorized unless either the emergency interim rule is extended, or proposed and final rulemaking is completed.

<sup>3</sup> The pollock incidental catch allowance for the BS subarea is 5 percent of the TAC after subtraction of the CDQ reserve.

<sup>4</sup> 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.

<sup>5</sup> The AFA requires that vessels described in section 208(e)(21) be prohibited from exceeding a harvest amount of one-half of 1 percent of the directed fishing allowance allocated to vessels for processing by AFA catcher/processors.

<sup>6</sup> 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."

<sup>7</sup> Consistent with the revised final RPAs, the Aleutian Islands subarea and the Bogoslof District are closed to directed fishing for pollock. The amounts specified are for incidental catch amounts only, and are not apportioned by season or sector.

**Allocation of the Atka Mackerel TAC**

Due to concerns about the potential impact of the Atka mackerel fishery on Steller sea lions and their critical habitat, NMFS issued regulations that implement temporal and spatial dispersion of fishing effort in the Atka mackerel fisheries. Regulations at 50 CFR 679.20(a)(8)(ii) apportion the Atka mackerel ITAC into two equal seasonal allowances. The first allowance is made available for directed fishing from January 1 to April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season) as shown in Table 4. According to § 679.22(a)(8), fishing with trawl gear in areas defined as Steller sea lion critical habitat (see Figure 4 of 50 CFR part 226) within the

Western and Central Aleutian Islands subareas, is prohibited during each Atka mackerel season after specified percentages of the TAC are harvested within designated critical habitat areas. In 2000, the specified percentage of each seasonal allowance within critical habitat is 57 percent in the Western Aleutian Islands and 67 percent in the Central Aleutian Islands (§ 679.22(a)(8)(iii)(B)). A Steller sea lion critical habitat closure to fishing with trawl gear within an area will remain in effect until NMFS closes Atka mackerel to directed fishing within the same area. The regulations do not establish critical habitat closures based on Atka mackerel catch percentages inside critical habitat areas for the Eastern Aleutian Islands and Bering Sea subarea.

Under § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian Islands district and the Bering Sea subarea Atka mackerel ITAC may be allocated to the jig gear fleet. The Council determines the amount of this allocation annually, based on several criteria including the anticipated harvest capacity of the jig gear fleet. At its December 1999 meeting, the Council recommended that 1 percent of the Atka mackerel TAC in the Eastern Aleutian Islands district/ Bering Sea subarea be allocated to the jig gear fleet based on historic harvest capacity of the fleet. NMFS finds that this is consistent with the status of the stock and with the regulatory framework stated earlier in this document. Based on an ITAC of 15,170 mt, the jig gear allocation is 152 mt.

TABLE 4.—SEASONAL AND SPATIAL APPORTIONMENTS, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC

[All amounts are in metric tons]

Subarea and Component	TAC	CDQ re- serve	ITAC	Seasonal apportionment			
				A Season <sup>2</sup>		B Season <sup>3</sup>	
				Total	CH Limit <sup>4</sup>	Total	CH Limit <sup>4</sup>
Western Aleutian Islands .....	29,700	2,227	27,473	13,736	7,829	13,736	7,829
Central Aleutian Islands .....	24,700	1,852	22,848	11,424	7,654	11,424	7,654
Eastern AI/BS subarea <sup>5</sup> .....	16,400	1,230	15,170				
Jig (1%) <sup>6</sup> .....			152				
Other gear (99%) .....			15,018	7,509		7,509	.....
Total .....							
Total .....	70,800	5,309	65,491	32,669		32,669	

<sup>1</sup> The reserves have been released for Atka mackerel see (Table 2).

<sup>1</sup> The seasonal apportionment of Atka mackerel is 50 percent in the A season and 50 percent in the B season.

<sup>2</sup> January 1 through April 15.

<sup>3</sup> September 1 through November 1.

<sup>4</sup> Critical habitat (CH) allowance refers to the amount of each seasonal allowance that is available for fishing inside critical habitat (Figure 4 of 50 CFR part 226). In 2000, the percentage of each seasonal allowance available for fishing inside critical habitat is 57 percent in the Western AI and 67 percent in the Central AI. When these critical habitat allowances are reached, critical habitat areas will be closed to trawling until NMFS closes Atka mackerel to directed fishing within the same district.

<sup>5</sup> Eastern Aleutian Islands District and Bering Sea subarea.

<sup>6</sup> Regulations at § 679.20 (a)(8) require that up to 2 percent of the Eastern AI area ITAC be allocated to the Jig gear fleet. The amount of this allocation is 1 percent and was determined by the Council based on anticipated harvest capacity of the jig gear fleet. The jig gear allocation is not apportioned by season.

**Allocation of the Pacific Cod TAC**

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. Under § 679.20(a)(7)(b), the portion of the Pacific cod TAC allocated to trawl gear is further allocated 50 percent to catcher vessels and 50 percent to

catcher/processors. In December 1999, 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 based on the criteria set forth at § 679.20(a)(7)(iv)(B). They are intended to provide for the harvest of Pacific cod when flesh quality and market conditions are optimum and

when Pacific halibut bycatch rates are low. Table 5 lists the 2000 allocations and seasonal apportionments of the Pacific cod ITAC. 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 5.—GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC**

Gear	Percent of ITAC	Share of ITAC (mt) <sup>1</sup>	Seasonal apportionment	
			Date	Amount (mt)
Jig .....	2	3,571	Jan 1–Dec 31	3,571
Hook-and-line/pot gear .....	51	91,048	<sup>2</sup> Jan 1–Apr 30	65,000
			May 1–Aug 31	26,048
Trawl gear .....	47	83,905	Sept 1–Dec 31	83,905
Catcher vessels (50%) .....		41,953		
Catcher/processors (50%) .....		41,953		
Total .....	100	178,525		

<sup>1</sup> For Pacific cod in the BSAI, the reserve has been released (see Table 2).

<sup>2</sup> 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.

In October 1999, the Council also adopted an FMP amendment that would further allocate the hook-and-line and pot gear allocation among different sectors of the fixed gear fleet. If NMFS approves this amendment, after public notice and comment, the 2000 harvest specifications would be revised accordingly.

**Allocation of the Shortraker and Rougheye Rockfish TAC**

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. Based on a 2000 ITAC of 819 mt, the trawl allocation would be 573 mt and the non-trawl allocation would be 246 mt.

**Sablefish Gear Allocation**

Regulations at § 679.20(a)(4) (iii) and (iv) require that sablefish TACs for the BSAI subareas be allocated between trawl and hook-and-line or pot gear types. Gear allocations of TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line/pot gear and for the Aleutian

Islands subarea, 25 percent for trawl gear, 75 percent for hook-and-line/pot gear. Regulations at § 679.20(b)(1)(iii)(B) require that 20 percent of the hook-and-line and pot gear allocation of sablefish be reserved as sablefish CDQ. Additionally, regulations at § 679.20(b)(iii)(A) require that 7.5 percent of the trawl gear allocation of sablefish (one half of the reserve) be reserved as groundfish CDQ. Gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 6.

**TABLE 6.—GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TAC**

[All amounts are in metric tons]

Subarea and Gear	Percent of TAC	Share of TAC	ITAC <sup>1</sup>	CDQ reserve
<b>Bering Sea</b>				
Trawl <sup>2</sup> .....	50	735	624	55
Hook-&-line/pot gear <sup>3</sup> .....	50	735	N/A	147
Total .....	100	1,470	624	202
<b>Aleutian Islands</b>				
Trawl <sup>2</sup> .....	25	607	515	45
Hook-&-line/pot gear <sup>3</sup> .....	75	1,823	N/A	364
Total .....	100	2,430	515	409

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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

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

The criteria for determining the PSC limits for red king crab in zone 1 are set forth at § 679.21(e)(1)(ii). For 2000, the PSC limit of red king crab in Zone 1 for trawl vessels is 100,000 animals. The number of mature female red king crab was estimated in 1999 to be above the threshold of 8.4 million animals, and the effective spawning biomass is estimated to be 47.1 million pounds (21,364 mt), which is less than the 55 million pound (24,948 mt) threshold level. Based on the criteria set out at § 679.21(e)(1)(ii)(B), the limit is 100,000 animals.

The criteria for determining the PSC limits for *C. bairdi* crabs are set forth in § 679.21(e)(1)(iii). The 2000 *C. bairdi* PSC limit for trawl gear is 900,000 animals in Zone 1 and 2,550,000 animals in Zone 2. These limits are based on survey data from 1999. In Zone 1, *C. bairdi* abundance was estimated to be greater than 270 million and less than 400 million animals. In Zone 2, *C. bairdi* abundance was estimated to be greater than 290 million animals and less than 400 million animals.

Under § 679.21(e)(1)(iv), the PSC limit for *C. opilio* is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* PSC limit is set at 0.1133 percent of the Bering Sea abundance index, with a minimum PSC of 4.5 million animals and a maximum PSC of 13 million animals. Based on the 1999 survey estimate of 1.4 billion animals, the calculated limit would be 1,586,000 animals. Because this limit falls below the minimum level of 4.5 million, under § 679.21(e)(1)(iv)(B), the 2000 *C. opilio* PSC limit is 4.5 million animals.

Under § 679.21(e)(1)(vi), 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. NMFS' best estimate of 2000 herring biomass is 185,300 mt. This amount was derived using 1999 survey data and an age-structured biomass projection model developed by the

Alaska Department of Fish and Game (ADF&G). Therefore, the herring PSC limit for 2000 is 1,853 mt.

Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for crab and halibut is reserved as a PSQ reserve for use by the groundfish CDQ program. Regulations at § 679.21(e)(3) require 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 non-trawl halibut PSC limit among five fishery categories. The fishery bycatch allowances for the trawl and non-trawl fisheries are listed in Table 7.

Regulations at § 679.21(e)(3)(ii)(B) establish criteria by which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/"other flatfish" fishery category and must be based on the need to optimize the groundfish harvest relative to red king crab bycatch. The Council recommended and NMFS is approving a red king crab bycatch limit of 35 percent within the RKCSS in order to maximize the harvest of groundfish relative to red king crab bycatch.

Regulations at § 679.21(e)(4)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, NMFS after consultation with the Council, is exempting pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because these fisheries use selective gear types that take few halibut compared to other gear types such as nonpelagic trawl. In 1999, total groundfish catch for the pot gear fishery in the BSAI was approximately 17,082 mt with an associated halibut bycatch mortality of about 3 mt. The 1999 groundfish jig gear fishery harvested about 172 mt of groundfish. Most 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, observer data are not available on halibut bycatch in the jig gear fishery. However, NMFS assumes a negligible amount of halibut bycatch mortality because of the selective nature of this gear type and the likelihood that halibut caught with jig gear have a high survival rate when released.

As in past years, the Council recommended that the sablefish IFQ fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (subpart D of 50 CFR part 679). The sablefish 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. NMFS is approving the Council's recommendation. This action results in less halibut discard in the sablefish fishery. In 1995, about 36 mt of halibut discard mortality was estimated for the sablefish IFQ fishery. A similar estimate for 1996 through 1999 has not been calculated, but NMFS has no information indicating that it would be significantly different.

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. At its December meeting, the Council's AP recommended seasonal PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based upon the above factors. NMFS is approving the PSC apportionments specified in Table 7.

The trawl PSC limits for Pacific halibut and crab are subject to change in 2000 pending approval by NMFS of a proposed prohibition of non-pelagic trawl gear in the BSAI directed pollock fishery and associated downward adjustments to the halibut and crab PSC limits. A proposed rule implementing these adjustments was published December 29, 1999 (64 FR 73003). Under the proposed rule, the 2000 halibut and crab PSC limits for the BSAI trawl fisheries would be as follows: Halibut, 3,675 mt; Zone 1 red king crab, 97,000 animals; *C. opilio*, 4,350,000 animals; *C. bairdi* Zone 1, 830,000; and

C. bairdi Zone 2, 2,520,000 animals. If approved by NMFS, these PSC limits would be established as part of the final rule implementing the non-pelagic trawl prohibition and the 2000 PSC specifications would be amended accordingly.

TABLE 7.—PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES<sup>1</sup>  
[All amounts are in metric tons]

	Prohibited Species and Zone					
	Halibut mortality (mt) BSA <sup>2</sup>	Herring (mt) BSAI	Red King Crab (animals) Zone <sup>1,2</sup>	C. opilio (animals) COBLZ <sup>2,3</sup>	C. bairdi (animals) <sup>2</sup>	
					Zone 1	Zone 2
<b>TRAWL FISHERIES</b>						
Yellowfin sole .....	910	169	12,015	2,975,771	295,708	1,532,715
January 20–March 31 .....	269					
April 1–May 20 .....	201					
May 21–July 3 .....	50					
July 4–December 31 .....	390					
Rocksole/oth.flat/flat sole <sup>4</sup> .....	800	24	43,392	899,932	316,780	510,905
January 20–March 31 .....	460					
April 1–July 3 .....	168					
July 4–December 31 .....	172					
Turbot/sablefish/arrowtooth <sup>5</sup> .....		11		42,458		
Rockfish (July 4–December 31) <sup>6</sup> .....	71	9		42,458		10,143
Pacific cod .....	1,473	24	12,016	127,789	158,587	279,041
Pollock/Atka/other <sup>7</sup> .....	238	1,616	1,711	74,092	15,175	25,946
RKC savings subarea <sup>4</sup> .....			23,366			
<b>Total Trawl PSC .....</b>	<b>3,492</b>	<b>1,853</b>	<b>92,500</b>	<b>4,162,500</b>	<b>786,250</b>	<b>2,358,750</b>
<b>NON-TRAWL FISHERIES</b>						
Pacific cod—Total .....	748					
Jan. 1–April 30 <sup>8</sup> .....	457					
May 1–August 31 .....	0					
Sept. 1–Dec. 31 .....	291					
Other non-trawl Total .....	84					
May 1–December 31 .....	84					
Groundfish pot & jig .....	Exempt					
Sablefish hook-&-line .....	Exempt					
<b>Total Non-Trawl .....</b>	<b>833</b>					
PSQ Reserve <sup>9</sup> .....	351		7,500	337,500	63,750	191,250
<b>Grand Total .....</b>	<b>4,675</b>	<b>1,853</b>	<b>100,000</b>	<b>4,500,000</b>	<b>850,000</b>	<b>2,550,000</b>

<sup>1</sup> Refer to § 679.2 for definitions of areas.  
<sup>2</sup> On December 29, 1999, NMFS published a proposed rule in the Federal Register (64 FR 73003), that if adopted, would reduce the overall PSC limits by the following amounts: halibut mortality 100 mt, red king crabs 3,000 animals, C. bairdi crabs 50,000 animals, and C. opilio crabs 150,000 animals. NMFS would implement these reductions in the final rule.  
<sup>3</sup> C. opilio Bycatch Limitation Zone. Boundaries are defined at § 679.21 (e)(7)(iv)(B).  
<sup>4</sup> The Council, at its December 1999 meeting, limited red king crab for trawl fisheries within the 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)).  
<sup>5</sup> Greenland turbot, arrowtooth flounder, and sablefish fishery category.  
<sup>6</sup> The Council, at its December 1999 meeting, apportioned the rockfish PSC amounts from July 4–December 31, to prevent fishing for rockfish before July 4, 2000.  
<sup>7</sup> Pollock, Atka mackerel, and "other species fishery category."  
<sup>8</sup> Any unused halibut PSC from the first trimester may be rolled over into the third trimester.  
<sup>9</sup> 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.

To monitor halibut bycatch mortality allowances and apportionments, the Administrator, Alaska Region, NMFS (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, and NMFS concurs, that the assumed halibut mortality rates developed by staff of the International Pacific Halibut Commission (IPHC) for the 2000 BSAI groundfish fisheries, and set forth in Table 8, be adopted for purposes of monitoring halibut bycatch allowances established for 2000. The justification for these mortality rates is discussed in

the final SAFE report dated November 1999.

TABLE 8.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES

Fishery	Assumed mortality (percent)
Hook-and-line gear fisheries:	
Rockfish .....	28
Pacific cod .....	11

TABLE 8.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES—Continued

Fishery	Assumed mortality (percent)
Greenland turbot .....	20
Sablefish .....	23
Other Species .....	11
Trawl gear fisheries:	
Midwater pollock .....	87
Non-pelagic pollock .....	76
Yellowfin sole .....	81
Rock sole .....	79
Flathead sole .....	64
Other flatfish .....	75
Rockfish .....	64
Pacific cod .....	66
Atka mackerel .....	81
Greenland turbot .....	81
Sablefish .....	23
Other species .....	66
Pot gear fisheries:	
Pacific cod .....	9
Other species .....	9
CDQ fisheries:	
Trawl midwater pollock .....	90
Trawl non-pelagic pollock .....	90
Hook-and-line Pacific cod .....	10

### Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This rule's primary management measures are to announce final 2000 harvest specifications and prohibited species bycatch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2000 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. This action affects all fishermen who participate in the BSAI fishery. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

### Response to Comments

NMFS received one letter commenting on the 2000 specifications. This comment contained multiple issues that are paraphrased and responded to separately in the following text.

*Comment 1.* NMFS did not follow specified procedures in its regulations for promulgating the annual harvest specifications. Specifically, NMFS

proposes 2000 harvest specifications based on a "roll over" from the year previous that are merely a place holder to start the fishery, implements interim specifications on the "roll over" TACs without prior notice and comment, and has failed to promulgate final harvest specifications before the start of the 2000 calendar year. The process is convoluted, promotes distrust in the government, and violates the law.

*Response.* The ABC and TAC for each species are based on the best available biological and socioeconomic information. The Council, its AP, and its SSC review current biological information about the condition of groundfish stocks in the BSAI at their October and December meetings. This information is compiled by the Council's BSAI Groundfish Plan Team and is presented in the proposed SAFE report for both groundfish FMPs in September and in a final SAFE report in November.

Regulations at § 679.20(c) require NMFS to publish the proposed harvest specifications "as soon as practicable after consultation with the Council \* \* \*. The proposed specifications will reflect as accurately as possible the projected changes in U.S. harvesting and processing capacity and the extent to which U.S. harvesting and processing will occur during the coming year." On December 13, 1999, NMFS published the proposed specifications in the **Federal Register** (64 FR 69464). These specifications were based on the best available scientific information after consultation with the Council in October 1999. NMFS acknowledges that these were the same specifications as established for 1999. Although new surveys had been performed in 1999, the stock assessment data had not been analyzed and no new information was available which indicated any of the target species ABC should be changed for conservation reasons.

NMFS published interim TAC specifications and PSC limits to authorize the fisheries from January 1 until they are superseded by the final specifications. The implementing regulations at § 679.20(c)(2) authorize one-fourth of each proposed initial Total Allowable Catch (ITAC) and apportionment thereof, one-fourth of each PSC allowance, and the first seasonal allowance of pollock (and Atka mackerel in the BSAI) to be in effect on January 1 on an interim basis and to remain in effect until superseded by final specifications. NMFS published the interim specifications for the BSAI and Gulf of Alaska (GOA) groundfish fisheries in the **Federal Register** on

January 3, 2000 (65 FR 60 and 65 FR 65, respectively).

The Council recommended final groundfish harvest specifications to NMFS in mid-December 1999 that were based on the new information contained in the November, 1999 SAFE report and based on the best available scientific information. Unfortunately that information was not available in time for NMFS to complete a notice-and-comment rulemaking before January as the commenter suggested. NMFS must publish proposed specifications earlier than the final SAFE report becomes available. Therefore, NMFS relies on the best information available at the time of the proposed specifications. Although the existing procedures condense the annual harvest specification process into a short period of time at the end of the year, the procedures include multiple Plan Team meetings open to the public and multiple Council meetings in which public comment is solicited, and provide adequate opportunity for the public to comment and participate effectively.

NMFS agrees that the process should be improved and has already spent considerable time exploring different options including changing the calendar dates of the fishing year or creating a framework process which would not require proposed or interim rulemaking. NMFS plans to explore other options for the development of a new process, in consultation with the Council, as soon as practicable.

*Comment 2.* The proposed annual harvest specifications are based on the default harvest control rule set forth in Amendments 56/56 to the fishery management plans for the BSAI and GOA groundfish fisheries. These amendments violate national standard 1 and other overfishing provisions of the Magnuson-Stevens Act by allowing stocks that have declined below the biomass consistent with maximum sustainable yield (MSY) to remain indefinitely at the depleted biomass level. Furthermore, the agency must set the minimum stock size threshold (MSST) equal to the stock size consistent with maximum sustainable yield, so as to achieve the long-term optimum yield. Because the annual harvest specifications do not reflect any MSST the agency should withdraw the proposed specifications.

*Response.* NMFS disagrees that promulgation of the proposed harvest specifications violated national standard 1 or other provisions of the Magnuson-Stevens Act. The control rules set forth in Amendments 56/56 (64 FR 10952; March 8, 1999) define OFL and constrain ABC for stocks managed

under the fishery management plans for BSAI and GOA groundfish. In approving Amendments 56/56, NMFS considered public comments submitted on the proposed amendments and determined that these control rules are in compliance with national standard 1 and all other provisions of the Magnuson-Stevens Act. Comment 2 appears to presume that harvest control rules can, by themselves, force stock biomass to increase. In fact, harvest control rules are rules used to control harvest, not biomass. All harvest control rules "allow" a depleted stock to remain at a low abundance level indefinitely, because no harvest control rule can control the size of incoming year classes. However, the control rules adopted in Amendments 56/56 are explicitly designed to be precautionary, especially in the context of managing stocks whose biomass have fallen below reference levels.

For a stock that has been identified as overfished, the definition of optimum yield contained in section 3(28) of the Magnuson-Stevens Act states that the rebuilding target should be "a level consistent with producing the maximum sustainable yield." The question then becomes whether the rebuilding target, the biomass level to which a stock must be rebuilt once the stock is identified as being overfished, must equal the MSST, the biomass level at which a stock is identified as being overfished in the first place. The question is answered by the statutory definition of optimum yield (OY), which clearly allows OY to be set as high as the MSY unless relevant economic, social, or ecological factors warrant a lower level. If the law allows OY to be set as high as MSY in some cases, then setting an MSST equal to the MSY level would mean that natural variability alone will cause such stocks to be identified as "overfished" approximately 50-percent of the time even if OY were achieved exactly each year. National standard 1 reflects Congress' belief that it is possible to prevent overfishing while achieving OY. Equating MSST to the MSY level would imply the exact opposite.

Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish fishery management plans is being subjected to an inappropriate harvest rate, and that no stock managed under these fishery management plans is overfished (*C. bairdi* tanner crab, *C. opilio* snow crab, and St. Matthew blue king crab are considered overfished under a separate fishery management plan). The annual specifications reflect the correct use of MSSTs and NMFS

finds no reason to prepare new specifications.

*Comment 3.* Even if the agency's current interpretation of national standard 1 is accepted and MSSTs do not have to be set at MSY stock sizes, the proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the specifications do not identify MSSTs at all for individual stocks.

*Response.* NMFS disagrees. Every stock managed under Tiers 1–3 of the BSAI and GOA groundfish fishery management plans was evaluated with respect to its MSST in the most recent SAFE report dated November 1999. NMFS believes the proposed harvest specifications are consistent with the Magnuson-Stevens Act and the National Standard Guidelines, neither of which requires that MSSTs be identified in the final TAC specifications themselves. MSSTs are used in the process of developing the final TAC specifications and the TAC specifications use harvest control rules that are demonstrably related to the MSY-based management required by the Magnuson-Stevens Act. The control rules used to define overfishing level (OFL) and the maximum permissible ABC restrict fishing at all stock sizes, not just at stock sizes below 5-percent of the MSY level. Not only is fishing restricted at all stock sizes, it is restricted in a conservative manner. Furthermore, in the event that a stock declines below its  $B_{MSY}$  level (Tiers 1–2) or  $B_{40\%}$  (Tier 3), the level of conservatism increases directly with the magnitude of the decline.

*Comment 4.* Rather than identifying MSY and OY for individual fish stocks, as required by the Magnuson-Stevens Act, the BSAI and GOA groundfish fishery management plans manage stocks through default rules that are not related to MSY-based management. Because this management system is incompatible with the Magnuson-Stevens Act, NMFS must disapprove the proposed annual harvest specifications.

*Response.* NMFS disagrees. The Magnuson-Stevens Act does not require that MSY and OY be identified for individual fish stocks. The Magnuson-Stevens Act does require (section 303(a)(3)) that each FMP "assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery \* \* \*," where "fishery" is defined (section (3)(13)) as "(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical,

recreational, and economic characteristics; and (B) any fishing for such stocks."

A good estimate of the MSY for all stocks combined is not necessarily provided if MSY is determined for a single stock without regard to the effect that such fishing may have on other stocks. If, instead, MSY is determined for a stock assemblage with due regard to the effect that fishing on individual stocks may have on the other members of the assemblage, then it is irrelevant whether all of the individual stocks are simultaneously producing their individual MSYs. Such an "assemblage" MSY will necessarily be associated with an equilibrium level of abundance for each of the component stocks, and these abundance levels would inform the fishery manager as to whether individual stocks are being over-or underfished.

Further, the control rules specified in the BSAI and GOA groundfish fishery management plans are expressly related to MSY based management. In Tiers 1 and 2, all of the reference points are defined in terms of MSY. In Tiers 3 through 6, proxies for MSY-related reference points are based on the scientific literature, the National Standard Guidelines, and the Technical Guidance report. In approving Amendment 56/56, NMFS has already determined that use of the present control rules does not violate the Magnuson-Stevens Act. NMFS believes that it has fully complied with the Magnuson-Stevens Act and that the proposed groundfish harvest specifications should not be disapproved.

*Comment 5.* The proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the OYs established for the groundfish fisheries do not take into account ecological factors and the protection of marine ecosystems in setting the annual TAC. To obey the statute, NMFS must identify the economic, social, and ecological factors relevant to a fishery, then evaluate them to determine the amount by which OY should be reduced below MSY. Because the proposed specifications do not document any consideration by NMFS of these factors in setting the TACs for the fisheries, the TACs should be reevaluated to consider these factors and modified if appropriate.

*Response.* The requirement to consider any relevant economic, social, or ecological factor in specifying OY has been in place since the Council adopted and NMFS approved Amendment 1 to the BSAI groundfish fishery

management plan and Amendment 15 to the GOA groundfish fishery management plan (1981 and 1984, respectively). In approving these amendments, NMFS determined that any relevant economic, social, or ecological factors had been duly considered in specifying OY.

Amendment 1 to the Bering Sea groundfish fishery management plan established the 1.4 to 2.0 million mt OY range. The amendment states that, "The groundfish complex and its fishery are a distinct management unit of the Bering Sea \* \* \*. This complex forms a large subsystem of the Bering Sea ecosystem with intricate interrelationships between predators and prey, between competitors, and between those species and their environment. Therefore, the productivity and MSY of groundfish should be conceived for the groundfish complex as a unit rather than for many individual species groups." When recommending the OY level, the Council considered the results of ecosystem simulations that included numerous ecosystem components (e.g., mammals, birds, demersal fish, semi-demersal fish, pelagic fish, squid, crabs, benthos). The model considered their fluctuations in abundance caused by predation, natural mortality, environmental anomalies, and fishing. The simulations showed that the minimum sustainable exploitable biomass may have been higher than 2.0 million mt.

Under Amendment 15 to the GOA groundfish fishery management plan, the GOA OY is specified also as a range, 116,000–800,000 mt. The lower end of the GOA OY range is equal to the lowest historical groundfish catch during the 21-year period 1965–1985. The upper end of the range is approximately equal to 97-percent of the mean MSY from the years 1983–1987.

In addition, in 1989 the Council began including a separate ecosystem consideration section in the annual SAFE document. In 1993 this section was expanded and devoted to both marine mammals and ecosystem consideration. In 1994, this section was expanded into a separate chapter of the SAFE and entitled "Ecosystem Considerations." NMFS further expanded the ecological advice given for the 2000 specification process by enhancing the document to include status and trend information on key ecosystem components in the BSAI and the GOA.

Recent examples of inclusion of ecosystem considerations in the 2000 SAFE Report are provided by the pollock and Atka mackerel chapters.

The pollock chapter was modified to include a spatial and temporal analysis of the pollock fishery to facilitate discussion of its possible effects on Steller sea lions. The Atka mackerel chapter authors, adhering to advice supplied by Congress' Ecosystem Principles Advisory Panel and recognizing the importance of this species in the diet of Steller sea lions, explored alternative harvest strategies to determine an ABC that, in their view, was consistent with the Panel's advocated precautionary approach.

This information is used to identify stocks or ecosystem elements that may be at risk. The SSC uses this information to recommend adjustments to harvest strategies and alternative management measures in order to protect the marine environment. Furthermore, the EA accompanying the specifications outlines the impacts of fishing on the environment and describes mitigation measures incorporated in the specifications. NMFS believes that it has evaluated the marine environment using the best available scientific information and does not believe that the specifications should be reevaluated.

*Comment 6.* The annual harvest specifications allow overfishing to continue on overfished crab stocks because the proposed specifications promulgate a "roll over" from the 1999 harvest specifications.

*Response.* Overfishing is defined as any rate of fishing mortality in excess of the maximum fishing mortality threshold. Three Bering Sea crab stocks have been declared overfished: Bering Sea Tanner crab, Bering Sea Snow crab, and St. Matthews Blue King crab. All other crab FMP stocks are not overfished or their status is unknown. Overfishing is not occurring for any Bering Sea crab stock that has been declared overfished. The maximum fishing mortality rate (MFMT) for all species of King crab is 0.2 and for all *Chionoectes* species (including Tanner and Snow crab) the MFMT is 0.3. The St. Matthews Island Blue King crab and Eastern Bering Sea Tanner crab stocks are closed to directed commercial fishing. The current PSC limits on Bering Sea Tanner crab are 0.005 multiplied by the most recent survey abundance (numbers) with a cap of 1,000,000 crab in Zone 1 and 0.012 times the most recent survey abundance (numbers) with a cap of 3,000,000 crab in Zone 2. These bycatch caps are far below the maximum fishing mortality rate that defines overfishing. The 2000 guideline harvest level (GHL) for Snow crab is 28.5 million pounds or 10-percent of the mature biomass, which represents about 23.75 million crabs.

The 2000 PSC limit is 4.5 million Snow crab for the entire year. A harvest in excess of about three times the 2000 GHL, or about 71.25 million crabs, would constitute overfishing. The 2000 GHL plus the PSC limit is about 28.25 million crab, well below the overfishing level. Furthermore, the actual catch levels in Zones 1 and 2 are well below the caps.

It is true that NMFS proposed to "roll over" the 1999 PSC levels for the year 2000. However, it is incorrect to conclude that the action fails to recognize that many crab stocks are overfished or approaching an overfished condition. NMFS recognized that it is unlikely that the "roll over" would result in overfishing of any crab stock.

*Comment 7.* NMFS prepared an EA for this action that specifically "tiers off" the legally inadequate discussion of impacts and alternatives of the 1998 Supplemental Environmental Impact Statement (SEIS). Furthermore, the existence of a previous programmatic EIS does not eliminate the requirement to prepare another, action-specific EIS, if the impacts of the specific action are significant. The 2000 TAC specification have potentially significant environmental impacts that must be addressed in an EIS and an EA is therefore inadequate.

*Response.* NMFS recognizes that in a July 8, 1999 order, amended on July 13, 1999, the Court in *Greenpeace v. NMFS*, Civ No. 98–0492 (W.D. Wash.) held that the 1998 SEIS did not adequately address aspects of the GOA and BSAI groundfish fishery management plans other than TAC setting, and therefore was insufficient in scope under the National Environmental Policy Act. In response to the Court's order, NMFS is currently preparing a programmatic SEIS for the GOA and BSAI groundfish fishery management plans.

Notwithstanding the less expansive scope of the 1998 SEIS, NMFS believes that the discussion and analysis of impacts and alternatives in the 1998 SEIS—which focused on the issue of TAC setting—is directly applicable to the EA prepared in support of this action—the setting of TACs for the 2000 fishery. Consequently, the EA adopts the discussion and analysis in the 1998 SEIS.

Finally, NMFS believes that the 1998 SEIS' extensive discussion and analysis of the environmental impacts associated with various levels of TACs, coupled with the EA's additional discussion, provides ample support for its determination that the 2000 specifications will not have significant environmental impacts.

*Comment 8.* The Magnuson-Stevens Act requires that conservation and management measures contained in fishery management plans shall, to the extent practicable, minimize bycatch and the mortality of bycatch that cannot be avoided. The annual harvest specifications fail to take any steps to minimize bycatch and must contain a full analysis of bycatch minimization, must minimize bycatch to the extent practicable, and must establish an adequate standardized bycatch reporting methodology.

*Response.* NMFS disagrees that the annual harvest specifications are the proper venue for meeting statutory requirements to minimize bycatch and bycatch mortality to the extent practicable. The annual specifications rely on a framework process that does not involve changes to regulations. Changes to regulations that promote reduction in bycatch must be accomplished through separate fishery management plan amendments and/or regulatory amendments and are outside the scope of the 2000 harvest specifications. The annual harvest specifications do implement existing regulations intended to limit or reduce prohibited species incidental catch in that annual prohibited species limits and seasonal fishery bycatch allowances are specified with the intent to optimize the amount of groundfish harvest relative to available incidental catch constraints.

*Comment 9.* The existing groundfish fishery management plans do not comply with Magnuson-Stevens Act mandates to minimize bycatch to the extent practicable, or to minimize the mortality of bycatch that is unavoidable. Existing bycatch avoidance programs implemented prior to the passage of these mandates cannot be used to satisfy the bycatch provisions of the Magnuson-Stevens Act.

*Response.* This comment is outside the scope of the annual harvest specifications. Notwithstanding that fact, NMFS disagrees that fishery management plan measures to reduce bycatch or bycatch mortality that were implemented prior to the passage of these statutory provisions cannot be considered when assessing overall compliance of a fishery management plan with the Magnuson-Stevens Act. Further, the Council and NMFS continue to assess, develop, and implement reasonable approaches to reduce bycatch to the extent practicable. This standard is not static and will continue to support the evolution of bycatch avoidance programs as the fishery and associated management measures change.

*Comment 10.* The annual harvest specifications fail to prevent takes of endangered short-tailed albatross.

*Response.* NMFS disagrees. Regulations at § 679.24(e) and § 679.42(b)(2) contain specific seabird avoidance measures required for vessels using hook-and-line gear. Under terms of the 1999 biological opinion and incidental take statement prepared by the U.S. Fish and Wildlife Service, a take of up to four endangered short-tailed albatross is allowed during the 2-year period from 1999 through 2000 for the BSAI and GOA hook-and-line groundfish fisheries. To date, there have been no reported takes of endangered short-tailed albatross in this time period.

In February 1999, NMFS presented an analysis on seabird mitigation measures to the Council that investigated possible revisions to the currently required seabird avoidance methods that could be employed by the hook-and-line fleet to further reduce the take of seabirds. The Council took final action at its April 1999 meeting to revise the existing requirements for seabird avoidance measures. These revised seabird avoidance measures are expected to be effective as soon as 2000.

#### Classification

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

Pursuant to section 7 of the Endangered Species Act, NMFS has completed a consultation on the effects of the 1999 through 2002 pollock and Atka mackerel fisheries on listed species, including the Steller sea lion, and designated critical habitat. The Biological Opinion prepared for this consultation, dated December 3, 1998, concluded that the Atka mackerel fisheries in the BSAI are not likely to jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. However, the Biological Opinion concluded that the pollock fisheries in the BSAI and the GOA would cause jeopardy and adverse modification of designated critical habitat.

The Biological Opinion, and subsequent revised documents, require that a suite of revised final RPAs be implemented to mitigate the adverse impacts of the pollock fisheries on the western population of Steller sea lions and its critical habitat. The revised final RPAs were implemented by NMFS through emergency rulemaking effective on January 20, 2000 and published in the **Federal Register** on January 25, 2000 (65 FR 3892). As discussed above,

these final specifications are consistent with the RFRPAs as required by the Biological Opinion.

NMFS also completed consultations on the effects of the 2000 BSAI groundfish fisheries on listed species, including the Steller sea lion and salmon, and on designated critical habitat. These consultations were completed on December 23, 1999, and concluded that the proposed fisheries were not likely to cause jeopardy or adverse modification to designated critical habitat. However, in an order dated January 25, 2000, the District Court for the Western District of Washington concluded that NMFS must consult pursuant to section 7 of the ESA on the fishery management plans for the groundfish fisheries of the BSAI and GOA. *Greenpeace v. NMFS*, Civ. No. 98-49ZZ (W.D. Wash.). Prior to the issuance of the court's order, NMFS had begun consultation to evaluate the cumulative effects of the BSAI and GOA groundfish fisheries over a multi-year period on candidate and listed species and critical habitat. NMFS is currently reviewing this ongoing consultation for compliance with the court's January 25, 2000 order and will continue consultation. NMFS has determined that publication of these fishery specifications will not result in an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable or prudent alternative measures which may be necessary.

A Biological Opinion on the BSAI hook-and-line groundfish fishery and the BSAI trawl groundfish fishery for the ESA listed short-tailed albatross was issued by the U.S. Fish and Wildlife Service in March 1999. The conclusion continued the no jeopardy determination and the incidental take statement expressing the requirement to immediately re-initiate consultations if incidental takes exceed four short-tailed albatross over 2 years' time (1999-2000).

NMFS has prepared a final EA for this action, which describes the impact on the human environment that would result from implementation of the final harvest specifications. In December 1998, NMFS issued a SEIS on the groundfish TAC specifications and PSC limits under the BSAI and GOA groundfish FMPs. In July 1999, the District Court for the Western District of Washington held that the 1998 SEIS did not adequately address aspects of the BSAI and GOA FMPs. Notwithstanding the deficiencies the court noted in the 1998 SEIS, NMFS believes that the discussion of impacts and alternatives in the 1998 SEIS is directly applicable

to this action. The final EA for the 2000 harvest specifications incorporates by reference the 1998 SEIS. Additionally, given the foregoing conclusions that publication of the final specifications for the 2000 Alaska groundfish fisheries will not amount to an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures for the Alaska groundfish fisheries, NMFS finds that it is unnecessary to revise, amend, or supplement the environmental assessment and "finding of no significant impact" prepared for publication of the final specifications for the 2000 fisheries.

NMFS prepared an initial regulatory flexibility analysis (IRFA) pursuant to the Regulatory Flexibility Act that describes the impact the 2000 harvest specifications may have on small entities. The IRFA considered the impacts of a range of alternative harvest levels that included no action (i.e., no harvest in 2000) and harvest levels equal to those proposed. NMFS solicited public comment on the IRFA. Although NMFS did not receive any public comments directly addressing the IRFA, NMFS and the Council have considered additional information on the fishery that became available in December. Based on that information, the Council recommended and NMFS hereby establishes final harvest specifications that have been revised from the preferred alternative identified in the proposed rule. NMFS has prepared an FRFA which analyzes the new TAC levels, recommended by the Council in December 1999, and based on updated survey and stock assessment information, for the final 2000 specifications. A copy of this analysis is available from NMFS (see ADDRESSES). This action authorizes the BSAI groundfish fisheries to continue under final specifications set at 2000 levels until the TAC is harvested or until the fishery is closed due to attainment of a PSC limit, or for other management reasons. The 2000 TACs are based on the most recent scientific information as reviewed by the Plan Teams, SSC, AP, and Council and which commented on through public testimony and comment from the October and December Council meetings and those comments sent to NMFS on the proposed specifications. This action also achieves optimum yield while preventing overfishing. Small entities would receive the maximum benefits under this alternative, in that they will be able to harvest target species and species groups at the

highest available level based on stock status and ecosystem concerns.

The six Community Development Quota (CDQ) groups are comprised of 64 small governmental jurisdictions with direct involvement in groundfish CDQ fisheries that are within the RFA definition of small entities. Based on 1998 data, NMFS estimates less than 280 small entities harvest groundfish in the BSAI.

The establishment of differing compliance or reporting requirements or timetables, and the use of performance rather than design standards, or exempting affected small entities from any part of this action would not be appropriate.

This action is necessary to establish harvest limits for the BSAI groundfish fisheries for the 2000 fishing year. The groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that require NMFS, after consultation with the Council, to publish and solicit public comments on proposed annual TACs, PSC allowances, and seasonal allowances of the TACs. No recordkeeping and reporting requirements are implemented with this final action. NMFS is not aware of any other Federal rules which duplicate, overlap or conflict with the final specifications.

This action is not subject to a 30-day delay in effectiveness because it relieves a restriction as contemplated under 5 U.S.C. 553(d)(1). This rule allows fishing to continue. Without this rule, fishermen who are already on the fishing grounds fishing on interim TAC would have to stop fishing and return to port.

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

Dated: February 14, 2000.

**Gary C. Matlock,**

*Acting 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. 000211040-0040-01; I.D. 021400E]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Bering Sea and Aleutian Islands

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

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing specified groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the prohibited species bycatch allowances and directed fishing allowances specified for the 2000 BSAI groundfish fisheries.

**DATES:** Effective February 15, 2000, through 2400 hrs, A.l.t., December 31, 2000.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear 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 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 (§ 697.20(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 the 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 2000 fishing year:

Bogoslof District: 1,000 mt  
Pollock

Aleutian Islands subarea:

Pollock: 2,000 mt

Sharpchin/northern rockfish 4,764 mt

Shorthead/rougheye rockfish 819 mt