habitat. The biological opinion prepared for this consultation, dated December 3, 1998, and revised December 16, 1998, concluded that the pollock fisheries in the BSAI and the GOA jeopardize the continued existence of Steller sea lions and adversely modify their designated critical habitat. The biological opinion contains RPAs to mitigate the adverse impacts of the pollock fisheries on Steller sea lions. Specific measures necessary to implement the RPAs were discussed at the December Council meeting and were implemented by NMFS through emergency rulemaking effective January 20, 1999 (64 FR 3437, January 22, 1999), prior to the start of the 1999 GOA pollock fishery. This final rule establishes harvest specifications in accordance with those mitigation measures as required by the RPAs on December 3, 1998, and revised on December 16, 1998, for the 1999 GOA pollock fishery. The emergency rule expires on July 19, 1999. The Council will make recommendations to NMFS on final mitigation measures for 1999 during its June meeting, and NMFS will promulgate subsequent rulemaking to implement all reasonable and prudent alternatives that NMFS determines are necessary to avoid jeopardy to the Steller sea lion and adverse modifications of its critical habitat for the remainder of the 1999 fishing year. That action may result in changes to the final specifications.

NMFS prepared an initial regulatory flexibility analysis (IRFA) pursuant to the Regulatory Flexibility Act that describes the impact the 1999 harvest specifications may have on small entities. Comments were solicited on the IRFA, however, none were received. NMFS has prepared a final regulatory flexibility analysis which analyzes the new TAC levels, this is needed because the Council has recommended new TAC amounts, based on updated survey and stock assessment information, for the final 1999 specifications. A copy of this analysis is available from NMFS (see **ADDRESSES**). Based on the number of vessels that caught groundfish in 1997, the number of fixed gear and trawl catcher vessels expected to be operating as small entities in the 1999 GOA groundfish fishery is 1,242.

NMFS analyzed a range of alternative harvest levels for the GOA. The preferred alternative would allow the GOA groundfish fisheries to continue under final specifications set at 1999 levels until the total allowable catch (TAC) is harvested or until the fishery is closed due to attainment of a PSC limit, or for other management reasons. Under the preferred alternative, the 1999 TACs would be based on the most recent scientific information as reviewed by the Plan Teams, SSC, AP, and Council and which includes public testimony and comment from the October and December Council meetings and those comments sent to NMFS on the proposed specifications. The preferred alternative also achieves OY 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 alternative that would have the greatest immediate economic benefit to small entities would set the sum of the TACs at the maximum OY level. However, this alternative would not achieve the maximum long-term benefit in that it could result in overfishing and could lead to overfished stocks. Another alternative that was analyzed, would implement the 1998 TAC amounts for 1999. This would not be based on the most recent scientific information, and was also rejected.

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.

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

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

Dated: March 5, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–6028 Filed 3–8–99; 1:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 121098D]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 1999 Harvest Specifications for Groundfish

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

ACTION: Final 1999 harvest specifications for groundfish; associated management measures; apportionment of reserves; request for comments.

SUMMARY: NMFS announces final 1999 harvest specifications and prohibited species bycatch allowances 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 for the 1999 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 (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI.

DATES: The final 1999 harvest specifications, associated management measures, and apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), March 8, 1999 through 2400 hrs, A.l.t., December 31, 1999. Comments on the apportionment of reserves must be received by March 26, 1999.

ADDRESSES: The final Environmental Assessment and Final Regulatory Flexibility Analysis prepared for the 1999 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 Salveson, Assistant Regional Administrator for the Sustainable Fisheries Division, at the same address.

The Final 1999 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 1998, 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: Shane Capron, 907–586–7228 or shane.capron@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background for the 1999 Harvest Specifications

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that implement the FMP. 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 the ''other species'' category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million mt (§ 679.20(a)(1)(i)). Regulations at § 679.20(c)(3) further require NMFS to consider public comment 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 1999, the sum of the TACs is 2 million mt. Tables 9 through 11 specify harvest limitations for the catcher/processors listed in section 208(e) (1) through (20) of the American Fisheries Act (AFA) (Division C, title II of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999: Public Law No. 105–277).

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 30, 1998 (63 FR 71867). Comments were invited and accepted through January 25, 1999. NMFS received one comment on the proposed specifications. This comment, as well as comments submitted on Amendments 51/51 regarding economic impacts of the inshore offshore allocation, are summarized and responded to in the Response to Comments section. Public consultation with the Council occurred during the December 1998 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 1999 groundfish specifications as recommended by the Council.

Regulations at § 679.20(c)(2)(ii) establish 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 A.l.t., January 1 and remain available until superseded by the final specifications. NMFS published the interim 1999 groundfish harvest specifications in the **Federal Register** on January 4, 1999 (64 FR 50). The interim TACs for pollock and Atka mackerel were revised by subsequent rulemaking effective January 20, 1999 (64 FR 3437 and 64 FR 3446, respectively). Regulations at § 679.20(c)(2)(ii) do not provide for an interim specification either for the hook-and-line and pot gear sablefish community development quota (CDQ) reserve or for sablefish managed under the Individual Fishing Quota management plan. The final 1999 groundfish harvest specifications and prohibited species bycatch allowances contained in this action supersede the interim 1999 specifications.

Acceptable Biological Catch (ABC) and TAC Specifications

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 October and December 1998 meetings. This information was compiled by the Council's Plan Team and is presented in the final 1999 SAFE report for the BSAI groundfish fisheries, dated November 1998. 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.

The ABC amounts adopted by the Council for the 1999 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 1999 overfishing and ABC amounts for each species are provided in the final 1999 SAFE report.

At its October 1998 meeting, the SSC, AP, and Council reviewed the Plan Team's preliminary recommendations for 1999 proposed ABC amounts. The preliminary ABCs for each species for 1999 and other biological data from the September 1998 draft SAFE report were provided in the discussion supporting the proposed 1999 specifications (63 FR 71867, December 30, 1998). Based on the SSC's comments concerning technical methods and on 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 1998 meetings. 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 sum of the TACs in the required optimum (OY) range of 1.4 million to 2.0 million mt. The Council utilized the AP's TAC recommendations as a starting point while also considering individual stock vulnerability and ecosystem level concerns brought forth by the Plan Team and the SSC. None of the Council's recommended TACs for 1999 exceeds the final ABC for any species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks.

Table 1 lists the 1999 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.—1999 ACCEPTABLE BIOLOGICAL CATCH (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) [1]

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC [2]	CDQ reserve [3]
Pollock [4]	Bering Sea (BS)	1,720,000	992,000	992,000	892,800	99,200
	Aleutian Islands (AI).	31,700	23,800	2,000	1,800	200

TABLE 1.—1999 ACCEPTABLE BIOLOGICAL CATCH (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) [1]—Continued

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC [2]	CDQ reserve [3]
	Bogoslof District ..	21,000	15,300	1,000	900	100
Pacific cod	BSAI	264,000	177,000	177,000	150,450	13,275
Sablefish [5]	BS	2,090	1,340	1,340	569	184
	AI	2,890	1,860	1,380	293	232
Atka mackerel	Total	148,000	73,300	66,400	56,440	4,980
	Western AI		30,700	27,000	22,950	2,025
	Central AI		25,600	22,400	19,040	1,680
	Eastern AI/BS		17,000	17,000	14,450	1,275
Yellowfin sole	BSAI	308,000	212,000	207,980	176,783	15,598
Rock sole	BSAI	444,000	309,000	120,000	102,000	9,000
Greenland turbot	Total	29,700	14,200	9,000	7,651	674
	BS		9,514	6,030	5,126	452
	AI		4,686	2,970	2,525	222
Arrowtooth flounder	BSAI	219,000	140,000	134,354	114,201	10,076
Flathead sole	BSAI	118,000	77,300	77,300	65,705	5,797
Other flatfish [6]	BSAI	248,000	154,000	154,000	130,900	11,550
Pacific ocean perch	BS	3,600	1,900	1,400	1,190	105
	AI Total	19,100	13,500	13,500	11,476	1,011
	Western AI		6,220	6,220	5,287	466
	Central AI		3,850	3,850	3,273	288
	Eastern AI		3,430	3,430	2,916	257
Other red rockfish [7]	BS	356	267	267	227	20
Sharpchin/Northern	AI	5,640	4,230	4,230	3,596	317
Shortraker/rougheye	AI	1,290	965	965	821	72
Other rockfish [8]	BS	492	369	369	314	27
	AI	913	685	685	583	51
Squid	BSAI	2,620	1,970	1,970	1,675	([9])
Other species [10]	BSAI	129,000	32,860	32,860	27,931	2,464
Total		3,719,391	2,247,846	2,000,000	1,748,305	174,933

[1] 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.

[2] 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.

[3] 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).

[4] Ten percent of the pollock TAC is allocated to the pollock CDQ fishery under paragraph 206(a) of the AFA. The pollock ITAC is equal to the TAC minus the CDQ allocation. Under authority of the AFA, NMFS is allocating 6 percent of the pollock ITAC as an incidental catch allowance (see section 206(b) of the AFA). NMFS, under regulations at § 679.20(a)(5)(i)(B), allocates zero mt of pollock to nonpelagic trawl gear. This action is based on the Council's intent to prohibit the use of nonpelagic trawl gear in 1999 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery.

[5] 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)).

[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, rougheye, sharpchin, and northern rockfish.

[8] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye rockfish.

[9] A final rule effective on January 21, 1999, was published in the FEDERAL REGISTER on January 26, 1999 (64 FR 3877) which removes squid from the CDQ program.

[10] ''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 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 1999 TAC for this species be fully allocated among the CDQ program, incidental catch allowance, and inshore, catcher/processor, and mothership directed fishery allowances.

With the exception of squid, 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 CDQ reserves are not further apportioned by gear. Regulations at § 679.21(e)(1)(i) also require that 7.5 percent of each PSC limit, with the exception of herring, be withheld as a

PSQ reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

Under section 206(b) of the AFA, NMFS is specifying a pollock incidental catch allowance of 6 percent of the pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance was determined based on an examination of the incidental catch of pollock in non-pollock target fisheries from 1994 through 1997. During this 4-year period, the incidental catch of pollock as a percentage of the TAC ranged from a low of 4.9 percent in 1996 to a high of 6.3 percent in 1997 with a 4-year average of 5.6 percent. NMFS acknowledges that the incidental catch of pollock in other fisheries declined in 1998 to about 3 percent of the TAC, possibly as a result of new mandatory retention and utilization standards for this species (§ 679.27). However, NMFS believes that a 6-percent incidental catch allowance is needed for 1999 in order to effectively manage the fishery without exceeding the overall TAC for pollock.

The Administrator, Alaska Region, NMFS (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 TAC minus CDQ reserve. A release of a portion of the pollock incidental catch allowance is discussed separately below.

TABLE 2.—APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

Species—area or subarea	Reserve amount (mt)	Final ITAC (mt)
Atka mackerel—Western Aleutian Islands	2,025	24,975
Atka mackerel—Central Aleutian Islands	1,680	20,720
Atka mackerel—Eastern Aleutian Is. & Bering Sea subarea	1,275	15,725
Pacific ocean perch—Western Aleutian Islands	466	5,753
Pacific ocean perch—Central Aleutian Islands	288	3,561
Pacific ocean perch—Eastern Aleutian Islands	257	3,173
Pacific cod—BSAI	13,275	163,725
Shortraker/rougheye rockfish—Aleutian Islands	72	893
Sharpchin/Northern rockfish—Aleutian Islands	317	3,913
Total	19,655	242,438

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. At its June 1998 meeting, 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.

At its December 1998 meeting, NMFS informed the Council that the proposed prohibition on the use of nonpelagic trawl gear in the BSAI pollock fishery will not be effective in time for the 1999 pollock A season fishery that started on January 20. Therefore, the Council recommended that none of the BSAI pollock TAC be allocated to the directed fishery for pollock with nonpelagic trawl gear. NMFS concludes that this action is necessary to reduce unnecessary bycatch of PSC and incidental catch of other groundfish species in the 1999 pollock fishery and to carry out the Council's intent for this fishery.

Pollock Allocations Under the AFA

Section 206(a) of the AFA requires that 10 percent of the BSAI pollock TAC be allocated 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, is 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.

The AFA also contains three specific requirements concerning pollock and pollock allocations. First, section 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 section 208(e). These amounts are listed in Table 3. Second, paragraph 210(e)(1) prohibits any individual, corporation, or other entity from harvesting a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery. For 1999, based on a TAC of 992,000 mt, this limit is 173,600 mt. Third, paragraph 208(e)(21) of the AFA specifies that catcher/processors qualifying to fish for pollock under this paragraph are prohibited from harvesting in the aggregate a total of more than one-half (0.5) percent of the pollock allocated to vessels for processing by offshore catcher/processors.

Implementation of Steller Sea Lion Conservation Measures

On January 22, 1999, NMFS published an emergency interim rule (64 FR 3437), implementing reasonable and prudent alternatives 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 their critical habitat. The emergency rule, effective January 20, 1999, through July 19, 1999, implements three types of management measures for the pollock fisheries in the BSAI: (1) measures to temporarily disperse fishing effort, (2) measures to spatially disperse fishing effort, and (3) pollock trawl exclusion zones around important Steller sea lion rookeries and haulouts.

The Council, as part of its emergency rule, recommended that NMFS close the entire Aleutian Islands Subarea to directed fishing for pollock and that the pollock TAC for the Aleutian Islands subarea be reduced to 2,000 mt to provide for incidental catch of pollock by vessels participating in other groundfish fisheries (see Table 1).

Emergency interim regulations at §§ 679.20(a)(5)(i)(C) and 679.23(e)(4) apportion the pollock ITAC in the BSAI for the inshore and catcher/processor sectors into four seasonal allowances as follows: A1 season, January 20 through February 15, 27.5 percent; A2 season, February 20 through April 15, 12.5 percent; B season, August 1 through September 15, 30 percent; C season, September 15 until November 1, 30 percent (see Table 3 below). The mothership sector has a combined A1-A2 seasonal allowance beginning on February 1 and ending on April 15, equal to 40 percent of the pollock allocation to this sector. The mothership B and C seasonal apportionments are equal to those of the inshore and catcher/processor sectors. The Council recommended that the CDQ pollock reserve be apportioned into two seasonal allowances: A season, January 20 through April 15, 45 percent of the CDQ reserve for pollock; B season, April 15 through December 31, 55 percent of the CDQ reserve for pollock.

Under the emergency rule, overages and underages of seasonal TAC apportionments are ''rolled over'' to subsequent fishing seasons during the same year, except that the combined fishing activities of all sectors during a fishing season may not exceed 30 percent of the annual TAC and limitations on harvest within critical habitat.

The Regional Administrator has determined that a portion of the pollock incidental catch allowance equal to 7,142 mt should be apportioned to the directed fishery in the Bering Sea subarea for the A season only. The amount of pollock apportioned in effect reduces the combined A1–A2 incidental catch allowance for pollock to 4 percent. This is required to allow for the maximum harvest of the pollock TAC within the seasonal harvest limitations of the emergency rule (64 FR 3437), which prohibits apportioning amounts of pollock into the B or C seasons that would cause any seasonal harvest to exceed 30 percent of the annual pollock TAC. Due to concerns over the unpredictability of the 1999 pollock fishery, NMFS at this time is not apportioning any of the B or C incidental catch allowances. However, NMFS may adjust these specifications if the remaining pollock incidental catch allowance appears to be in excess of anticipated catch in non-pollock groundfish fisheries and an apportionment is necessary to allow for maximum harvest of the pollock TAC. Conversely, NMFS may determine that the incidental catch allowance must be increased to fully account for the incidental catch of pollock in non-pollock directed groundfish fisheries. Any adjustments to the 1999 pollock incidental catch allowance will be accompanied under separate rulemaking that NMFS must pursue to provide for management of pollock during the B and C seasons.

The management measures contained in the emergency rule are effective through July 19, 1999. NMFS anticipates extending these provisions an additional 180 days upon recommendation by the Council with additional modifications as required by the Biological Opinion on the pollock and Atka mackerel fisheries dated December 3, 1998, and revised December 16, 1998. Consequently, these final specifications may be further amended to comport with future emergency rulemaking.

TABLE 3.—SEASONAL ALLOWANCES OF THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS [1]

[All amounts are in metric tons]

Sector	1999 TAC	Seasonal Apportionments					
		A–1 [2]		A–2 [3]		B [4]	C [5]
		Total	CH limit	Total	CH limit		
Bering Sea Subarea	992,000	.....	.....	.....	.....	.....	.....
Inshore	423,187	117,850	[6] 82,495	53,568	[7] 37,498	125,885	125,885
Offshore C/Ps [7]	338,550	94,280	37,712	42,855	17,142	100,708	100,708
Catch by C/Ps	309,773	86,266	34,506	39,212	15,685	92,148	92,148
Catch by CVs	28,777	8,014	3,206	3,643	1,457	8,560	8,560
Sec. 208(e)(21) [8]	1,693	685	.....	.....	.....	504	504
Mothership [9]	84,637	34,284	17,142	.....	.....	25,177	25,177
Incidental catch [10]	46,426	.....	.....	.....	.....	.....	.....
CDQ [11]	99,200	44,640	44,640	.....	.....	54,560	.....
Aleutian Islands [12]	2,000						
Inshore	846						
Offshore C/Ps	676						
Catch by C/Ps	619						
Catch by CVs	57						
Mothership	169						
Incidental catch	109						
CDQ	200						
Bogoslof District [12]	1,000						
Inshore	423						
Offshore C/Ps	338						
Catch by C/Ps	309						
Catch by CVs	28						
Mothership	84						
Incidental catch	55						

TABLE 3.—SEASONAL ALLOWANCES OF THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS [1]—Continued

[All amounts are in metric tons]

Sector	1999 TAC	Seasonal Apportionments					
		A–1 [2]		A–2 [3]		B [4]	C [5]
		Total	CH limit	Total	CH limit		
CDQ	100						

[1] 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 section 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 the Council's intent to prohibit the use of nonpelagic trawl gear in 1999 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery. Amounts are in metric tons.

[2] January 20 through February 15.

[3] February 20 through April 15.

[4] August 1 through September 15.

[5] September 15 through November 1.

[6] Under the emergency rule (64 FR 3437), NMFS will close the Critical Habitat (CH)/CVOA conservation zone to inshore vessels greater than 99 ft (30.4 m) LOA while maintaining a sufficient CH/CVOA allowance to support fishing activities by inshore catcher vessels under 99 ft (30.4 m) LOA for the duration of the current opening. However, once the specified CH/CVOA limit is reached, all inshore vessels will be prohibited from engaging in directed fishing for pollock inside the CH/CVOA conservation zone.

[7] Section 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.

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

[9] The mothership sector has a single A season apportionment from February 1 through April 15, which is equal to 40 percent of its annual pollock allocation.

[10] The pollock incidental catch allowance is 6 percent of the TAC after subtraction of the CDQ reserve. However, an amount of the incidental catch allowance in the Bering Sea Subarea (7,142 mt), is apportioned to the directed fishery, to reduce the A season incidental catch allowance to 4 percent.

[11] The CDQ sector has two seasonal allocations, the first from January 20 through April 15 (45 percent of their annual CDQ reserve) and the second from April 15 through December 31 (55 percent of their annual CDQ reserve). The CDQ sector can harvest its entire allocation within designated critical habitat areas which are open for fishing.

[12] 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.

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 published a final rule on January 22, 1999 (64 FR 3446), which implements temporal and spatial changes in the Atka mackerel fisheries. This rule divides the BSAI 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)(Table 4). Additionally, fishing with trawl gear in areas defined as Steller sea lion critical habitat (see Table 1, Table 2, and Figure 4 to 50 CFR part 226), within the Western and Central Aleutian Islands subareas is prohibited during each Atka mackerel season when specified percentages of the TAC are harvested within designated critical habitat areas. In 1999, the specified catch percentage is 65 percent of each seasonal allowance for the Western Aleutian Islands and 80 percent of each seasonal allowance for the Central Aleutian Islands. A Steller sea lion critical habitat closure to fishing with trawl gear within a district will remain in effect until NMFS closes Atka mackerel to directed fishing within the same district.

For the Eastern Aleutian Islands and Bering Sea subarea, no critical habitat closures are established under the final rule based on Atka mackerel catch percentages inside critical habitat areas. However, the final rule does include a variety of changes to current critical habitat designations in both time and space within the Aleutian Islands District. See the final rule published on January 22, 1999 (64 FR 3446), for a detailed description of regulatory changes to the Atka mackerel fishery.

Under § 679.20(a)(8), 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 amount of this allocation is determined annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. At its December 1998 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 an ITAC of 15,725 mt, the jig gear allocation is 157 mt.

TABLE 4.— 1999 SEASONAL AND SPATIAL APPORTIONMENTS, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC, [1 2]

[All amounts are in metric tons]

Subarea and component	TAC	CDQ reserve	ITAC	Seasonal apportionment [3]			
				A season [4]		B season [5]	
				Total	CH limit [6]	Total	CH limit [6]
Western Aleutian Islands	27,000	2,025	24,975	12,487	8,117	12,487	8,117

TABLE 4.— 1999 SEASONAL AND SPATIAL APPORTIONMENTS, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC,[1 2]—Continued

[All amounts are in metric tons]

Subarea and component	TAC	CDQ reserve	ITAC	Seasonal apportionment[3]			
				A season[4]		B season[5]	
				Total	CH limit[6]	Total	CH limit[6]
Central Aleutian Islands	22,400	1,680	20,720	10,360	8,288	10,360	8,288
Eastern AI/BS subarea[7]	17,000	1,275	15,725	.....	.....	.....	.....
Jig (1%)[8]	.....	157	.....	.....	.....	.....	
Other gear (99%)	.....	.....	15,568	7,784	.....	7,784	.....
Total	66,400	4,980	61,420	30,631	.....	30,631	.....

[1] The reserve has been released for Atka mackerel (see Table 2).
[2] A final rule implementing changes to the Atka mackerel fishery was published in the FEDERAL REGISTER on January 22, 1999 (64 FR 3446).
[3] The seasonal apportionment of Atka mackerel is 50 percent in the A season and 50 percent in the B season.
[4] January 1 through April 15.
[5] September 1 through November 1.
[6] Critical habitat (CH) allowance refers to the amount of each seasonal allowance that is available for fishing inside CH (Table 1, Table 2, and Figure 4 of 50 CFR part 226). In 1999, the percentage of each seasonal allowance available for fishing inside CH is 65 percent in the Western AI and 80 percent in the Central AI. When these CH allowances are reached, critical habitat areas will be closed to trawling until NMFS closes Atka mackerel to directed fishing within the same district.
[7] Eastern Aleutian Islands District and Bering Sea subarea.
[8] 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. 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. At its December 1998 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 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 1999 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.—1999 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC[1]

Gear	Percent ITAC	Share ITAC (mt)	Seasonal apportionment	
			Date	Amount
Jig	2	3,275	Jan 1–Dec 32	3,275
Hook-&-line/pot gear	51	83,500	Jan 1-Apr 30[2]	60,000
	.....	.....	May 1–Aug 31	8,500
	.....	.....	Sep 1-Dec 31	15,000
Trawl gear	47	76,950	Jan 1–Dec 31	76,950
C.V. (50%)	.....	38,475	.....	.....
C/P (50%)	.....	38,475	.....	.....
Total	100	163,725	.....	.....

[1] For Pacific cod in the BSAI, the reserve has been released (see Table 2).
[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.

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 final ITAC of 893 mt, the trawl allocation is 625 mt and the non-trawl allocation is 268 mt.

Sablefish Gear Allocation

Regulations at § 679.20(a)(4) require that sablefish TACs for the BSAI subareas be allocated between trawl and hook-and-line or pot gear types. Gear allocations of TACs are established as follows: Bering Sea subarea: Trawl gear, 50 percent; hook-and-line/pot gear, 50 percent; and Aleutian Islands subarea: Trawl gear, 25 percent; hook-and-line/pot gear, 75 percent. 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 allocation of sablefish (one half of the reserve) be withheld as groundfish CDQ reserve. Gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 6.

TABLE 6.—1999 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

Subarea and gear	Percent of TAC	Share of TAC (mt)	ITAC (mt)[1]	CDQ reserve
Bering Sea:				
Trawl[2]	50	670	569	50
Hook-&-line/pot gear[3]	50	670	N/A	134
Total	100	1,340	569	184
Aleutian Islands:				
Trawl[2]	25	345	293	25
Hook-&-line/pot gear[3]	75	1,035	N/A	207
Total	100	1,380	293	232

[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

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, and, 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.

For 1999, the PSC limit of red king crab in Zone 1 for trawl vessels is 200,000 crab. Based on the criteria set out at § 679.21(e)(1)(ii), the number of mature female red king crab was estimated in 1998 to be above the threshold of 8.4 million animals, and the effective spawning biomass is estimated to be 56 million pounds (25,401 mt) (greater than the 55 million pound (24,947 mt) threshold level).

The 1999 *C. bairdi* PSC limit for trawl gear is 750,000 animals in Zone 1 and 1,878,000 animals in Zone 2. These limits are based on the most recent survey data from 1998 and on the criteria set out at § 679.21(e)(1)(iii). In Zone 1, *C. bairdi* abundance was estimated to be greater than 150 million and less than 270 million animals. In Zone 2, *C. bairdi* abundance was estimated to be less than 175 million animals and, therefore, calculated at 1.2 percent of the abundance level of 156.6 million crabs, resulting in the limit of 1.878 million crabs.

Under § 679.21(e)(1)(iv), the PSC limit for *C. opilio* is 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 1998 Bering Sea abundance index, with a minimum PSC of 4.5 million crab and a maximum PSC of 13 million crab. Based on the 1998 survey estimate of 3.233 billion crabs, the calculated limit would be 3,663,000 crabs. Because this limit falls below the minimum level, the 1999 *C. opilio* PSC limit is 4.5 million crabs.

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's best estimate of 1999 herring biomass is 168,512 mt. This amount was derived using 1998 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 1999 is 1,685 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 under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). At its December meeting, the Council adopted a motion to limit the RKCSS to 30 percent of the total red king crab allocated to the rock sole/flathead sole/''other flatfish'' fishery category. This action is needed to optimize the groundfish harvest relative to red king crab bycatch.

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 the sablefish IFQ hook-and-line gear fishery categories be exempt from halibut bycatch restrictions because these fisheries use selective gear types that take comparatively few halibut. In 1998, total groundfish catch for the pot gear fishery in the BSAI was approximately 14,118 mt with an associated halibut bycatch mortality of about 43 mt. The 1998 groundfish jig gear fishery harvested about 192 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, a negligible amount of halibut bycatch mortality is assumed 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 IFQ program requires that legal-sized halibut be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ. This action results 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 1996 through 1998 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 PSC amounts. At its December meeting, the Council recommended seasonal apportionments which were adopted by NMFS and which are specified in Table 7.

TABLE 7.—1999 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL 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	955	254	19,800	3,108,786	260,894	1,128,824
Jan. 20–March 31	270					
April 1–May 10	200					
May 11–July 3	95					
July 4–Dec. 31	390					
Rock sole/oth.flat/flat sole [2]	755	22	103,950	766,552	279,528	376,274
Jan. 20–March 29	461					
March 30–July 3	123					
July 4–Dec. 31	171					
Turbot/sablefish/arrowtooth [3]		10		42,585		
Rockfish:						
July 4–Dec. 31	71	8		42,585		7,378
Pacific cod	1,473	22	14,850	127,758	139,950	205,528
Mid-water trawl pollock [4]		1,217				
Pollock/Atka mackerel/other [5]	238	152	1,850	74,234	13,378	19,146
RKC savings subarea [2]			44,550			
Total Trawl PSC	3,492	1,685	185,000	4,162,500	693,750	1,737,150
Non-Trawl Fisheries						
Pacific cod–Total	748					
Jan. 1–April 30	457					
May 1–Sept. 14	0			N/A		
Sept. 15–Dec. 31	291					
Other non-trawl–Total	84					
May 1–Aug. 31 [6]	42					
Sept. 1–Dec. 31	42					
Groundfish pot & jig	exempt					
Sablefish hook-&-line	exempt					
Total Non-Trawl	832					
PSQ Reserve [7]	351		15,000	337,500	56,250	140,850
Grand Total	4,675	1,685	200,000	4,500,000	750,000	1,878,000

[1] *C. opilio* Bycatch Limitation Zone. Boundaries are defined at § 679.21(e)(7)(iv)(B). At its December meeting the Council further apportioned *C. opilio* by percentage to the following fisheries: yellowfin sole 73 percent, rock sole 18 percent, turbot 1 percent, rockfish 1 percent, Pacific cod 3 percent, and pollock 4 percent.

[2] The Council at its December 1998 meeting limited red king crab for trawl fisheries within the RKCSS to 30 percent of the total allocation to the rock sole, flathead sole, and other flatfish fishery category (§ 679.21(e)(3)(ii)(B)).

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

[4] Halibut and crab bycatch in the midwater trawl pollock fishery is deducted from the allowances for the pollock/Atka mackerel/other species category.

[5] Pollock other than pelagic trawl pollock, Atka mackerel, and ''other species'' fishery category.

[6] Consistent with § 679.21(e)(5)(iv)(A), any portion of the first seasonal allowance of the Pacific cod halibut allocation that is not harvested by the end of the first season will become available on September 15, the beginning of the second season.

[7] 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 will be 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.

At its December meeting, the Council adopted the assumed recommended halibut mortality rates developed by staff of the International Pacific Halibut Commission for the 1999 BSAI groundfish fisheries (see Table 8). This is needed for purposes of monitoring halibut bycatch allowances established for 1999 (see Table 7). The justification for these mortality rates is discussed in the final SAFE report dated November 1998.

TABLE 8.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1999

Fishery	Assumed mortality (percent)
Hook-and-line gear fisheries:	
Rockfish	12
Pacific cod	11
Greenland turbot	19
Sablefish	17
Other Species	11
Trawl gear fisheries:	
Midwater pollock	85
Non-pelagic pollock	76
Yellowfin sole	78
Rock sole	76
Flathead sole	62
Other flatfish	69
Rockfish	72
Pacific cod	69
Atka mackerel	85
Greenland turbot	73
Sablefish	23
Other species	69
Pot gear fisheries:	
Pacific cod	4
Other species	4

Protections for Other Fisheries Under the AFA

Section 211(b)(2)(A) of the AFA prohibits catcher/processors listed under paragraphs 1 through 20 of section 208(e) (listed catcher/processors) from harvesting in the aggregate more than a specified amount of each non-pollock groundfish species in the BSAI. Except for Atka mackerel, the catch limitations specified for the listed catcher/processors are equivalent to the percentage of non-pollock groundfish harvested in the non-pollock fisheries by the listed catcher/processors and by those listed under section 209 of the AFA during 1995, 1996, and 1997. The non-pollock groundfish harvest amounts by these vessels in the BSAI from 1995 through 1997 are shown in Table 9. These data were used to calculate the relative amount of non-pollock groundfish TACs harvested by pollock catcher/processors in the non-pollock fisheries and then were used to determine the harvest limits for non-pollock groundfish by listed catcher/processors in the 1999 BSAI fisheries.

All non-pollock groundfish that are harvested by listed catcher/processors will be deducted from the harvest limits, see Table 9. However, non-pollock groundfish that is delivered to listed catcher/processors by catcher vessels will not be deducted from the 1999 harvest limits for the listed catcher/processors.

TABLE 9.—HISTORICAL CATCH RATIO AND 1999 AGGREGATE CATCH LIMITS FOR POLLOCK VESSELS DESCRIBED UNDER SECTION 208(E) OF THE AFA [1]

[All amounts are in metric tons]

Target species [2]	Area	1995–1997			1999 ITAC available to trawl C/Ps	1999 C/P harvest limit
		Total catch	Available TAC	Ratio [3]		
Pacific cod trawl [4]	BSAI	13,547	51,450	0.263	38,475	10,119
Sablefish trawl [5]	BS	8	1,736	0.005	569	3
	AI	1	1,135	0.001	293	0
Atka mackerel [6]	Western AI	.....	.....	0.200	24,975	4,995
	Central AI	.....	.....	0.115	20,720	2,383
Yellowfin sole	BSAI	123,003	527,000	0.233	176,783	41,190
Rock sole	BSAI	14,753	202,107	0.073	102,000	7,446
Greenland turbot	BS	168	16,911	0.010	5,126	51
	AI	31	6,839	0.005	2,525	13
Arrowtooth flounder	BSAI	788	36,873	0.021	114,201	2,398
Flathead sole	BSAI	3,030	87,975	0.034	65,705	2,234
Other flatfish	BSAI	12,145	92,428	0.131	130,900	17,148
Pacific ocean perch [7]	BS	58	5,760	0.010	1,190	12
	Western AI	356	12,440	0.029	5,754	167
	Central AI	95	6,195	0.015	3,562	53
	Eastern AI	112	6,265	0.018	3,173	57
Other red rockfish	BS	75	3,034	0.025	227	6
Sharpchin/Northern	AI	1,034	13,254	0.078	3,913	305
Shortraker/Rougheye [8]	AI	68	2,827	0.024	625	15
Other rockfish	BS	39	1,026	0.038	314	12
	AI	95	1,924	0.049	583	29
Squid	BSAI	7	3,670	0.002	1,675	3
Other species	BSAI	3,551	65,925	0.054	27,931	1,508

[1] The AFA specifies the manner in which the BSAI pollock TAC must be allocated among industry components and also prohibits catcher/processors listed under paragraphs 1–20 of section 208(e) from exceeding the historical harvest percentages by such catcher/processors and those listed under section 209 relative to the total available in the offshore component in BSAI groundfish fisheries (other than pollock) in 1995, 1996, and 1997.

[2] For further definitions of target species see Table 1.

[3] The ratio is calculated by dividing the total catch by the TAC available at the end of the year (with the exception of Atka mackerel).

[4] For Pacific cod, 47 percent of the ITAC is allocated to trawl gear, and of that 50 percent is available for listed catcher/processors. Separate catcher/processor and catcher vessel allocations became effective in 1997. Therefore, due to an inconsistency in the data, only 1997, which has a similar allocation pattern as the present, was used to calculate the historic ratio.

[5] Twenty-five percent of the sablefish ITAC is allocated to trawl in the AI subarea, 50 percent is allocated to trawl in the BS subarea.

[6] In section 211(b)(2)(C) of the AFA, catcher/processors described in paragraphs 1–20 of section 208(e) are prohibited from harvesting Atka mackerel in excess of 11.5 percent of the available TAC in the Central AI area and 20 percent in the Western AI area. These listed catcher/processors are prohibited from harvesting Atka mackerel in the Eastern Aleutian Islands District and Bering Sea subarea.

[7] For Pacific ocean perch, spatial apportionments to western, central, and eastern AI subareas began in 1996; therefore only data from 1996 and 1997 were used to calculate the historic ratio.

[8] Seventy percent of the shortraker/rougheye rockfish ITAC is allocated to trawl in the Aleutian Islands subarea.

Section 211(b)(2)(C) of the AFA prohibits listed catcher/processors from fishing for Atka mackerel in the Eastern AI and BS subarea and from exceeding 11.5 percent and 20 percent of the Atka mackerel TACs available in the Central and Western AI districts, respectively. On January 22, 1999, NMFS published a final rule (64 FR 3446) to mitigate impacts of the Atka mackerel fishery on endangered Steller sea lions. The listed catcher/processor harvest limitations for Atka mackerel are subject to the proportional restrictions on harvest inside and outside critical habitat areas. As a result, the listed catcher/processors are prohibited from trawling in critical habitat areas once 65 and 80 percent of the seasonal Atka mackerel harvest limitations established for the listed catcher/processors in the Western and Central AI districts, respectively, are taken (see Table 10). A Steller sea lion critical habitat closure for fishing with trawl gear within a district will remain in effect until NMFS closes Atka mackerel to directed fishing within the same district.

TABLE 10.—ATKA MACKEREL SEASONAL AND CRITICAL HABITAT LIMITS FOR CATCHER/PROCESSOR VESSELS DESCRIBED UNDER SECTION 208(E) OF THE AFA [1] [2]

[All amounts are in metric tons]

Subarea and Component	Total ITAC	ITAC available for C/Ps	Seasonal apportionment [3]			
			A season [4]		B season [5]	
			Total	CH Limit [6]	Total	CH Limit [6]
Western Aleutian Islands	24,975	4,995	2,498	1,623	2,498	1,623
Central Aleutian Islands	20,720	2,383	1,191	953	1,191	953

[1] The Atka mackerel reserve has been released (see Table 2).
[2] Atka mackerel conservation measures are based on final regulations published in the **Federal Register** on January 22, 1999 (64 FR 3446).
[3] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed catcher/processors would be limited to harvesting no more than 20 and 11.5 percent of the available TAC in the Western and Central AI subareas respectively. Listed catcher/processors are prohibited from harvesting Atka mackerel in the Eastern Aleutian Islands District and Bering Sea subarea (section 211(b)(2)(C) of the AFA).
[4] January 1 through April 15.
[5] September 1 through November 1.
[6] Critical habitat (CH) allowance refers to the amount of each seasonal allowance that is available for fishing inside critical habitat (Table 1, Table 2, and Figure 4 of 50 CFR 226). In 1999, the percentage of TAC available for fishing inside critical habitat area is 65 percent in the Western AI and 80 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.

On January 22, 1999, NMFS published an emergency rule (64 FR 3437) which provides the inseason authority necessary to manage the harvest of groundfish by listed catcher/processors so that the 1999 non-pollock harvest limits are not exceeded. NMFS intends to manage the listed catcher/processor non-pollock harvest limitations conservatively, consistent with the intent of the AFA, which is to limit the ability of these vessels to redistribute fishing effort into non-pollock fisheries in which they have not historically participated.

Section 211(b)(2)(B) of the AFA prohibits listed catcher/processors from harvesting more than a specified amount of each prohibited species in the BSAI. These amounts are equivalent to the percentage of prohibited species bycatch limits harvested in the non-pollock groundfish fisheries by the listed catcher/processors and by those listed under section 209 of the AFA during 1995, 1996, and 1997. Prohibited species amounts harvested by these catcher/processors in BSAI non-pollock groundfish fisheries from 1995 through 1997 are shown in Table 11. These data were used to calculate the relative amount of prohibited species catch limits harvested by pollock catcher/processors, which was then used to determine the prohibited species harvest limits for listed catcher/processors in the 1999 non-pollock groundfish fisheries. Regulations at § 679.21(e)(7)(vii) and (e)(7)(viii) do not provide for fishery-specific management of the salmon bycatch limits. Therefore, NMFS is not including salmon catch limits for the listed catcher/processors during 1999.

PSC that is caught by listed catcher/processors participating in any non-pollock groundfish fishery listed in Table 9, accrues against the 1999 PSC limits for the listed catcher/processors as outlined in section 211(b)(2)(B) of the AFA (see Table 10). The emergency rule published by NMFS to manage the AFA harvest limitations specified for listed catcher/processors provides authority to close directed fishing for groundfish to the listed catcher/processors once a 1999 PSC limitation listed in Table 11 is reached.

PSC that is caught by listed catcher/processors and listed catcher vessels while fishing for pollock accrues against either the midwater pollock or the pollock/Atka mackerel/other species fishery categories (Table 7). In the proposed specifications, NMFS incorrectly calculated the red king crab allocation for the listed catcher/processors. These final specifications make corrections to the historical catch amount, the ratio, and the 1999 limit based on Zone 1 bycatch of red king crab.

TABLE 11.—PSC LIMITS FOR CATCHER/PROCESSOR VESSELS DESCRIBED UNDER SECTION 208(E) OF THE AFA [1, 2]

[All amounts are in metric tons]

PSC species	1995—1997			1999 PSC available to trawl vessels	1999 C/P limit [3]
	PSC catch	Total PSC	Ratio [2]		
Halibut mortality	955	11,325	0.084	3,492	293
Herring	62	5,137	0.012	1,685	20
Red king crab	3,098	473,750	0.007	185,000	1,295

TABLE 11.—PSC LIMITS FOR CATCHER/PROCESSOR VESSELS DESCRIBED UNDER SECTION 208(E) OF THE AFA [1] [2]—Continued

[All amounts are in metric tons]

PSC species	1995—1997			1999 PSC available to trawl vessels	1999 C/P limit [3]
	PSC catch	Total PSC	Ratio [2]		
C. opilio	2,323,731	15,139,178	0.153	4,162,500	636,863
C. bairdi:.					
Zone 1	385,978	2,750,000	0.140	693,750	97,125
Zone 2	406,860	8,100,000	0.050	1,737,150	86,858

[1] The AFA specifies the manner in which the BSAI pollock TAC must be allocated among industry components and also prohibits catcher/processors listed under paragraphs 1–20 of section 208(e) of the AFA from exceeding the historical harvest percentages of prohibited species by such catcher/processors and those listed under section 209 relative to the total available in the offshore component in BSAI groundfish fisheries in 1995, 1996, and 1997.

[2] The ratio is calculated by dividing the PSC catch by the total PSC available.

[3] The 1999 prohibited species catch limit is calculated by multiplying the historic ratio by the PSC available to listed catcher/processors in 1999.

Small Entity Compliance Guide

The following information satisfies the Small Business Regulatory Enforcement Fairness Act of 1996, which requires a plain language guide to assist small entities in complying with this rule. This rule announces the final 1999 harvest specifications, associated management measures, and apportionment of reserves for the groundfish fishery of the Bering Sea and Aleutian Islands management 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 when the announced TAC specifications, or apportionments thereof, have been reached. Affected fishermen should keep themselves informed of such closures.

Comment and Response

NMFS received one letter commenting on the 1999 specifications, focusing particularly on implementation of the AFA. NMFS summarizes and responds to this comment below (Comment 1). In addition, Comment 1 in the final rule to implement BSAI amendment 51 (64 FR 3653) addressed the Council's recommended 61/39 percent allocation, which NMFS did not approve. NMFS's response to Comment 1 in the BSAI Amendment 51 rule stated that the AFA's allocations are required by statute and that they would be implemented in 1999 as a component of the annual BSAI groundfish harvest specifications. NMFS has prepared an FRFA on these final specifications that examines the economic impacts of the pollock allocation on small entities. The Council will prepare additional appropriate economic analyses as it develops measures for further implementation of the AFA.

Comment 1. NMFS' interpretation of the protections for non-pollock groundfish fisheries contained in section 211(b)(2)(A) and (B) of the AFA does not meet the intent of the AFA to protect these fisheries from competition by the listed catcher/processors. The interpretation fails to establish absolute caps on the amount of non-pollock species that the listed catcher/processors may take in both the pollock and non-pollock directed fisheries. Consequently, insufficient protection for other fisheries exists; the TAC will likely be exceeded; and overfishing will likely occur. This interpretation is inconsistent with the statutory language of the AFA and does not satisfy the AFA goals of protecting other fisheries and reducing incidental catch by listed catcher/processors.

Response. Congress was concerned that, given the ability to form fishery cooperatives in 1999, listed catcher/processors may utilize the benefits realized from fishery cooperatives and enter into or increase fishing effort in fisheries other than the pollock fishery. Section 211(b) of the AFA seeks to protect non-pollock fisheries from major and non-traditional redistributed fishing effort by listed catcher/processors. Section 211(b)(2)(A) and (B) of the AFA establishes non-pollock groundfish and prohibited species harvest limitations for the listed catcher/processors to protect non-pollock fisheries from experiencing fishing competition by listed catcher/processors beyond historical levels. Both of these sections explicitly state that these protections should apply to groundfish fisheries other than the pollock fishery. To determine non-pollock harvest limits under section 211(b)(2)(A), NMFS calculated the historical catch by the listed catcher/processors in non-pollock fisheries and obtained a historical ratio that was applied to the 1999 non-pollock groundfish TACs (see Table 9). The Council recommended that the incidental catch of groundfish in the pollock fishery also should be deducted from the annual non-pollock groundfish harvest limits for the listed catcher/processors. This action effectively reduces the amount of non-pollock groundfish that is available to listed catcher/processors because the historical catch ratio does not include non-pollock groundfish caught in the directed pollock fishery. Consequently, incentives are provided to the listed catcher/processors to minimize incidental catch in the directed pollock fishery so that non-pollock harvest limitations are not reached and opportunities for these vessels to participate in directed fisheries for other groundfish is optimized consistent with traditional harvest levels.

Many of the harvest limitations established for 1999 are small amounts of fish that will not support a directed fishery for those species or species groups by listed catcher/processors. Consequently, NMFS closed directed fishing by the listed catcher/processors for specified non-pollock species and species groups, which would not support both a directed fishery and allow for incidental catch in other directed fisheries (64 FR 4602, January 29, 1999). Non-pollock fisheries that remained open to directed fishing by the listed catcher/processors at the start of the 1999 trawl fishing season include Pacific cod, yellowfin sole, rock sole, Atka mackerel, and ''other flatfish.'' These directed fisheries will be closed in a manner that will provide for incidental catch in other listed catcher/processor fishing operations without exceeding the specified harvest limitation for a species. Thus, NMFS believes that neither the specified non-pollock harvest limitations nor the management of these limitations will

increase the likelihood of exceeding TAC amounts or reaching overfishing levels. Harvest limitations for some species, such as squid and Pacific ocean perch, may not provide sufficient incidental catch for the pollock fishery to the extent that traditional harvest levels of these species by the listed catcher/processors were taken solely in the pollock fishery.

Under section 211(b)(2)(B) of the AFA, the Council recommended and NMFS implemented PSC limitations for the listed catcher/processors that are based solely on historical bycatch amounts in non-pollock fisheries (Table 11). Therefore, prohibited species bycatch by listed catcher/processors, while fishing for groundfish (other than pollock), will be deducted from these PSC limitations. As stated above, NMFS will allow only directed fisheries for groundfish species that are supported by adequate amounts of PSC and will prohibit directed fishing by listed catcher/processors for non-pollock groundfish in a manner that will avoid a specified PSC limitation from being exceeded. However, prohibited species bycatch in the pollock fishery will be deducted from the open access allocations of PSC to the midwater pollock and pollock/Atka mackerel/ ''other species'' categories (Table 7). Because these allocations do not exceed historical bycatch amounts, the Council and NMFS believe that this management action is consistent with the intent of the AFA to protect non-pollock groundfish fisheries. Furthermore, the Council and NMFS believe that closure of the directed fishery for pollock with nonpelagic trawl gear issued under authority of the interim and final 1999 harvest specifications (§ 679.20(a)(5)(i)(B)) will reduce the actual amount of prohibited species bycatch in 1999, which is also consistent with the intent of the AFA to reduce the bycatch of prohibited species by listed catcher/processors. Therefore, NMFS believes that the measures taken by the Council and NMFS to implement section 211(b)(2) of the AFA for the 1999 fishery are consistent with the intent of the AFA.

NMFS' management of the 1999 listed catcher/processor harvest limitations is a reasonable interpretation of the statutory provisions of section 211(b)(2) of the AFA and meets the objective of that section to protect non-pollock fisheries from major and non-traditional redistributed fishing effort by the listed catcher/processors. Additionally, for 1999, NMFS will manage the fishery under current inseason management authority and will issue directed fishing closures so that none of the 1999 TACs is exceeded as a result of this interpretation.

Classification

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

Pursuant to section 7 of the Endangered Species Act (ESA), NMFS has completed a consultation on the effects of the pollock and Atka mackerel fisheries on listed species, including the Steller sea lion, and on designated critical habitat. The Biological Opinion prepared for this consultation, dated December 3, 1998, concludes that the Atka mackerel fisheries in the BSAI are not likely to jeopardize the continued existence of Steller sea lions or adversely modify their designated critical habitat. However, the Biological Opinion dated December 3, 1998, and revised December 16, 1998, concludes that the pollock fisheries in the BSAI and the Gulf of Alaska jeopardize the continued existence of Steller sea lions and adversely modify their designated critical habitat. The biological opinion contains reasonable and prudent alternatives (RPAs) to mitigate the adverse impacts of the pollock fisheries on Steller sea lions. Specific measures necessary to implement the RPAs were discussed at the December 1998 Council meeting and were implemented by NMFS through emergency rulemaking effective on January 20, 1999, and published in the **Federal Register** on January 22, 1999 (64 FR 3437). This final rule implements those mitigation measures as required by the biological opinion for the A1 and A2 seasons only. The Council, at its June 1999 meeting, will make recommendations to NMFS on mitigation measures for the B and C seasons in 1999. NMFS intends to implement these measures by emergency rulemaking amending these final specifications.

NMFS has recently completed consultation on the effects of the 1999 BSAI groundfish fisheries on listed and candidate species, including the Steller sea lion, and on designated critical habitat. This consultation on the impacts of the 1999 BSAI groundfish specifications determined that the fishery would not jeopardize the continued existence of listed or endangered species or adversely modify designated critical habitat. In a letter dated December 2, 1998, the Fish and Wildlife Service (USFWS) extended the 1997–1998 Biological Opinion on the BSAI hook-and-line groundfish fishery and the BSAI trawl groundfish fishery for the ESA listed short-tailed albatross until it is superseded by a subsequent amendment to that opinion. Based on current information, USFWS does not anticipate that its final Biological Opinion will determine that the 1999 BSAI groundfish fishery places the short-tailed albatross in jeopardy of extinction. The statutory receipt of a final Biological Opinion and of an incidental take statement for the BSAI hook and line groundfish fishery is Friday, March 19, 1999.

NMFS prepared an initial regulatory flexibility analysis (IRFA) pursuant to the Regulatory Flexibility Act that describes the impact the 1999 harvest specifications may have on small entities. Comments were solicited on the IRFA, however, none was received. NMFS has prepared a final regulatory flexibility analysis that analyzes the new TAC levels recommended by the Council in December 1998 and based on updated survey and stock assessment information. A copy of this analysis is available from NMFS (see **ADDRESSES**). NMFS analyzed a range of alternative harvest levels for the BSAI. The preferred alternative would allow the BSAI groundfish fisheries to continue under final specifications set at 1999 levels until the TAC is harvested or until the fishery is closed due to attainment of a PSC limit or to other management reasons. Under the preferred alternative, the 1999 TACs would be based on the most recent scientific information as reviewed by the Plan Teams, SSC, AP, and Council and would include public testimony and comment from the October and December Council meetings and those comments sent to NMFS on the proposed specifications. The preferred alternative also achieves OY 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 alternative that would have the greatest immediate economic benefit to small entities would set the sum of the TACs at the maximum OY level. However, because this alternative would not achieve the maximum long-term benefit in that it could result in overfishing and could lead to overfished stocks and because it would not be feasible under NEPA guidelines. Another alternative was analyzed. It would implement the 1998 TAC amounts for 1999, but it would not be based on the most recent scientific information. It was also rejected.

The six CDQ groups comprise 56 small governmental jurisdictions with direct involvement in groundfish CDQ fisheries that are within the RFA

definition of small entities. Based on 1997 data, NMFS estimates less than 280 small entities harvest groundfish in the BSAI.

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

This action is necessary to establish harvest limits for the BSAI groundfish fisheries for the 1999 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.

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

Dated: March 5, 1999.

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Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–6027 Filed 3–8–99; 1:15 pm]

BILLING CODE 3510–22–P