

Amendment 80
to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands
Management Area

1. In the Executive Summary, Table ES-2, revise the Procedure to set Total Allowable Catch (TAC) and Apportionment of TAC rows as follows:

Procedure to set Total Allowable Catch (TAC)	Based on the annual Stock Assessment and Fishery Evaluation (SAFE) report, the Council will recommend to the Secretary of Commerce TACs and apportionments thereof for each target species and the “other species” category. The Secretary will implement annual TACs which may address up to 2 fishing years, following public comment and Council recommendations at the December Council meeting. Reserve: 15% of the TAC for each target species (except Aleutian Islands Pacific ocean perch, Atka mackerel, flathead sole, Pacific cod, rock sole, yellowfin sole, pollock and fixed-gear sablefish) and the “other species” category is set aside to form the reserve, used for correcting operational problems of the fleets, adjusting species TACs for conservation, or apportionments. The reserve is not designated by species or species groups.
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<p>Apportionment of TAC</p>	<p>Pollock: The amount of pollock that may be taken with non-pelagic trawls may be limited; pollock TAC shall be divided into roe-bearing (“A” season) and non roe-bearing (“B” season) allowances.</p> <p>Sablefish: Vessels using fixed gear may harvest no more than 50% of the TAC in the Bering Sea and 75% of the TAC in the Aleutian Islands; vessels using trawl gear may harvest no more than 50% of the TAC in the Bering Sea and 25% of the TAC in the Aleutian Islands.</p> <p>Pacific cod: After subtraction of the CDQ allowance, the remaining TAC shall be allocated 1.4% for vessels using jig gear, 2.3% for catcher processors using trawl gear listed in Section 208(e)(1)-(20) of the AFA, 13.4% for catcher processors using trawl gear as defined in section 219(a)(7) of the Consolidated Appropriations Act, 2005 (Pub.L. 108-447), 22.1% for catcher vessels using trawl gear, 48.7% for catcher processors using hook-and-line gear, 0.2% for catcher vessels ≥60’ LOA using hook-and-line gear, 1.5% for catcher processors using pot gear, 8.4% for catcher vessels ≥60’ LOA using pot gear, and 2.0% for catcher vessels <60’ LOA that use either hook-and-line gear or pot gear. Allocations may be seasonally apportioned.</p> <p>Atka mackerel: After subtraction of the CDQ allowance, and incidental catch amount, up to 2% of the eastern Aleutian Islands and Bering Sea TACs will be allocated to vessels using jig gear, the remaining TAC is apportioned among vessels using trawl gear. Allocations may be seasonally apportioned.</p> <p>Aleutian Islands Pacific ocean perch, flathead sole, rock sole and yellowfin sole: After subtraction of the CDQ allowance, and incidental catch amount, the remaining TAC is apportioned among vessels using trawl gear.</p> <p>Shortraker and rougheye rockfish: after subtraction of reserves, the Aleutian Islands TAC will be allocated 70% to vessels using trawl gear and 30% to vessels using non-trawl gear.</p>
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2. In the Executive Summary, Table ES-2, revise the CDQ Program row as follows:

<p>Community Development Quota (CDQ) Program</p>	<p>Eligible communities in western Alaska will receive a percentage of the TAC for each directed fishery of the BSAI and share of PSC species.</p> <p>Sablefish: 20% of the fixed gear allocation of the TAC and 7.5% of the trawl allocation of the TAC</p> <p>Pollock: 10% of the TAC as a directed fishing allowance</p> <p>Other groundfish species listed in regulations which support a directed fishery: 10.7% of the TAC for each directed groundfish fishery pursuant to section 305(i)(1)(B) of the Magnuson-Stevens Act.</p>
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3. In the Executive Summary, Table ES-2, add the the Aleutian Islands Pacific ocean perch, Atka mackerel, flathead sole, rocksole, Pacific cod, and yellowfin sole (Amendment 80 species) row as follows:

<p>Aleutian Islands Pacific ocean perch, Atka mackerel, flathead sole, rocksole, Pacific cod, and yellowfin sole (Amendment 80 species)</p>	<p>Access: Limits trawl sector catch by creating allocations between non-AFA trawl catcher/processors (i.e., non-AFA trawl catcher/processors as defined in section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447), and all other trawl gear sectors.</p> <p>Allocation: After adjustment for the community development quota allocation (see below), incidental catch of these species (except Pacific cod) in other fisheries, and the allocation of Atka mackerel to jig gear, the TAC is apportioned between the non-AFA trawl catcher/processors and all other trawl fishery participants.</p> <p>Cooperatives: Creates standards and limitations for the creation and operation of cooperatives.</p> <p>Sideboards: Establishes harvesting and processing restrictions for non-AFA trawl catcher/processors in the GOA to protect other fisheries.</p> <p>Catch monitoring: Increases observer coverage and scale requirements for non-AFA catcher/processors.</p>
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4. *Revise the first paragraph in section 3.2.5.3 to read as follows:*

The groundfish reserve at the beginning of each fishing year shall equal the sum of 15 percent of each target species and the “other species” category TACs, except for pollock, fixed-gear sablefish, Atka mackerel, AI Pacific ocean perch, flathead sole, rocksole, yellowfin sole, and Pacific cod. When the TACs for the groundfish complex are determined by the Council, 15 percent of the sum of the TACs is set aside as a reserve. This reserve is used for a) correction of operational problems in the fishing fleets, to promote full and efficient use of groundfish resources, b) adjustments of species TACs according to the condition of stocks during the fishing year, and c) apportionments.

5. *Revise the first paragraph of section 3.2.5.4 to read as follows:*

When the TAC for each target species and the “other species” category, except for pollock, fixed-gear sablefish, Atka mackerel, AI Pacific ocean perch, flathead sole, rocksole, yellowfin sole, and Pacific cod, is determined, it is reduced by 15 percent to form the reserve, as described in section 3.5.2.3. The remaining 85 percent of each TAC is then apportioned by the Regional Administrator.

6. *Revise Section 3.2.6.4. to include the following text at the end of section 3.6.5 as follows:*

The remaining TAC available for harvest will be apportioned for use by trawl gear as described under section 3.7.5.

7. *In Section 3.3.1.1., add the following text at the end of heading 5 to read as follows:*

A license that was originally assigned to, or designates, a non-AFA trawl catcher/processor may only be used on a non-AFA trawl catcher/processor.

8. *Revise Section 3.6.2 to include the following text at the end of section 3.6.5 as follows:*

PSC assigned to a non-AFA trawl catcher/processor cooperative under section 3.7.5 is not subject to fishery or seasonal apportionment.

9. *Add a new section 3.6.6.6 to read as follows:*

3.6.6.6 AI Pacific ocean perch, flathead sole, rocksole, and yellowfin sole

After subtraction of the CDQ allowance and incidental catch amount, the remaining TAC is apportioned among vessels using trawl gear as described under section 3.7.5.

10. *Revise Sections 3.7.4.4 and 3.7.4.5 as follows:*

3.7.4.4 Other Groundfish Allocations

Section 305(i)(1)(B) of the Magnuson-Stevens Act governs allocations of groundfish to the CDQ Program. The Magnuson-Stevens Act requires that 10.7 percent of the TAC for each species in a directed groundfish fishery in the BSAI, except pollock and sablefish, shall be allocated to the CDQ Program. The Magnuson-Stevens Act also requires that 7.5 percent of the trawl allocation of the sablefish TAC shall be allocated to the CDQ Program.

3.7.4.5 Prohibited Species Allocations

The following allocations of the PSC limits will be made to the CDQ Program:

Halibut: In 2008 and 2009, 343 mt of mortality. In 2010 and thereafter, 393 mt of mortality.

Crab: 10.7 percent of each crab PSC limit in the BSAI.

Chinook salmon: 7.5 percent of the Chinook salmon PSC limit in the BSAI.

Non-Chinook salmon: 10.7 percent of the non-Chinook salmon PSC limit in the BSAI.

PSC allocations to the CDQ Program are not allocated by gear or target fishery.

11. *Add a new Section 3.7.5 to read as follows:*

3.7.5 Amendment 80

Allocate certain specific non-pollock groundfish, crab PSC, and halibut PSC among trawl sectors and establish a limited access privilege program (LAPP) for the non-AFA trawl catcher/processor sector.

3.7.5.1 Allocation of BSAI Non-Pollock Groundfish in the Trawl Fisheries.

3.7.5.1.1 General

Allocate a portion of yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod TAC between the non-AFA trawl catcher/processor sector as defined in section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447), and all other BSAI trawl vessels (BSAI trawl limited access sector) after deductions for CDQ Program allocations, incidental catch amounts (except for Pacific cod), and other existing fishery allocations, (i.e., Atka mackerel jig). The amount of groundfish allocated between trawl sectors after deductions for the CDQ Program and incidental catch allowance is the initial TAC (ITAC).

Additional non-pollock groundfish species could be added or deleted through an amendment process.

3.7.5.1.2 Allocation Formula

The following percentage of the ITAC would be assigned to the non-AFA trawl catcher/processor and BSAI trawl limited access sector. For purpose of allocation to the non-AFA trawl CP sector, each species allocation is:

1. Yellowfin Sole:

A percentage of the ITAC is allocated among the trawl sectors, as shown below. The total ITAC allocated to a sector is determined by adding the sum of the percentage of ITAC allocations.

<u>If the ITAC is ... (mt)</u>	<u>Non-AFA trawl C/P Sector</u>	<u>BSAI Trawl Limited Access Sector</u>
<= 87,500 +	93%	7%
87,500 – 95,000 +	87.5%	12.5%
95,000 – 102,500 +	82%	18%
102,500 – 110,000 +	76.5%	23.5%
110,000 – 117,500 +	71%	29%
117,500 – 125,000 +	65.5%	34.5%
>125,000	60%	40%

2. Rock Sole:

100% to the non-AFA trawl CP sector

3. Flathead Sole:

100% to the non-AFA trawl CP sector

4. Atka Mackerel:

Non-AFA trawl CP sector: 98% of the ITAC in Area BS/541 and Area 542, in the first year of the program, decreasing by 2% increments over a four year period to 90%. 100% of the ITAC in Area 543.

BSAI trawl limited access sector: The amount of ITAC remaining after allocation to the non-AFA trawl C/P sector.

5. AI POP:

Non-AFA trawl C/P sector: 95% of the ITAC in Area 541 and Area 542 in the first year of the program, decreasing to 90% in the second year of the program. 98% of the ITAC in Area 543.

BSAI trawl limited access sector: The amount of ITAC remaining after allocation to the non-AFA trawl CP sector.

6. Pacific cod:

See section 3.2.6.3.1.

3.7.5.2 PSC Allowance for the Non-AFA Trawl Catcher Processor Sector and the CDQ Program

3.7.5.2.1 Allocation Formula

The trawl PSC limit for halibut, Zone 1 red king crab, C. opilio crab PSC (COBLZ), Zone 1 C. bairdi crab PSC, and Zone 2 C. bairdi crab PSC is apportioned between the non-AFA trawl CP and the BSAI trawl limited access sector as follows:

Sector	Year after implementation.	Halibut PSC limit in the BSAI (mt)	Zone 1 Red king crab PSC limit...	<u>C. opilio</u> crab PSC limit (COBLZ)...	Zone 1 <u>C. bairdi</u> crab PSC limit...	Zone 2 <u>C. bairdi</u> crab PSC limit...
			as a percentage of the total BSAI trawl PSC limit after allocation as PSQ			
Amendment 80 sector	Year 1	2,525 mt	62.48	61.44	52.64	29.59
	Year 2	2,475 mt	59.36	58.37	50.01	28.11
	Year 3	2,425 mt	56.23	55.30	47.38	26.63
	Year 4	2,375 mt	53.11	52.22	44.74	25.15
	Year 5 and all future years	2,325 mt	49.98	49.15	42.11	23.67
BSAI trawl limited access	All years	875 mt	30.58	32.14	46.99	46.81

3.7.5.3 Rollover of ITAC, PSC, and ICA

3.7.5.3.1 Target species ITAC, ICA, and PSC rollover:

1. Any unharvested portion of the yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod ITAC or ICA or unused portion of PSC in the BSAI trawl limited access fishery that is projected to remain unused may be rolled over to non-AFA trawl catcher/processor cooperatives. The distribution of any rollover to a cooperative shall be proportional to the amount of CQ initially issued to that cooperative for that year.
2. Any rollover of halibut PSC to non-AFA Trawl CP cooperatives shall be discounted by 5%. Once the initial allocation has been determined, the non-AFA trawl CP cooperatives may re-allocate the PSC among the target species.
3. NMFS shall evaluate the possibility of rolling over unused ITAC, ICA, or PSC as it deems appropriate. In making its determination, NMFS shall consider current catch and PSC usage, historic catch and PSC usage, harvest capacity and stated harvest intent, as well as other relevant information.

3.7.5.4. Allocation of quota share (QS) to the non-AFA trawl catcher/processor sector:

3.7.5.4.1. Eligibility to receive QS.

Any person who is qualified under the definition of the non-AFA trawl catcher/processor sector as defined in section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447) may apply for and receive QS that represents a portion of the total catch of a non-AFA trawl catcher/processor during 1998 through 2004.

3.7.5.4.2. Allocation Formula

The amount of QS that is attributable to a specific non-AFA trawl catcher/processor is calculated as follows:

1. Select the five calendar years from 1998 through 2004 that yield the highest amount of yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod legal landings, including zero metric tons if necessary.
2. Sum the legal landings of the highest five years for yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod. This yields the Highest Five Years for that species.
3. Divide the Highest Five Years for a yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod in paragraph (2) by the sum of all Highest Five Years for all non-AFA trawl catcher/processors for yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod based on the Amendment 80 official record for yellowfin sole, rock sole, flathead sole, Atka mackerel, and Aleutian Islands Pacific ocean perch, and Pacific cod as presented in the following equation:

$$\text{Highest Five} / \text{All Highest Five Years} = \text{Percentage of the Total}$$

4. The result (quotient) of this equation is the Percentage of the Total for that vessel for that species.
5. This Percentage of the Total is then multiplied by the initial QS pool established by NMFS to yield the number of QS units.
6. If a non-AFA trawl catcher/processor received less than 2 percent of the total Atka mackerel legal landings and is less than 200 ft (38.1 m) length overall, QS will be allocated in each management area in proportion to the legal landings made by that vessel by area. Other vessels will be allocated Atka mackerel QS equally in each management area.
7. If a non-AFA trawl catcher/processor as defined in section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447) did not fish from 1998 through 2004, that non-AFA trawl catcher/processor will receive an allocation of QS no less than:
0.5 percent of the yellowfin sole legal landings
0.5 percent of the rock sole legal landings
0.1 percent of the flathead sole legal landings
The legal landings assigned to other non-AFA trawl catcher/processor vessels will be adjusted to meet this requirement.
9. Legal landing means, for the purpose of initial allocation of QS, fish caught during the qualifying years specified and landed in compliance with state and Federal permitting, landing, and reporting regulations in effect at the time of the landing. Legal landings exclude any test fishing, fishing conducted under an experimental, exploratory, or scientific activity permit, or the fishery conducted under the Western Alaska CDQ program.

10. Each eligible vessel will generate one QS permit. QS permits are not separable or divisible. The catch history credited to an eligible vessel will be the legal landings of that vessel. In the event of the actual total loss or constructive total loss of a vessel, or permanent inability of a vessel to be used either before or after the qualifying period, the vessel owner may transfer the legal landings, or QS permit to the LLP license that was originally issued for that vessel. Once the catch history has been assigned to the license, that license must be used on an eligible Non-AFA Trawl CP vessel.

3.7.5.5. Cooperative Formation for the Non-AFA Trawl Catcher Processor Sector

3.7.5.5.1 Cooperative Formation

1. Prior to the start of a fishing year, the holder of a QS permit can choose to join a cooperative with other QS permit holders and receive a quantity of fish expressed as CQ units which represents a portion of the ITAC of yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod held for the exclusive use by that cooperative.

2. QS permit holders must meet at least the following requirements to form a cooperative:

- Include at least three separate QS permit holding entities not linked through direct or indirect ownership or control.
- Include at least 30% of the QS permits issued.

3.7.5.5.2 Cooperative quota (CQ) allocations.

1. Each cooperative will receive an amount of yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, and Pacific cod ITAC equal to the sum of the QS held by the members of a cooperative divided by the total QS held by all persons and multiplied by the ITAC assigned to the non-AFA trawl catcher/processor sector for that year.

2. The cooperative will receive an amount of crab and halibut PSC based on:

- The amount of PSC assigned to the non-AFA trawl catcher/processor sector in a year is based on the amount of PSC that has historically been used during the target fishery for each Amendment 80 species from 1998-2004.
- The amount of PSC assigned to a cooperative is based on the proportion of CQ for each species held by the cooperative.

3. Once PSC is assigned to a cooperative it may be used while fishing for any groundfish species in the BSAI. PSC assigned to a cooperative is not subject to seasonal apportionment.

3.7.5.6 Use Caps

3.7.5.6.1 Person Use Caps

1. No single person can collectively hold or use more than 30% of the QS.

2. Persons that exceed this cap in the initial allocation would be exempted from this cap (i.e., grandfathered) based on the amount of legal landings held by that person the time of final Council action.

3.7.5.6.2 Vessel Use Caps

No vessel shall catch more than 20% of the aggregate ITAC assigned to the non-AFA trawl CP sector in a year.

3.7.5.7 GOA Sideboard Limits

Sideboard limits maintain relative amounts of non-allocated species until such time that fisheries for these species are further rationalized in a manner that would supersede a need for these sideboard provisions. Sideboards shall apply to all eligible licenses and associated non-AFA trawl catcher/processors from which the catch history arose.

3.7.5.7.1. GOA sideboard provisions

GOA pollock, Pacific cod, and directed rockfish species (Pacific ocean perch, northern rockfish and pelagic shelf rockfish) sideboards for the non-AFA trawl CP sector are established based on retained catch by regulatory areas from 1998 through 2004 as a percentage of total retained catch of all sectors in that regulatory area.

GOA flatfish prohibitions

- Vessels that have GOA weekly participation of greater than 10 weeks in the flatfish fishery during 1998 through 2004 will be eligible to participate in the GOA flatfish fisheries.

GOA halibut PSC limits

- GOA-wide halibut sideboard limits for the deep-water and shallow-water complex fisheries are established by season based on the actual usage of the non-AFA trawl sector during 1998 through 2004.

Exemption from GOA halibut sideboard limit

- Non-AFA trawl CP vessel(s) that fished 80% of their weeks in the GOA flatfish fisheries from January 1, 2000 through December 31, 2003, will be exempt from GOA halibut sideboards in the GOA. Vessel(s) exempted from Amendment 80 halibut sideboards in the GOA may participate fully in the GOA open-access flatfish fisheries. Exempt vessel(s) will be prohibited from directed fishing for all other sideboarded species in the GOA (rockfish, Pacific cod, and pollock). The history of exempt vessels will not contribute to the non-AFA trawl CP sideboards and their catch will not be subtracted from these sideboards.

Other Elements of Amendment 80

3.7.5.8.1 Transfers of QS

1. Permanent transfers of an eligible vessel, its associated catch history, and its permit would be allowed.
2. In the event of the actual total loss or constructive total loss of a vessel, or permanent inability of a vessel to be used in the Program, catch history would be attached to the license that arose from the vessel and would not be separable or divisible.

3. All transfers of QS must be approved by NMFS.

3.7.5.8.2 Transfers of CQ

1. Annual allocations to the cooperative will be transferable among non-AFA trawl CP cooperatives. Inter-cooperative transfers must be approved by NMFS.
2. Specific requirements for reporting, monitoring and enforcement, and observer protocols will be developed in regulations for participants in the non-AFA trawl CP sector.

3.7.5.8 Economic Data Report

A socioeconomic data collection program will be implemented for the non-AFA trawl CP sector. Data will be collected on a periodic basis. The purpose of the data collection program is to understand the economic effects of the Amendment 80 program on vessels or entities regulated by this action, and to inform future management actions.

12. Revise the second paragraph of section 4.5.4 as follows:

Although the program was initially proposed for the fixed gear sablefish fishery, it was first implemented for BSAI pollock. The program originally set aside 7.5 percent of the annual BSAI pollock TAC for allocation to qualifying rural Alaskan communities. The Sustainable Fisheries Act, which amended the Magnuson-Stevens Act, institutionalized the program in 1996. CDQ allocations for BSAI sablefish and halibut were added in 1995, and the multispecies groundfish CDQ Program was implemented in late 1998. The program currently allocates CDQ for each groundfish species or species group with a directed fishery in the BSAI, and halibut and crab. A portion of the PSC limits for halibut, crab, and salmon also are allocated to the CDQ Program. In 1999, the American Fisheries Act increased the pollock allocation to 10 percent as a directed fishing allowance. Amendments to the Magnuson-Stevens Act required an allocation to the CDQ Program of 10.7 percent of the TAC for each directed fishery in the BSAI, except pollock, sablefish, halibut, and crab, starting in 2008.