

meetings convened by the Council's Sea Turtle Conservation Special Advisory Committee.

The SEIS will analyze, among other things, additional alternatives that include an abolition or modification to the southern area closure; the restoration of the swordfish fishery at some reduced level; mitigation measures such as circle hooks and mackerel bait known to reduce interaction rates of sea turtles with longline gear; international conservation measures to increase sea turtle recruitment; and an analysis on the potential impact of such alternatives on the continued existence of endangered and threatened sea turtles.

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

Dated: November 26, 2003.

Bruce C. 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. 031124287-3287-01; I.D. 111703C]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Proposed 2004 Harvest Specifications for Groundfish

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

ACTION: Proposed 2004 harvest specifications for groundfish; apportionment of Reserves; request for comments.

SUMMARY: NMFS proposes 2004 harvest specifications and prohibited species catch (PSC) allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2004 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: Comments must be received by January 2, 2004.

ADDRESSES: Comments may be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments also may be sent via facsimile (fax) to 907-586-7557. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the draft Environmental Assessment/Initial Regulatory Flexibility Analysis (EA/IRFA) prepared for this action are available from NMFS (*see ADDRESSES*) and comments must be received by January 2, 2004. Copies of the final 2002 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2002, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809), or from its homepage at <http://www.fakr.noaa.gov/npfmc>.

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

SUPPLEMENTARY INFORMATION:

Background for the 2004 Proposed 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 metric tons (mt) (*see* § 679.20(a)(1)(i)). Regulations at § 679.20(c)(1) further require NMFS to solicit public comment on proposed annual TACs and apportionments thereof, PSC allowances and prohibited species quota (PSQ) reserves established by § 679.21, seasonal allowances of pollock TAC, including pollock Community Development Quota (CDQ), and CDQ reserve amounts established by § 679.20(b)(1)(iii) and to publish proposed specifications in the **Federal Register**. The proposed specifications set forth in Tables 1 through 13 of this action satisfy these requirements. For 2004, the proposed sum of TACs is 1,998,443 mt.

Under § 679.20(c)(3), NMFS will publish the final annual specifications for 2004 after (1) considering comments received within the comment period (*see* DATES), (2) consulting with the Council, which will occur at its next meeting beginning the week of December 8, 2003, and (3) considering new information presented in the EA and the final 2003 SAFE reports prepared for the 2004 groundfish fisheries.

With some exceptions, regulations at § 679.20(c)(2)(ii) require that one-fourth of each proposed initial TAC (ITAC) amount and apportionment thereof, one-fourth of each CDQ reserve established under § 679.20(b)(1)(iii), and one-fourth of each proposed PSC allowance established under § 679.21, become available at 0001 hours, Alaska local time (A.l.t.), January 1, on an interim basis and remain in effect until superseded by the final specifications. Regulations at § 679.20(c)(2)(ii) (A) and (B) require that the proposed first seasonal allowance of non-CDQ and CDQ pollock, Pacific cod and Atka mackerel becomes available at 0001 hours, A.l.t., January 1 on an interim basis and remains in effect until superseded by the final specifications. 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 (IFQ) program. Interim TAC specifications and apportionments thereof for the 2004 fishing year will be published in a separate **Federal Register** notice.

Other Rules Affecting the 2004 Specifications

In October 2003, the Council discussed Aleutian Islands pollock fishery management, but made no recommendation to close or open the fishery in 2004. The Council set the proposed Aleutian Islands pollock TAC at 2003 amounts, which is for incidental catch only. The Council may consider apportionment of the TAC of several rockfish species in the Aleutian Islands subarea among the Eastern, Central, and Western Aleutian Districts and separating the shortraker and rougheye rockfish TAC.

Amendment 77 to the FMP, approved by the Secretary of Commerce on October 20, 2003, provides for apportioning the BSAI Pacific cod TAC among hook-and-line and pot gears sector. Table 4 lists the proposed 2004 allocations and seasonal apportionments of the Pacific cod ITAC based on regulations that would implement Amendment 77. For more

information on Amendment 77, see the proposed rule at 68 FR 49416, August 18, 2003. A final rule implementing Amendment 77 was published on December 1, 2003 68 FR 67056 and will be effective by January 1, 2004.

Proposed Acceptable Biological Catch (ABC) and TAC Specifications

The proposed ABC levels are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations and is based on a successive series of 6 levels, or tiers, of reliable information available to fishery scientists.

The best information currently available is set forth in Appendix A of the final SAFE report for the 2003 BSAI groundfish fisheries dated November 2002 (*see ADDRESSES*). Information on

the status of stocks will be updated with the 2003 survey results and reconsidered by the Plan Team in November 2003 for the 2003 SAFE reports. The final harvest specifications will be based on the 2003 SAFE reports.

In October 2003, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed the Plan Team's preliminary recommendations to project 2003 biomass amounts, as identified in the 2002 SAFE, for the proposed 2004 ABC, OFL, and TAC amounts. The SSC concurred with the Plan Team's recommendations, which estimates the proposed ABCs and OFLs by using a projection of 2003 groundfish harvest with the November 2002 SAFE report model projections of 2003 ABCs for groundfish stocks managed at tiers 1–3. The Council adopted the OFL and ABC amounts recommended by the SSC (Table 1). The Council also adopted the AP's recommendation that the 2004 proposed TACs be set equal to the 2003 TACs, except for sablefish, Pacific ocean perch, and Atka mackerel. Recognizing

anticipated changes in the ABCs for these species, the AP recommended and the Council adopted a decrease in the TACs for sablefish, Pacific ocean perch, and Atka mackerel. The Council adopted the AP's recommendation to use the 2003 PSC allowances for 2004. The Council will reconsider these amounts in December 2003, after the Plan Team incorporates new status of stocks information into a final SAFE report for the 2004 BSAI groundfish fishery. None of the Council's TAC recommendations for 2004 exceed the recommended ABC for any species category. Therefore, NMFS finds that the Council's recommendations for proposed 2004 OFLs, ABCs, and TACs are consistent with the best available information on the biological condition of the groundfish stocks.

Table 1 lists the proposed 2004 OFL, ABC, and TAC amounts for groundfish in the BSAI. The proposed apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1.—PROPOSED 2004 ACCEPTABLE BIOLOGICAL CATCH (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) ¹

[All amounts are in metric tons]

Species and area	Overfishing level	ABC	TAC	ITAC ²	CDQ reserve ³
Pollock: ⁴					
Bering Sea (BS) ²	2,636,000	2,127,700	1,491,760	1,342,584	149,176
Aleutian Islands (AI) ²	52,600	39,400	1,000	1,000	.....
Bogoslof District	45,300	4,070	50	50	.....
Pacific cod: BSAI	359,000	245,000	207,500	176,375	15,563
Sablefish: ⁵					
BS	3,818	2,658	2,658	1,131	265
AI	4,082	2,842	2,842	603	431
Atka mackerel:					
BSAI	104,100	61,600	59,111	50,244	4,433
Western AI .....	.....	22,479	19,990	16,992	1,499
Central AI .....	.....	28,708	28,708	24,402	2,153
Eastern AI/BS .....	.....	10,413	10,413	8,851	781
Yellowfin sole: BSAI	130,000	109,600	83,750	71,188	6,281
Rock sole: BSAI	119,400	99,900	44,000	37,400	3,300
Greenland turbot:					
BSAI	16,755	6,900	4,000	3,400	300
BS .....	.....	4,600	2,680	2,278	201
AI .....	.....	2,300	1,320	1,122	99
Arrowtooth flounder: BSAI	175,800	142,200	12,000	10,200	900
Flathead sole: BSAI	74,100	61,100	20,000	17,000	1,500
Other flatfish: ⁶ BSAI	21,400	16,000	3,000	2,550	225
Alaska plaice: BSAI	166,300	138,200	10,000	8,500	750
Pacific ocean perch:					
BSAI	17,600	14,900	13,932	11,842	1,045
BS .....	.....	2,378	1,410	1,199	106
Western AI .....	.....	5,773	5,773	4,907	433
Central AI .....	.....	3,296	3,296	2,802	247
Eastern AI .....	.....	3,454	3,454	2,936	259
Northern rockfish:					
BSAI	9,468	7,101	.....	.....	.....
BS .....	.....	.....	121	103	9
AI .....	.....	.....	5,879	4,997	441
Shortraker/rougheye:					
BSAI	1,289	967	.....	.....	.....
BS .....	.....	.....	137	116	10

TABLE 1.—PROPOSED 2004 ACCEPTABLE BIOLOGICAL CATCH (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) ¹—Continued

[All amounts are in metric tons]

Species and area	Overfishing level	ABC	TAC	ITAC ²	CDQ reserve ³
AI			830	706	62
Other rockfish: ⁷ .					
BS	1,280	960	960	816	72
AI	846	634	634	539	48
Squid: BSAI	2,620	1,970	1,970	1,675	.....
Other species: ⁸ BSAI	81,100	43,300	32,309	27,463	2,423
Total	4,002,858	3,127,003	1,998,443	1,770,482	187,225

¹ These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the Bering Sea (BS) 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. The Aleutian Islands (AI) 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, sector or put into a reserve.

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 §§ 679.20(b)(1)(iii) and 679.31).

⁴ The American Fisheries Act (AFA), § 679.20(a)(5)(i)(A)(1), requires that 10 percent of the annual pollock TAC be allocated as a directed fishing allowance for the CDQ sector. NMFS then subtracts 3.5 percent of the remainder as an incidental catch allowance for pollock, which is not apportioned by season or area. The remainder of the TAC is further allocated by sector as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent.

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 § 679.20(b)(1)(iii)).

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

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

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

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 pollock and the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. Regulations at § 679.20(b)(1)(iii) require that one half of each TAC amount placed in the non-specified reserve (7.5 percent), with the exception of squid, be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Regulations at § 679.20(a)(5)(i)(A) specify how the pollock TAC apportioned to the Bering Sea Subarea, after subtraction of the 10 percent CDQ reserve under § 679.31(a), will be allocated. 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 § 679.20(a)(5)(i)(A)(1), NMFS allocates a pollock ICA of 3.5 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 1998 through 2003. During this 6-year period, the incidental catch of pollock ranged from a low of 2 percent in 2003, to a high of 5 percent in 1999, with a 6-year average of 3 percent. Because these incidental percentages are contingent on the relative amounts of other groundfish TACs, NMFS will be better able to assess the ICA amount when the Council makes final ABC and TAC amount recommendations in December.

The remainder of the non-specified reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing, see § 679.20(b)(1)(ii).

Pollock Allocations Under the American Fisheries Act (AFA)

Regulations at § 679.20(a)(5)(i)(A)(1) require 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. These proposed amounts are listed in Table 2.

The AFA also contains several specific requirements concerning pollock and pollock allocations under § 679.20(a)(5)(i)(A)(4). First, 8.5 percent of the pollock allocated to the offshore AFA catcher/processor sector will be available for harvest by AFA catcher vessels with offshore sector endorsements, unless the Regional Administrator receives a cooperative contract that provides for the distribution of harvest between catcher/processors and catcher vessels in a manner agreed to by all members. Second, AFA catcher/processors not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the catcher/processor sector. Table 2 lists the proposed 2004 allocations of pollock TAC as prescribed by the AFA. Other provisions of the AFA, including

inshore pollock cooperative allocations and listed catcher/processor and catcher vessel harvesting sideboard limits, are found in Tables 8 through 13.

Table 2 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at

§ 679.22(a)(7)(vii), is limited to 28 percent of the annual directed fishing allowance (DFA) until April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual DFA is not taken inside the SCA before April 1, the

remainder is available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each industry sector in proportion to each sector's allocated percentage of the DFA as set forth in the AFA. These proposed amounts, by sector, are listed in Table 2.

TABLE 2.—PROPOSED 2004 ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE (DFA) TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS¹
[All amounts are in metric tons]

Area and sector	2004 allocations	A season ¹		B season ¹
		A season DFA (40% of annual DFA)	SCA harvest limit ²	B season DFA (60% of annual DFA)
Bering Sea subarea	1,491,760			
CDQ	149,176	59,670	41,769	89,506
ICA ¹	46,990			
AFA Inshore	647,797	259,119	181,383	388,678
AFA Catcher/Processors ⁴	518,237	207,295	145,106	310,942
Catch by C/Ps	474,187	189,675		284,512
Catch by CVs ⁴	44,050	17,620		26,430
Unlisted C/P Limit ⁵	2,591	1,036		1,555
AFA Motherships	129,559	51,824	36,277	77,736
Excessive Harvesting Limit ⁶	226,729			
Excessive Processing Limit ⁷	388,678			
Total Bering Sea DFA	1,491,760	577,908	404,535	866,862
Aleutian Islands ICA ⁸	1,000			
Bogoslof District ICA ⁸	50			

¹ Under § 679.20(a)(5)(i)(A), after subtraction for the CDQ reserve—10 percent and the ICA—3.5 percent, the pollock TAC is allocated as a DFA as follows: inshore component—50 percent, catcher/processor component—40 percent, and mothership component—10 percent. The A season, January 20–June 10, is allocated 40 percent of the DFA and the B season, June 10–November 1 is allocated 60 percent of the DFA.

² No more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

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

⁵ Under § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited from exceeding a harvest amount of 0.5 percent of the DFA allocated to the AFA catcher/processors sector.

⁶ Regulations at § 679.20(a)(5)(i)(A)(6) require that NMFS establish an excessive harvesting share limit equal to 17.5 percent of the sum of the pollock DFAs.

⁷ Regulations at § 679.20(a)(5)(i)(A)(7) require that NMFS establish an excessive processing share limit equal to 30.0 percent of the sum of the pollock DFAs.

⁸ The Aleutian Islands subarea and the Bogoslof District are closed by the proposed specifications 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

Under § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to 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. The Council recommended and NMFS proposes that 1 percent of the Atka mackerel ITAC in the Eastern Aleutian

District and the Bering Sea subarea be allocated to the jig gear fleet in 2004. Based on an ITAC of 8,851 mt, the jig gear allocation is 89 mt.

Regulations implementing Steller sea lion protection measures at § 679.20(a)(8)(ii)(A) apportion the Atka mackerel ITAC into two equal seasonal allowances. After subtraction of the jig gear allocation, 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 3).

Under § 679.20(a)(8)(ii)(C)(1), the Regional Administrator will establish a harvest limit area (HLA) limit of no more than 60 percent of the seasonal TAC for the Western and Central Aleutian Districts. A lottery system is used for the HLA Atka mackerel directed fisheries to reduce the amount of daily catch in the HLA by about half and to disperse the fishery over two areas, see § 679.20(a)(8)(iii).

TABLE 3.—PROPOSED 2004 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC¹

[All amounts are in metric tons]

Subarea and component	TAC	CDQ re-serve	ITAC	Seasonal allowances ²			
				A season ³		B season ³	
				Total	HLA limit ⁴	Total	HLA limit ⁴
Western Aleutian District	19,990	1,499	16,992	8,496	5,097	8,496	5,097
Central Aleutian District	28,708	2,153	24,402	12,201	7,321	12,201	7,321
Eastern AI/BS subarea ⁵	10,413	781	8,851	.....	.....	.....	.....
Jig (1%) ⁶ .....	.....	.....	89	.....	.....	.....	.....
Other gear (99%) .....	.....	.....	8,763	4,381	.....	4,381	.....
Total	59,111	4,433	50,244	25,078	.....	25,078	.....

¹ Regulations at §§ 679.20(a)(8)(ii) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

² The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

³ The A season is January 1 to April 15 and the B season is September 1 to November 1.

⁴ Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2004, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

⁵ Eastern Aleutian District and the Bering Sea subarea.

⁶ Regulations at § 679.20(a)(8)(i) require that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea ITAC be allocated to the jig gear fleet. The proposed amount of this allocation is 1 percent. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod TAC

Under § 679.20(a)(7)(i)(A), 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 regulations at § 679.20(a)(7)(i)(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. Under regulations at § 679.20(a)(7)(i)(C)(1), a portion of the Pacific cod allocated to hook-and-line or pot gear is set aside as an ICA of Pacific cod in directed fisheries for groundfish using these gear types. Based on anticipated incidental catch in these fisheries, NMFS proposes an ICA of 500 mt. The remainder of Pacific cod is further allocated to vessels using hook-and-line or pot gear as the following DFAs: 80 percent to hook-and-line catcher/processors, 0.3 percent to hook-and-line catcher vessels, 18.3 percent to pot gear vessels, and 1.4 percent to catcher vessels under 60 feet (18.3 m) length overall (LOA) using hook-and-line or pot gear. The final rule implementing Amendment 77 will split the pot gear sector share of the DFA: 3.3

percent to pot catcher/processors and 15 percent to pot catcher vessels. A final rule implementing Amendment 77 was published on December 1, 2003 68 FR 67086 and will be effective by January 1, 2004.

Due to concerns about the potential impact of the Pacific cod fishery on Steller sea lions and their critical habitat, the Pacific cod fisheries are dispersed by the apportionment of the ITAC into seasonal allowances (see §§ 679.20(a)(7)(iii) and 679.23(e)(5)). For most non-trawl gear the first seasonal allowance, 60 percent of the ITAC, is made available for directed fishing from January 1 to June 10, and the second seasonal allowance, 40 percent of the ITAC, is made available from June 10 to December 31. The regulations implementing Amendment 77 will establish three seasonal allowances for jig gear: the first seasonal allowance, 40 percent of the ITAC, is January 1 to April 30; the second seasonal allowance, 20 percent of the ITAC, is April 1 to August 31; and the third seasonal allowance, 40 percent of the ITAC, is August 31 to December 31. Amendment 77 will also allow the reallocation of any projected unused

portion of a seasonal allowance of Pacific cod for vessels using jig gear to catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear. No seasonal harvest constraints are imposed on the Pacific cod fishery prosecuted by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is January 20 to April 1 and is allocated 60 percent of the ITAC; the second season, April 1 to June 10, and the third season, June 10 to November 1, are each allocated 20 percent of the ITAC. The trawl catcher vessel allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processor allocation is allocated 50 percent in the first season, 30 percent in the second season, and 20 percent in the third season. Table 4 lists the proposed 2004 allocations and seasonal apportionments of the Pacific cod ITAC. NMFS and the Council propose that any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

TABLE 4.—PROPOSED 2004 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

Gear sector	Percent	Share of sector gear total (mt)	Subtotal percentages for gear sectors	Share of gear sector total (mt)	Seasonal apportionment ¹	
					Date	Amount (mt)
<i>Total hook-and-line and pot gear allocation of Pacific cod TAC.</i>	51	89,951	.....	.....		.....
Incidental Catch Allowance .....	.....	.....	.....	500		.....
Processor and Vessel sub-total .....	.....	89,451	.....	.....		.....

TABLE 4.—PROPOSED 2004 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

Gear sector	Percent	Share of sector gear total (mt)	Subtotal percentages for gear sectors	Share of gear sector total (mt)	Seasonal apportionment ¹	
					Date	Amount (mt)
Hook-and-line Catcher/Processors .....	.....	.....	80	71,561	Jan 1–Jun 10	42,937
Hook-and-Line Catcher Vessels .....	.....	.....	0.3	268	Jun 10–Dec 31	28,624
Pot Catcher/Processors .....	.....	.....	3.3	2,952	Jan 1–Jun 10	161
Pot Catcher Vessels .....	.....	.....	15	13,418	Jun 10–Dec 31	107
Catcher Vessels <60 feet LOA using Hook-and-line or Pot gear.	.....	.....	1.4	1,252	Jan 1–Jun 10	1,771
<i>Trawl Gear Total</i>	47	82,896	.....	.....	Sept 1–Dec 31	1,181
Trawl Catcher Vessel .....	.....	.....	50	41,448	Jan 1–Jun 10	8,051
Trawl Catcher/Processor .....	.....	.....	50	41,448	Sept 1–Dec 31	5,367
<i>Jig</i>	2	3,528	.....	.....	Jan 20–Apr 1	29,014
					Apr 1–Jun 10	4,145
					Jun 10–Nov 1	8,290
					Jan 20–Apr 1	20,724
					Apr 1–Jun 10	12,434
					Jun 10–Nov 1	8,290
					Jan 1–Apr 1	1,411
					Apr 1–Aug 31	706
					Aug 31–Dec 31	1,411
Total	100	176,375	.....	.....

¹ For most non-trawl gear the first season is allocated 60 percent of the ITAC and the second season is allocated 40 percent of the ITAC. For jig gear, the first season and third seasons are each allocated 40 percent of the ITAC and the second season is allocated 20 percent of the ITAC. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is allocated 60 percent of the ITAC and the second and third seasons are each allocated 20 percent of the ITAC. The trawl catcher vessels' allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processors' allocation is allocated 50 percent in the first season, 30 percent in the second season and 20 percent in the third season. Any unused portion of a seasonal Pacific cod allowance will be reapportioned to the next seasonal allowance.

Allocation of the Shorttraker and Roughey Rockfish TAC

Under § 679.20(a)(9), the ITAC of shorttraker rockfish and roughey 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 proposed 2004 ITAC of 706 mt, the trawl allocation is 494 mt and the non-trawl allocation is 212 mt.

Sablefish Gear Allocation

Regulations at § 679.20(a)(4)(iii) and (iv) require that sablefish TACs for the Bering Sea and Aleutian Islands subareas be allocated between trawl and hook-and-line or pot gear. Gear allocations of the TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the Aleutian Islands subarea are 25 percent for trawl gear and 75 percent for hook-and-line or 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 apportioned to the CDQ reserve. Additionally, regulations at § 679.20(b)(1)(iii)(A) require that 7.5 percent of the trawl gear allocation of sablefish (one half of the reserve) be apportioned to the CDQ reserve. Proposed 2004 gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 5.

TABLE 5.—PROPOSED 2004 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	1,329	1,130	100
Hook-and-line/pot gear ³	50	1,329	N/A	266
Total	100	2,658	1,130	365
Aleutian Islands:				
Trawl ²	25	711	604	53
Hook-and-line/pot gear ³	75	2,132	N/A	426
Total	100	2,842	604	480

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

² For the portion of the sablefish TAC allocated to vessels using trawl gear, one half of the reserve (7.5 percent of the specified TAC) is reserved for the 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 Limits for Halibut, Crab, Salmon, and Herring

Due to the lack of new information concerning PSC limits and apportionments in October 2003, the Council recommended using the halibut, crab, and herring 2003 PSC amounts for the proposed 2004 amounts. The Council will reconsider these amounts in December 2003, based on recommendations by the Plan Team and the SSC. Regulations at § 679.21(e)(1)(vii) specify a scheduled reduction of chinook salmon PSC limits until the final limit is reached in 2004. For 2004, the proposed chinook salmon PSC limit for the pollock fishery is 29,000 fish. Regulations at § 679.21(e)(1)(i) allocate 7.5 percent or 2,175 chinook salmon as the proposed PSQ for the CDQ program and the remaining 26,825 chinook salmon to the non-CDQ fisheries.

PSC limits for halibut are set in regulations at § 679.21(e). For the BSAI trawl fisheries, the limit is 3,675 mt of Pacific halibut mortality and for non-trawl fisheries, the limit is 900 mt of mortality. PSC limits for crab and herring are specified annually based on abundance and spawning biomass.

The red king crab mature female abundance is estimated from the 2002 survey data to be 18.6 million king crab and the effective spawning biomass is estimated to be 37.7 million pounds (17,100 mt). Based on the criteria set out at § 679.21(e)(1)(ii), the proposed 2003 PSC limit of red king crab in Zone 1 for trawl gear is 97,000 animals as a result of the mature female abundance being above 8.4 million king crab, and the effective spawning biomass estimate being greater than 14.5 (6,577 mt), but less than 55 million pounds (24,948 mt).

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). The regulations limit the RKCSS red king crab bycatch limit to up to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/"other flatfish" fishery category. The limit must be based on the need to optimize the groundfish harvest relative to red king crab bycatch. The Council

recommended, and NMFS approves, a proposed red king crab bycatch limit equal to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/"other flatfish" fishery category within the RKCSS.

Based on 2002 survey data, the *Chionoectes bairdi* crab abundance is estimated to be 464.9 million animals. Given the criteria set out at § 679.21(e)(1)(iii), the proposed 2004 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2 as a result of the *C. bairdi* crab abundance estimate of over 400 million animals.

Under § 679.21(e)(1)(iv), the PSC limit for *C. opilio* crab is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2002 survey estimate of 1.49 billion animals, the calculated limit is 1,169,000 animals. Because this limit is less than 4.5 million, under § 679.21(e)(1)(iv)(B), the proposed 2004 *C. opilio* crab PSC limit is 4,350,000 million animals.

Under § 679.21(e)(1)(vi), the proposed 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 2003 herring biomass is 152,574 mt. This amount was derived using 2002 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game (ADF&G). Therefore, the proposed herring PSC limit for 2004 is 1,526 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 proposed fishery bycatch allowances for the trawl and non-trawl fisheries are listed in Table 6.

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 proposing to exempt 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 comparatively few halibut. In 2003, total groundfish catch for the pot gear fishery in the BSAI was approximately 17,929 mt with an associated halibut bycatch mortality of about 3 mt. The 2003 groundfish jig gear fishery harvested about 156 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA 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 halibut retention requirements of the sablefish and halibut IFQ program (subpart D of 50 CFR part 679). The IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ. This provision results in reduced 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 2003 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 allowances. In October 2003, the Council proposed no seasonal apportionments, except for the trawl bycatch allowance for halibut bycatch specified for the rockfish trawl fishery. The intent of this proposal was to reduce halibut bycatch during the first quarter when halibut bycatch is the highest. NMFS anticipates that the Council will recommend additional seasonal apportionments during its December 2003 meeting.

TABLE 6.—PROPOSED 2004 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 ¹	C. opilio (animals) COBLZ ²	C. bairdi (animals)	
					Zone 1 ¹	Zone 2 ¹
Yellowfin sole	886	139	16,664	2,776,981	340,844	1,788,459
Rock sole/other flat/flathead sole ³	779	20	59,782	969,130	365,320	596,154
Turbot/arrowtooth/sablefish ⁴		9		40,238		
Rockfish: July 4–December 31	69	7		40,237		10,988
Pacific cod	1,434	20	13,079	124,736	183,112	324,176
Midwater trawl pollock		1,184				
Pollock/Atka mackerel/other ⁵	232	146	200	72,428	17,224	27,473
Red King Crab Savings Subarea (non-pelagic trawl)			20,924			
Total Trawl PSC	3,400	1,526	89,725	4,023,750	906,500	2,747,250
Non-Trawl Fisheries:						
Pacific cod—Total	775					
Other non-trawl—Total	58					
Groundfish pot & jig	exempt					
Sablefish hook-and-line	exempt					
Total Non-Trawl	833					
PSQ Reserve ⁶	342		7,275	326,250	73,500	222,750
Grand Total	4,575	1,526	97,000	4,350,000	980,000	2,970,000

¹ Refer to § 679.2 for definitions of areas.

² C. opilio Bycatch Limitation Zone. Boundaries are defined at 50 CFR part 679, Figure 13.

³ "Other flatfish" for PSC monitoring includes all flatfish species, except for Pacific halibut (a prohibited species), greenland turbot, rock sole, yellowfin sole and arrowtooth flounder.

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

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

⁶ With the exception of herring, 7.5 percent of each PSC limit is allocated to the 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 discard mortality rates (DMR), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The assumed DMRs are based on the best information available, including information contained in the annual SAFE report.

The Council recommended and NMFS proposes that the recommended halibut DMRs developed by staff of the International Pacific Halibut Commission (IPHC) for the 2003 BSAI groundfish fisheries be used for monitoring halibut bycatch allowances established for the 2004 groundfish fisheries (Table 7). Results from analysis of halibut release condition data for 2000 showed continued stability in halibut DMRs for many fisheries. Plots of annual DMRs against the 10-year mean indicated little change since 1990 for some fisheries, particularly the major trawl fisheries. DMRs were more variable for the smaller fisheries that typically take minor amounts of halibut

bycatch. For 2003 for most groundfish fisheries, DMRs were used based on long-term mean for a 3-year period before revisions were proposed. Annual DMRs were used for the BSAI hook-and-line Pacific cod fishery and CDQ fisheries. The IPHC will analyze observer data annually and recommend changes to the DMRs where a fishery DMR shows large variation from the mean. For 2003, the BSAI hook-and-line Pacific cod fishery DMR did not change; but the CDQ fishery DMRs were adjusted. The justification for these proposed DMRs is discussed in Appendix A of the final SAFE report dated November 2002. The proposed DMRs listed in Table 7 are subject to change pending the results of an updated analysis on halibut DMRs in the groundfish fisheries that IPHC staff is scheduled to present to the Council at its December 2003 meeting.

TABLE 7.—PROPOSED 2004 ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI FISHERIES

Fishery	Pre-season assumed mortality (percent)
Hook-and-line gear fisheries:	
Greenland turbot	18
Other Species	12
Pacific cod	12
Rockfish	25
Sablefish	22
Trawl gear fisheries:	
Atka mackerel	75
Flathead sole	67
Greenland turbot	70
Nonpelagic pollock	76
Pelagic pollock	84
Other flatfish	71
Other species	67
Pacific cod	67
Rockfish	69
Rock sole	76
Sablefish	50
Yellowfin sole	81
Pot gear fisheries:	
Other species	8
Pacific cod	8

TABLE 7.—PROPOSED 2004 ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI FISHERIES—Continued

Fishery	Pre-season assumed mortality (percent)
CDQ trawl fisheries:	
Atka mackerel	80
Flathead sole	90
Nonpelagic pollock	90
Pelagic pollock	89
Rockfish	90
Yellowfin sole	83
CDQ hook-and-line fisheries:	
Greenland turbot	4
Pacific cod	11

TABLE 7.—PROPOSED 2004 ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI FISHERIES—Continued

Fishery	Pre-season assumed mortality (percent)
CDQ pot fisheries:	
Pacific cod	2
Sablefish	46

Bering Sea Subarea Inshore Pollock Allocations

Regulations at § 679.4 set forth procedures for AFA inshore catcher vessel pollock cooperatives to apply for and receive cooperative fishing permits

and inshore pollock allocations. For 2003, NMFS received applications from seven inshore catcher vessel cooperatives. Applications for 2004 must be received by the Regional Administrator by December 1, 2003. Table 8 lists the proposed pollock allocations to the seven inshore catcher vessel pollock cooperatives based on 2003 cooperative allocations and the assumption that the cooperatives' membership will remain unchanged in 2004. Allocations for cooperatives and vessels not participating in cooperatives are not made for the AI subarea because the AI subarea has been closed to directed fishing for pollock. These allocations may be revised pending adjustments to cooperatives' membership prior to 2004.

TABLE 8.—PROPOSED 2004 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

Cooperative name and member vessels	Sum of member vessel's official catch histories ¹ (mt)	Percentage of inshore sector allocation	Annual co-op allocation (mt)
<i>Akutan Catcher Vessel Association:</i> ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER	245,527	28.085	181,932
<i>Arctic Enterprise Association:</i> BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER ...	36,807	4.210	27,273
<i>Northern Victor Fleet Cooperative:</i> ANITA J, COLLIER BROTHERS, COMMODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL	73,656	8.425	54,578
<i>Peter Pan Fleet Cooperative:</i> AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PROVIDIAN, TOPAZ, WALTER N	18,693	2.138	13,851
<i>Unalaska Cooperative:</i> ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MES-SIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN ...	106,737	12.209	79,091
<i>UniSea Fleet Cooperative:</i> ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE	201,566	23.056	149,357
<i>Westward Fleet Cooperative:</i> A.J., ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC CHALLENGER, PACIFIC KNIGHT, PACIFIC PRINCE, STARWARD, VIKING, WESTWARD I	189,942	21.727	140,744
Open access AFA vessels	1,309	0.150	970
Total inshore allocation	874,238	100	647,797

¹ According to regulations at § 679.62(e)(1), the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

Under regulations at § 679.20(a)(5)(i)(A), NMFS subdivides the inshore allocation into allocations for cooperatives and vessels not fishing in a cooperative. In addition, under § 679.22(a)(7)(vii), NMFS establishes harvest limits inside the Steller sea lion conservation area (SCA) and provides a set-aside so that catcher vessels less than or equal to 99 ft (30.2 m) LOA have

the opportunity to operate entirely within the SCA during the A season. Accordingly, Table 9 lists the proposed apportionment of the Bering Sea subarea inshore pollock allocation into allocations for vessels fishing in a cooperative and for vessels not participating in a cooperative and establishes a cooperative-sector SCA set-aside for AFA catcher vessels less than

or equal to 99 ft (30.2 m) LOA. The SCA set-aside for catcher vessels less than or equal to 99 ft (30.2 m) LOA that are not participating in a cooperative will be established inseason based on actual participation levels and is not included in Table 9. These proposed allocations may be revised pending final review and approval of 2004 cooperative agreements.

TABLE 9.—PROPOSED 2004 BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND NON-COOPERATIVE SECTORS OF THE INSHORE POLLOCK FISHERY

[All amounts are in metric tons]

	A season TAC	A season inside SCA ¹	B season TAC
Cooperative sector:			
Vessels > 99 ft	n/a	155,616	n/a
Vessels ≤ 99 ft	n/a	25,495	n/a
Total	258,731	181,111	388,096
Open access sector	388	² 272	582
Total inshore	259,119	181,383	388,678

¹ The Steller sea lion conservation area established at § 679.22(a)(7)(vii).

² SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(7)(vii)(C)(2) which specifies that "the Regional Administrator will prohibit directed fishing for pollock by vessels catching pollock for processing by the inshore component greater than 99 ft (30.2 m) LOA before reaching the inshore SCA harvest limit during the A season to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA for the duration of the inshore seasonal opening."

Listed AFA Catcher/Processor Sideboard Limits

Under regulations at § 679.64(a), the Regional Administrator will restrict the ability of listed AFA catcher/processors to engage in directed fishing for non-pollock groundfish species to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. The catcher/processor sideboard limits for BSAI groundfish, other than Atka mackerel, Pacific cod and Pacific ocean perch, will be based on the 1995

through 1997 retained catch of such groundfish species by the 20 listed AFA catcher/processors listed in paragraphs (e)(1) through (e)(20) of section 208 of the AFA and the nine ineligible catcher/processors listed in section 209 of the AFA. Pacific cod catcher/processor sideboard limits will be based on 1997 retained catch only, and Pacific ocean perch in the Aleutian Islands subarea will be based on 1996 and 1997 retained catch only. The AFA catcher/processor sideboard limit for Atka mackerel is zero percent of the Bering Sea subarea and Eastern Aleutians District's annual TAC, 11.5 percent of the Central

Aleutian District's annual TAC, and 20 percent of the Western Aleutian District's annual TAC. The proposed 2004 catcher/processor sideboard limits are set out in Table 10 below.

All non-pollock groundfish that is harvested by listed AFA catcher/processors, whether as targeted catch or incidental catch, will be deducted from the proposed sideboard limits in Table 10. However, non-pollock groundfish that is delivered to listed catcher/processors by catcher vessels will not be deducted from the proposed 2004 sideboard limits for the listed catcher/processors.

TABLE 10.—PROPOSED 2004 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUND FISH SIDEBOARD LIMITS

Target species/area	1995–1997			Proposed 2004 ITAC available to trawl C/Ps (mt)	Proposed 2004 C/P sideboard limit (mt)
	Retained catch (mt)	Available TAC (mt)	Ratio of Retained catch/Available TAC		
Pacific cod trawl: BSAI	12,424	51,450	0.241	45,105	10,870
Sablefish trawl:					
BS	8	1,736	0.005	1,130	6
AI	0	1,135	0.000	603	0
Atka mackerel:					
Western AI:					
A season ¹	n/a	n/a	0.200	8,496	1,699
HLA limit ²					
B season	n/a	n/a	0.200	8,496	1,699
HLA limit					
Central AI:					
A season ¹	n/a	n/a	0.115	12,201	1,403
HLA limit					
B season	n/a	n/a	0.115	12,201	1,403
HLA limit					
Yellowfin sole: BSAI	100,192	527,000	0.190	71,188	13,526
Rock sole: BSAI	6,317	202,107	0.031	37,400	1,159
Greenland turbot:					
BS	121	16,911	0.007	2,278	16
AI	23	6,839	0.003	1,122	3
Arrowtooth flounder: BSAI	76	36,873	0.002	10,200	20
Flathead sole: BSAI	1,925	87,975	0.022	17,000	374
Alaska plaice: BSAI	3,243	.....	0.035	9,250	324
Other flatfish: BSAI	3,243	92,428	0.035	2,775	97

TABLE 10.—PROPOSED 2004 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUND FISH SIDEBOARD LIMITS—Continued

Target species/area	1995–1997			Proposed 2004 ITAC available to trawl C/Ps (mt)	Proposed 2004 C/P sideboard limit (mt)
	Retained catch (mt)	Available TAC (mt)	Ratio of Retained catch/Available TAC		
Pacific ocean perch:					
BS	12	5,760	0.002	1,199	2
Western AI	54	12,440	0.004	4,907	20
Central AI	3	6,195	0.000	2,802	0
Eastern AI	125	6,265	0.020	2,936	59
Northern rockfish:					
BS	8	.....	0.008	112	1
AI	83	13,254	0.006	5,438	33
Shorthead/rougheye:					
BS	8	.....	0.008	126	1
AI	42	2,827	0.015	538	8
Other rockfish:					
BS	18	1,026	0.018	888	16
AI	22	1,924	0.011	539	6
Squid: BSAI	73	3,670	0.020	1,675	34
Other species: BSAI	553	65,925	0.008	29,886	239

¹ The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the available TAC in the Western Aleutian District, and 11.5 percent of the available TAC in the Central Aleutian District.

² Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2004, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

Regulations at § 679.64(a) establish a formula for PSC sideboard limits for listed AFA catcher/processors. These amounts are equivalent to the percentage of PSC limits harvested in the non-pollock groundfish fisheries by the AFA catcher/processors listed in subsection 208(e) and section 209 of the AFA from 1995 through 1997. PSC amounts harvested by these catcher/processors in BSAI non-pollock groundfish fisheries from 1995 through 1997 are shown in Table 10. These data were used to calculate the PSC catch

ratios for pollock catcher/processors shown in Table 10. The 2004 PSC limits available to trawl catcher/processors are multiplied by the ratios to determine the PSC sideboard limits for listed AFA catcher/processors in the 2004 non-pollock groundfish fisheries.

PSC that is caught by listed AFA catcher/processors participating in any non-pollock groundfish fishery listed in Table 11 would accrue against the proposed 2004 PSC limits for the listed catcher/processors. Regulations at § 679.21(e)(3)(v) provide NMFS with the

authority to close directed fishing for non-pollock groundfish for listed AFA catcher/processors once a proposed 2004 PSC limitation listed in Table 11 is reached.

Crab or halibut PSC that is caught by listed AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/other species fishery categories under regulations at § 679.21(e).

TABLE 11.—PROPOSED 2004 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS¹

PSC species	1995–1997			Proposed 2004 PSC available to trawl vessels	Proposed 2004 C/P limit
	PSC catch	Total PSC	Ratio of PSC catch/total PSC		
Halibut mortality	955	11,325	0.084	3,400	286
Red king crab	3,098	473,750	0.007	89,725	628
<i>C. opilio</i>	2,323,731	15,139,178	0.153	4,023,750	615,634
<i>C. bairdi</i> :					
Zone 1	385,978	2,750,000	0.140	906,500	126,910
Zone 2	406,860	8,100,000	0.050	2,747,250	137,363

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

AFA Catcher Vessel Sideboard Limits

Regulations at § 679.64(b) establish formulas for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The catcher vessel sideboard limits for BSAI groundfish will be based

on the 1995 through 1997 retained catch of such groundfish species by all AFA catcher vessels, except for Pacific cod which will be based on 1997 retained catch by non-exempt AFA catcher vessels only. The proposed 2004 AFA

catcher vessel sideboard limits are shown in Tables 12 and 13.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be

deducted from the proposed sideboard limits listed in Table 12.

TABLE 12.—PROPOSED 2004 BSAI AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD LIMITS

Species and fishery by area/season/processor/gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	Proposed 2004 initial TAC (mt)	Proposed 2004 catcher vessel sideboard limits (mt)
Pacific cod:			
BSAI:			
Jig gear	0.0000	3,528	0
Hook-and-line CV:			0
Jan 1–Jun 10	0.0006	161	0
Jun 10–Dec 31	0.0006	107	0
Pot gear:			0
Jan 1–Jun 10	0.0006	9,822	6
Sept 1–Dec 31	0.0006	6,548	4
CV <60 feet LOA using hook-and-line or pot gear	0.0006	1,252	1
Trawl gear catcher vessel:			0
Jan 20–Apr 1	0.8609	29,014	24,978
Apr 1–Jun 10	0.8609	4,145	3,193
Jun 10–Nov 1	0.8609	8,290	6,386
Sablefish:			
BS trawl gear	0.0906	1,131	102
AI trawl gear	0.0645	603	39
Atka mackerel:			
Eastern AI/BS:			0
Jig gear	0.0031	89	0
Other gear:			0
Jan 1–Apr 15	0.0032	4,381	14
Sept 1–Nov 1	0.0032	4,381	14
Central AI:			0
Jan–Apr 15	0.0001	12,201	1
HLA limit	0.0001	7,321	1
Sept 1–Nov 1	0.0001	12,201	1
HLA limit	0.0001	7,321	1
Western AI:			0
Jan–Apr 15	0	8,496	0
HLA limit	0.0000	5,097	0
Sept 1–Nov 1	0	8,496	0
HLA limit	0	5,097	0
Yellowfin sole: BSAI	0.0647	71,188	4,606
Rock sole: BSAI	0.0341	37,400	1,275
Greenland Turbot:			
BS	0.0645	2,278	147
AI	0.0205	1,122	23
Arrowtooth flounder: BSAI	0.0690	10,200	704
Alaska plaice: BSAI	0.0441	8,500	375
Other flatfish: BSAI	0.0441	2,550	112
Pacific ocean perch:			
BS	0.1000	1,199	120
Eastern AI	0.0077	2,936	23
Central AI	0.0025	2,802	7
Western AI	0.0000	4,907	0
Northern rockfish:			
BS	0.0280	103	3
AI	0.0089	4,997	44
Shortraker/Rougheye:			
BS	0.0048	116	1
AI	0.0035	706	2
Other rockfish:			
BS	0.0048	816	4
AI	0.0095	539	5
Squid: BSAI	0.3827	1,675	641
Other species: BSAI	0.0541	27,463	1,486
Flathead Sole: BS trawl gear	0.0505	17,000	859

Regulations at § 679.64(b) establish a formula for PSC sideboard limits for AFA catcher vessels. The AFA catcher

vessel PSC bycatch limits will be a portion of the PSC limit equal to the ratio of aggregate retained groundfish

catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all

vessels in that fishery from 1995 through 1997. These proposed PSC sideboard limits are listed in Table 13.

Halibut and crab PSC that is caught by AFA catcher vessels participating in any non-pollock groundfish fishery listed in Table 13 will accrue against the

proposed 2004 PSC limits for the AFA catcher vessels. Regulations at § 679.21(e)(3)(v) provide authority to close directed fishing for non-pollock groundfish for AFA catcher vessels once a proposed 2004 PSC limit listed in

Table 13 is reached. PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI will accrue against either the midwater pollock or the pollock/Atka mackerel/other species fishery categories.

TABLE 13.—PROPOSED 2004 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI¹

PSC species and target fishery category ²	Ratio of 1995–1997 AFA CV retained catch to total retained catch	Proposed 2004 PSC limit	Proposed 2004 AFA catcher vessel PSC sideboard limit
Halibut:			
Pacific cod trawl	0.6183	1,434	887
Pacific cod hook-and-line or pot	0.0022	775	2
Yellowfin sole	0.1144	886	101
Rock sole/flat. sole/other flatfish ⁵	0.2841	779	221
Turbot/Arrowtooth/Sablefish	0.2327	0	.....
Rockfish	0.0245	69	2
Pollock/Atka mackerel/Other sp.	0.0227	232	5
Red King Crab, Zone 1⁴:			
Pacific cod	0.6183	13,079	8,087
Yellowfin sole	0.1144	16,664	1,906
Rock sole/flat. sole/other flatfish ⁵	0.2841	59,782	16,984
Pollock/Atka mackerel/Other sp.	0.0227	200	5
C. opilio, COBLZ³:			
Pacific cod	0.6183	124,736	77,124
Yellowfin sole	0.1144	2,776,981	317,687
Rock sole/flat. sole/other flatfish ⁵	0.2841	969,130	275,330
Pollock/Atka mackerel/Other sp.	0.0227	72,428	1,644
Rockfish	0.0245	40,237	986
Turbot/Arrowtooth/Sablefish	0.2327	40,238	9,363
C. bairdi, Zone 1:			
Pacific cod	0.6183	183,112	113,218
Yellowfin sole	0.1144	340,844	38,993
Rock sole/flat. sole/other flatfish ⁵	0.2841	365,320	103,787
Pollock/Atka mackerel/Other sp.	0.0227	17,224	391
C. bairdi, Zone 2:			
Pacific cod	0.6183	324,176	200,438
Yellowfin sole	0.1144	1,788,459	204,600
Rock sole/flat. sole/other flatfish ⁵	0.2841	596,154	169,367
Pollock/Atka mackerel/Other sp.	0.0227	27,473	624
Rockfish	0.0245	10,988	269

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

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

³ C. opilio Bycatch Limitation Zone. Boundaries are defined at Figure 13 of 50 CFR part 679.

⁴ In October 2003, the Council recommended that red king crab bycatch for trawl fisheries within the RKCSS be limited to 35 percent of the total allocation to the rock sole/flathead sole/“other flatfish” fishery category (see § 679.21(e)(3)(ii)(B)).

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

Classification

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

NMFS prepared an IRFA for this action in accordance with the provisions of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 603(b)). A copy of this analysis is available from the Council (see ADDRESSES). This IRFA evaluates the effects of the proposed action on regulated small entities. The reasons for the action, a statement of the objectives of the action, and the legal

basis for the proposed rule, are discussed earlier in the preamble.

The small entities affected by this action are those that commercially harvest groundfish under the BSAI FMP. Data in the IRFA indicates that about 220 catcher vessels, and about 40 catcher-processors, and six CDQ groups may be “small entities” under the terms of the RFA.

Using the sectoral first wholesale gross revenue changes as an index, the preferred alternative seems to have adverse impacts in the sablefish sectors in the BSAI. There do not appear to be other adverse impacts associated with

the preferred alternative. The model suggests that there will be revenue reductions for rockfish, Atka mackerel, and other species. However, the projected revenue reductions for these species appear to be relatively small percentages of the prior year (2003) gross revenue estimates. Given the large confidence intervals believed to be associated with these estimates, these are thought to be minor impacts.

Harvest records indicate that in 2001, 87 vessels harvested sablefish in the BSAI in excess of the minimum harvest threshold adopted to select vessels for the analysis. Of these, 69 were small

entities according to the \$3.5 million in gross revenues criterion used by the SBA for catcher vessels. These small vessels harvested about 1,449 mt of sablefish in all their sablefish fisheries (some of this tonnage may have come from operations in the GOA). Another 71 vessels harvested amounts of sablefish below the minimum harvest threshold; these vessels only harvested a total of about 12 mt of sablefish. The 69 small vessels above the threshold averaged about \$1.1 million in all their fisheries (groundfish, crab, scallops, salmon and herring) in Alaska, and about \$229,000 from all their sablefish in Alaska. If the small entity revenue reduction is proportionate to the overall first wholesale "index" reduction in the area, and if the small entities catch all of their sablefish in the BSAI, the small entity revenue reduction would be about \$19,000. This would be about 8.3 percent of their sablefish revenues, and about 1.7 percent of their overall revenues.

The CDQ program provides a mechanism to allow local communities to benefit from the BSAI fisheries. Sixty-five regional communities have banded together into six Community Development Quota (CDQ) groups. Regulations require the allocation of proportions of the annual species specifications to the CDQ groups. The

CDQ groups may fish the allocations themselves, enter into joint ventures to fish them, or lease them out to fishing firms. These allocations generate large revenues for the CDQ groups. In 2001, the CDQ groups as a whole earned about \$43 million in royalties from the program; in 2002, they earned about \$46 million. Because the CDQ groups are non-profit organizations, they are treated as small entities for RFA purposes.

The sablefish first wholesale gross revenues from CDQ program allocations will decline by about 8% under the preferred alternative. This comparatively large percentage decline is associated with a relatively small decline in first wholesale value of about \$137,000. This decline in first wholesale value would be associated with a smaller decline in CDQ program royalties. Even if royalties were equal to first wholesale revenues, which they are not, this decline would be a small fraction of a percent of total CDQ program royalties.

The preferred alternative was compared to the four other alternatives evaluated during the specifications process. These alternatives are defined by TACs set so as to generate different harvest rates (F values). Alternative 1 sets a TAC to generate the harvest rate associated with the maximum ABC for

each species, Alternative 2 is the preferred alternative, Alternative 3 sets TACs to produce fishing rates that are half those of Alternative 1, Alternative 4 sets TACs to generate fishing rates equal to the most recent five year average rates, and Alternative 5 sets TACs equal to zero. Only Alternative 1 had a smaller adverse impact on small entities than the preferred alternative. However Alternative 1 would have increased sablefish harvests and would have failed to meet the objective of protecting the long run health of the sablefish stocks. Also, Alternative 1 would have authorized groundfish harvests in excess of the 2 million optimal yield cap for the BSAI.

The action does not impose new recordkeeping or reporting requirements on small entities. The analysis did not reveal any Federal rules that duplicate, overlap or conflict with the proposed action.

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

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Rebecca Lent,

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Regulatory Programs.*

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