

TABLE 6.—PROPOSED 2000 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA—Continued

[Listed values are percent of halibut bycatch assumed to be dead.]

Gear and target	Mortality rate
Pacific cod	66
Deep-water flatfish	66
Flathead sole:	
Catcher vessels	58
Catcher/processing vessels	74
Rex sole	55
Bottom pollock	73
Atka mackerel	57
Sablefish	71
Other species	66
Pot:	
Pacific cod	6
Other species	6

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

NMFS is developing a proposed rule to permanently implement RPAs to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. Final regulations must be effective prior to the start of the BSAI and GOA pollock fisheries on January 20, 2000, or NMFS will be obligated under the Endangered Species Act to close all fishing for pollock until such measures can be implemented.

NMFS must also complete a consultation on the effects of the 2000 BSAI groundfish fisheries on listed species, including the Steller sea lion and salmon, and on designated critical habitat. These consultations will be completed in December 1999 before the start of the 2000 groundfish fishery. These consultations cannot be

completed until new fishery information is available in late November.

NMFS prepared a Draft EA/IRFA that describes the impact these proposed specifications, if adopted, may have on small entities. The preferred alternative would allow the GOA 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 for other management reasons. Under the preferred alternative, the 2000 TACs would be based on the most recent scientific information as reviewed by the Plan Team, SSC, AP, and Council and that includes public testimony and comment from the September Plan Team and October Council meetings. The preferred alternative also achieves optimum yield while preventing overfishing. Small entities would receive the maximum benefits under this alternative, in that they would be able to harvest target species and species groups at the highest available level based on stock status and ecosystem concerns. This proposed rule would apply to all vessels harvesting groundfish in the GOA. In 1998, 1,239 vessels caught groundfish in the GOA. NMFS has no information to accurately determine which of these vessels represent “small businesses” for IRFA purposes. No reporting requirements exist with this proposed action. NMFS is not aware of any other Federal rules which duplicate, overlap or conflict with the proposed specifications. The proposed rule would affect these vessels by authorizing fishing and establishing harvest limits. The amounts proposed are the same as last year’s.

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.*, 1801 *et seq.*, and 3631 *et seq.*

Dated: December 8, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991207320–9320–01; I.D. 111899B]

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

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

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

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

DATES: Comments must be received by January 12, 2000.

ADDRESSES: Comments may be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel or delivered to the Federal Building, 709 West 9th Street, Juneau, AK.

Copies of the draft Environmental Assessment/Initial Regulatory Flexibility Analysis (EA/IRFA) prepared for this action and the Preliminary 2000 Stock Assessment and Fishery Evaluation (SAFE) report, dated September 1999, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252 (907–271–2809).

FOR FURTHER INFORMATION CONTACT: Shane Capron, 907–586–7228 or shane.capron@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background for the 2000 Proposed Harvest Specifications

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

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and for the "other species" category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (§ 679.20(a)(1)(i)). Regulations under § 679.20(c)(1) further require NMFS to solicit public comment on proposed annual TACs, apportionments thereof, and prohibited species catch (PSC) allowances and to publish proposed specifications in the **Federal Register**. The proposed specifications set forth in Tables 1 through 7 of this action satisfy these requirements. For 2000, the proposed sum of TACs is 2 million mt.

Under § 679.20(c)(3), NMFS will publish the final annual specifications for 2000, after (1) considering comments received within the comment period (see **DATES**), (2) consulting with the Council at its next meeting beginning December 6, 1999, and (3) considering new information presented in the final EA/SAFE and in the section 7 consultation prepared for the 2000 groundfish fisheries.

With some exceptions, regulations at § 679.20(c)(2)(ii) provide that interim specifications except for pollock and the hook and line allocation of sablefish and Atka mackerel become available at 0001 hours Alaska local time (A.l.t.), January 1, and remain in effect until superseded by the final specifications. The regulations provide that the interim specifications will be established as one-fourth of each proposed initial TAC (ITAC) amount and apportionment thereof, one-fourth of each Community Development Quota (CDQ) reserve established under § 679.20(b)(1)(iii), and

one-fourth of each proposed PSC allowance established under § 679.21. The regulations specify that the interim specification of pollock and Atka mackerel are equal to the first seasonal allowances for those species.

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. NMFS will publish interim specifications for the 2000 fishing year. No fishing is authorized before NMFS files interim specifications with the Office of the Federal Register.

Other Rules Affecting the 2000 Specifications

NMFS intends to initiate rulemaking that will affect the pollock fisheries. This rulemaking includes (1) an FMP amendment to implement the American Fisheries Act as contained within the Omnibus Appropriations Bill for FY 99, Pub. L. No. 105-277 (AFA), and (2) a regulatory amendment to implement the reasonable and prudent alternatives to avoid jeopardizing the continued existence of the endangered western population of Steller sea lions or adversely modifying its critical habitat. Each of these rules would affect the allocation and apportionment of the pollock TAC. These proposed specifications propose the pollock TAC amounts that reflect the general allocative scheme as defined by the AFA itself, but do not specify apportionments of that TAC. Apportionments will be addressed in each of the proposed rules individually and in the final 2000 specifications will be effective prior to the start of the pollock fishery on January 20, 2000.

Proposed Acceptable Biological Catch (ABC) and TAC Specifications

The proposed ABC levels are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The FMP specifies the formulas to be used in computing ABCs

and overfishing levels. The formulas applicable to a particular stock or stock complex is determined by the level of reliable information available to fishery scientists and is based on a successive series of six levels, or tiers.

The Bering Sea Groundfish Plan Team (Plan Team) acknowledged that for purposes of the proposed 2000 overfishing levels and ABC amounts, the best information currently available is set forth in the final SAFE report for the 1999 BSAI groundfish fisheries dated November 1998. The Plan Team further acknowledged that information on the status of stocks will be updated with the 1999 survey results and reconsidered by the Plan Team at its November 1999 meeting.

At its October 1999 meeting, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed the Plan Team's preliminary recommendations to roll over 1999 ABC, overfishing, and TAC amounts and to reconsider these amounts at the December 1999 Council meeting after new status of stocks information can be incorporated by the Plan Team into a final SAFE report for the 2000 BSAI groundfish fishery. The SSC, AP, and Council concurred with the Plan Team's recommendations. None of the Council's proposed TACs for 2000 exceed the proposed ABC for any species category. Therefore, NMFS finds that the proposed TACs are consistent with the best available information on the biological condition of the groundfish stocks.

The plan team's recommendation to roll over the 1999 groundfish harvest specifications for this action did not take into account the overfishing definitions approved in the BSAI and GOA FMP Amendments 56/56. Those overfishing definitions were used in August 1999 to reanalyze the status of the groundfish stocks in the BSAI and GOA. That analysis is presented draft EA prepared for this action. The overfishing levels in these proposed specifications reflect that analysis.

Table 1 lists the proposed 2000 overfishing levels, ABC amounts, and TAC amounts for groundfish in the BSAI.

TABLE 1.—PROPOSED 2000 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

Species	Area	Overfishing level	ABC	TAC	ITAC ²	CDQ reserve ³
Pollock ⁴	Bering Sea (BS)	2,210,000	992,000	992,000	892,800	99,200
	Aleutian Islands (AI)	31,700	23,800	2,000	1,800	200
	Bogoslof District	115,000	15,300	1,000	900	100
Pacific cod	BSAI	215,000	177,000	177,000	150,450	13,275

TABLE 1.—PROPOSED 2000 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

Species	Area	Overfishing level	ABC	TAC	ITAC ²	CDQ reserve ³
Sablefish ⁵	BS	1,600	1,340	1,340	569	184
	AI	2,200	1,860	1,380	293	232
Atka mackerel	Total	126,000	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	251,000	212,000	207,980	176,783	15,598
Rock sole	BSAI	367,000	309,000	120,000	102,000	9,000
Greenland turbot	Total	21,000	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	170,000	140,000	134,354	114,201	10,076
Flathead sole	BSAI	95,600	77,300	77,300	65,705	5,797
Other flatfish ⁶	BSAI	197,000	154,000	154,000	130,900	11,550
Pacific ocean perch	BS	2,300	1,900	1,400	1,190	105
	AI Total	16,200	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
	AI	5,640	4,230	4,230	3,596	317
Sharpchin/Northern	AI	1,290	965	965	821	72
Shortraker/rougheye	BS	492	369	369	314	27
Other rockfish ⁸	AI	913	685	685	583	51
	BSAI	2,620	1,970	1,970	1,675	147
Other species ⁹	BSAI	129,000	32,860	32,860	27,931	2,464
Total		3,961,911	2,247,846	2,000,000	1,748,305	175,080

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

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 For the 2000 pollock fishery, all pollock amounts and apportionments thereof will remain reserved until those measures under the AFA and required by the biological opinion for Steller sea lions to avoid jeopardy and adverse modification to critical habitat can be implemented. NMFS anticipates that these rules will be finalized before January 20, 2000. 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 5 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 Council intent to prohibit the use of nonpelagic trawl gear in 2000 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery.

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

Reserves and the Incidental Catch Allowance (ICA) for Pollock

Regulations at § 679.20(b)(1)(i) require that 15 percent of the TAC for each target species or species group, except for the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. The AFA supersedes this provision for pollock by requiring that the 2000 TAC for this species be fully allocated among the CDQ program, the ICA, inshore, catcher/processor, and mothership directed fishery allowances.

Regulations at § 679.20(b)(1)(iii) require that one-half of each TAC amount placed in the non-specified reserve be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 206(a) of the AFA requires that 10 percent of the pollock TAC be allocated to the pollock CDQ reserve. With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by

gear. Regulations at § 679.21(e)(1)(i) also require that 7.5 percent of each PSC limit, with the exception of herring, be withheld as a prohibited species quota (PSQ) reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

The regulations do not designate the remainder of the non-specified reserve by species or species group, and any amount of the reserve may be reapportioned to a target species or to the "other species" category during the

year, providing that such reapportionments do not result in overfishing.

Under section 206(b) of the AFA, NMFS proposes a pollock ICA of 5 percent of the pollock TAC after subtraction of the 10-percent CDQ reserve. This allowance is based on an examination of the incidental catch of pollock in non-pollock target fisheries from 1996 through 1999. During this 4-year period, the incidental catch of pollock ranged from a low of 3 percent in 1998 to a high of about 6 percent in 1997, with a 4-year average of 5 percent. Because these bycatch percentages are contingent on the relative amounts of groundfish TACs, NMFS will be more able to assess the ICA amount when the Council makes final ABC and TAC amount recommendations in December.

Apportionment of Pollock TAC to Vessels Using Nonpelagic Trawl Gear

Regulations at § 679.20(a)(5)(i)(B) authorize NMFS, in consultation with the Council, to limit the amount of pollock that may be taken in the directed fishery for pollock using nonpelagic trawl gear. In June 1998, the Council adopted management measures that, if approved by NMFS, would prohibit the use of nonpelagic trawl gear in the directed fishery for pollock and reduce specified prohibited species bycatch limits by amounts equal to anticipated savings in bycatch or bycatch mortality that would be expected from this prohibition. These measures could be effective by mid-2000. Therefore, NMFS proposes to allocate zero mt of pollock to nonpelagic trawl gear. A zero allocation would be necessary to reduce bycatch of PSC and incidental catch of other groundfish species in the 2000 pollock fishery consistent with 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, must be allocated as follows: 50 percent to catcher vessels harvesting pollock for processing by the inshore component, 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component, and 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component. These amounts are listed in Table 2.

The AFA also contains several specific requirements concerning pollock and pollock allocations. First, paragraph 210(c) of the AFA requires that not less than 8.5 percent of the pollock allocated to vessels for processing by offshore catcher/processors be available for harvest by offshore catcher vessels listed in section 208(b) harvesting pollock for processing by offshore catcher/processors listed in paragraph 208(e). Second, paragraph 208(e)(21) of the AFA specifies that catcher/processors qualifying to fish for pollock under this paragraph are prohibited from harvesting in the aggregate a total of more than one-half of a percent (0.5) of the pollock allocated to vessels for processing by offshore catcher/processors. Other provisions of the AFA, including inshore pollock cooperative allocations, AFA catcher vessel harvest limitations, and excessive harvest and processing shares will be described in the proposed rule to implement the AFA. After issuance of a final rule to implement the

AFA, the 2000 specifications would be amended accordingly. Table 2 lists the proposed 2000 allocations of pollock TAC as described by the AFA, but excludes seasonal apportionments, critical habitat limitations, and protections for other fisheries for AFA listed catcher processors. These apportionments, limitations, and protections will be described in the proposed rule to implement the RPAs.

Implementation of Steller Sea Lion Conservation Measures

NMFS is developing a separate proposed rule that, if approved, would permanently implement reasonable and prudent alternatives (RPAs) to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. If approved, this rule would implement three types of management measures for the pollock fisheries of the BSAI and GOA: (1) Measures to temporally disperse fishing effort, (2) measures to spatially disperse fishing effort, and (3) measures to provide full protection from competition with pollock fisheries for prey in waters immediately adjacent to rookeries and important haulouts. Emergency measures which implemented RPAs for 1999 are in effect until December 31, 1999 (July 21, 1999, 64 FR 39087). Final measures must be effective prior to the start of the BSAI and GOA pollock fisheries on January 20, 2000, or NMFS will be obligated under the Endangered Species Act to close all fishing for pollock until such measures can be implemented.

NMFS is reserving all allocations and apportionments of the 2000 pollock TAC for the BSAI until the Steller sea lion conservation measures can be implemented as described above.

TABLE 2.—PROPOSED ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS¹

Sector	Proposed 2000 TAC (mt)	Directed fishing allowance
Bering Sea Subarea	992,000	
CDQ	99,200	
ICA ²	44,640	
Inshore	424,080	424,080
Offshore C/Ps ³	339,264	339,264
Catch by C/Ps	310,427	
Catch by CVs	28,837	
Sec. 208(e)(21) ⁴	1,696	
Mothership	84,816	84,816
Aleutian Islands ICA ⁵	2,000	

TABLE 2.—PROPOSED ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS ¹—Continued

Sector	Proposed 2000 TAC (mt)	Directed fishing allowance
Bogoslof District ICA ⁵	1,000	

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 paragraph 206(a) of the AFA, the CDQ reserve for pollock is 10 percent. NMFS, under regulations at § 679.20(a)(5)(i)(B), allocates zero mt of pollock to nonpelagic trawl gear. This action is based on Council intent to prohibit the use of nonpelagic trawl gear in 2000 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery.

² The proposed pollock incidental catch allowance for the BS Subarea is 5 percent of the TAC after subtraction of the CDQ reserve

³ 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.

⁴ 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.

⁵ Consistent with the 1999 harvest specifications and the revised RPAs, the Aleutian Islands Subarea and the Bogoslof District would be closed to directed fishing for pollock. The amounts specified are for incidental catch amounts only, and are not apportioned by season or sector.

Allocation of the Atka mackerel TAC

Due to concerns about the potential impact of the Atka mackerel fishery on Steller sea lions and their critical habitat, NMFS issued regulations that implement temporal and spatial dispersion of fishing effort in the Atka mackerel fisheries. Regulations at 50 CFR 679.20(a)(8)(ii) apportion the Atka mackerel ITAC into two equal seasonal allowances. The first allowance is made available for directed fishing from January 1 to April 15 (“A” season), and the second seasonal allowance is made available from September 1 to November 1 (“B” season) (Table 3). According to § 679.22(a)(8), fishing with trawl gear in areas defined as Steller sea

lion critical habitat (see Figure 4 of 50 CFR part 226) within the Western and Central Aleutian Islands subareas, is prohibited during each Atka mackerel season when specified percentages of the TAC are harvested within designated critical habitat areas. In 2000, the specified catch percentage within critical habitat is 57 percent of each seasonal allowance for the Western Aleutian Islands and 67 percent of each seasonal allowance for the Central Aleutian Islands (§ 679.22(a)(8)(iii)(B)). 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. The regulations do not establish critical habitat closures

based on Atka mackerel catch percentages inside critical habitat areas for the Eastern Aleutian Islands and Bering Sea subarea.

Under § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian Islands district and the Bering Sea subarea Atka mackerel ITAC may be allocated to the jig gear fleet. The Council determines the amount of this allocation annually, based on several criteria including the anticipated harvest capacity of the jig gear fleet. In October 1999, the Council recommended that 1 percent of the Atka mackerel ITAC in the Eastern Aleutian Islands district/Bering Sea subarea be allocated to the jig gear fleet in 2000. Based on an ITAC of 14,450 mt, the jig gear allocation would be 144 mt.

TABLE 3.—PROPOSED 2000 SEASONAL AND SPATIAL APPORTIONMENTS, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC ^{1, 2}

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	22,950	11,475	6,541	11,475	6,541
Central Aleutian Islands	22,400	1,680	19,040	9,520	6,378	9,520	6,378
Eastern AI/BS subarea ⁷	17,000	1,275	14,450				
Jig (1%) ⁸			144				
Other gear (99%)			14,306	7,153		7,153	
Total	66,400	4,980	56,440	28,148		28,148	

¹ Amounts are in metric tons.

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

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.

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

catcher vessels and 50 percent to catcher/processors. In October 1999, the Council proposed 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 4 lists the proposed 2000 allocations and seasonal apportionments of the Pacific cod ITAC.

Consistent with § 679.20(a)(7)(iv)(C), NMFS and the Council propose that 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 become available on September 1, the beginning of the third season.

TABLE 4.—PROPOSED 2000 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC

Gear	Percent ITAC	Share ITAC (mt)	Seasonal apportionment	
			Date	Amount (mt)
Jig	2	3,010	January 1–December 31	3,010
Hook-&-line/pot gear	51	76,730	January 1–April 30 ¹	55,135
			May 1–August 31	7,811
			September 1–December 31	13,784
			January 1–December 31	70,710
Trawl gear	47	70,710		
C.V. (50%)		35,355		
C/P (50%)		35,355		
Total	100	150,450		

¹ 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.

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

Allocation of the Shortraker and Rougeye Rockfish TAC

Under § 679.20(a)(9), the ITAC of shortraker rockfish and rougeye 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 ITAC of 821 mt, the trawl allocation would be 575 mt and the non-trawl allocation would be 246 mt.

Sablefish Gear Allocation

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

line/pot gear and for the Aleutian Islands subarea, 25 percent for trawl gear, 75 percent for hook-and-line/pot gear. Regulations at § 679.20(b)(1)(iii)(B) require that 20 percent of the hook-and-line and pot gear allocation of sablefish be reserved as sablefish CDQ. Additionally, regulations at § 679.20(b)(iii)(A) require that 7.5 percent of the trawl gear allocation of sablefish (one half of the reserve) be reserved as groundfish CDQ. Gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 5.

TABLE 5.—PROPOSED 2000 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

Subarea and gear	Percent of TAC	Share of TAC (mt)	ITAC (mt)	CDQ reserve (mt)
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

Due to the lack of new information concerning PSC limits, the Council at its October 1999 meeting recommended using the 1999 PSC amounts for 2000. The Council will reconsider these amounts in December based on recommendations by the Plan Team and the SSC. New survey and stock assessment information will be available in December 1999 in the 1999 SAFE document prepared by the Plan Team.

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. 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 2000, the proposed 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 lbs (25.4 million mt) which is greater than the 55 million lb (24.95 million mt) threshold level.

The proposed 2000 *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 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 a proposed 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 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 proposed 2000 *C. opilio* PSC limit would be 4.5 million crabs in 2000.

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' best estimate of 2000 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 (ADF&G). Therefore, the proposed herring PSC limit for 2000 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 proposed fishery bycatch allowances for the trawl and non-trawl fisheries are listed in Table 6.

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 Council proposes 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 proposed limit would optimize the groundfish harvest relative to red king crab bycatch.

Regulations at § 679.21(e)(4)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC

limit. As in past years, 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 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 action results in less 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 1999 has not been calculated, but NMFS has no information indicating that it would be significantly different.

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts. NMFS anticipates that the Council will recommend seasonal apportionments during its December 1999 meeting; therefore, none are proposed at this time.

TABLE 6.—PROPOSED 2000 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1	C. opilio (animals) COBLZ 2	C. bairdi (animals)	
					Zone 1 1	Zone 2 1
Trawl Fisheries						
Yellowfin sole	955	254	19,800	3,108,786	260,894	1,128,824
Rock sole/oth.flat/flat sole ³	755	22	103,950	766,552	279,528	376,274
Turbot/sablefish/arrowtooth ⁴ .....	.....	10	.....	42,585	.....	.....
Rockfish July 4—December 31 ⁵	71	8	.....	42,585	.....	7,378
Pacific cod	1,473	22	14,850	127,758	139,950	205,528

TABLE 6.—PROPOSED 2000 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES—Continued

	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
Mid-water trawl pollock ⁶		1,217				
Pollock/Atka mackerel/other ⁷	238	152	1,850	74,234	13,378	19,146
RKCSS ³			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					
Other non-trawl—Total	84					
Groundfish pot and jig	exempt					
Sablefish hook-and-line	exempt					
Total Non-Trawl	832					
PSQ Reserve ⁸	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 Refer to § 679.2 for definitions of areas.

² *C. opilio* Bycatch Limitation Zone. Boundaries are defined at § 679.21 (e)(7)(iv)(B). At its October meeting the Council proposed apportioning *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.

³ The Council at its October 1999 meeting proposed limiting 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)).

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

⁵ The Council at its October 1999 meeting proposed to apportion the rockfish PSC amounts according to the 1999 specifications, from July 4—December 31, to prevent fishing for rockfish before July 4, 2000.

⁶ Halibut and crab bycatch in the midwater trawl pollock fishery is deducted from the allowances for the pollock/Atka mackerel/other species category.

⁷ Pollock other than pelagic trawl pollock, Atka mackerel, and “other species” fishery category.

⁸ With the exception of herring, 7.5 percent of each PSC limit is allocated to the multi-species CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

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

The Council proposed that the assumed halibut mortality rates developed by staff of the International Pacific Halibut Commission (IPHC) for the 1999 BSAI groundfish fisheries be adopted for purposes of monitoring halibut bycatch allowances established for 2000. The justification for these mortality rates is discussed in the final SAFE report dated November 1998. The proposed mortality rates listed in Table 7 are subject to change, pending the results of an updated analysis on halibut mortality rates in the groundfish

fisheries that IPHC staff is scheduled to present to the Council at its December 1999 meeting.

TABLE 7.—PROPOSED 2000 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES

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

TABLE 7.—PROPOSED 2000 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES—Continued

Fishery	Assumed mortality (percent)
Other species	4

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866. NMFS has prepared a draft EA for this action, which describes the impact of the human environment that would result from implementation of the proposed specifications. In December 1998, NMFS issued a Supplemental Environmental Impact Statement (SEIS) on the groundfish TAC specifications and PSC limits under the BSAI and Gulf of Alaska (GOA) groundfish FMPs. In July 1999, the District Court for the Western District of Washington held that the 1998 SEIS did not adequately address aspects of the BSAI and GOA FMPs. Notwithstanding the deficiencies

the court noted in the 1998 SEIS, NMFS believes that the discussion of impacts and alternatives in the 1998 SEIS is directly applicable to this proposed action, and a draft EA for the proposed 2000 harvest specifications "tiers off" (incorporates by reference) the 1998 SEIS.

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

NMFS is developing a proposed rule that, if approved, would permanently implement RPAs to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. Final regulations must be effective prior to the start of the BSAI and GOA pollock fisheries on January 20, 2000, or NMFS will be obligated under the Endangered Species Act to close all fishing for pollock until such measures can be implemented.

NMFS must also complete a consultation on the effects of the 2000 BSAI groundfish fisheries on listed species, including the Steller sea lion and salmon, and on designated critical

habitat. These consultations will be completed in December 1999 before the start of the 2000 groundfish fishery. These consultations cannot be completed until new fishery information is available in late November.

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

NMFS prepared an IRFA pursuant to the Regulatory Flexibility Act (RFA) that describes the impact the proposed 2000 harvest specifications might have on small entities. A copy of this analysis is available from the Council (see **ADDRESSES**). 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 for other management reasons. Under the preferred alternative, the 2000 TACs would be based on the most recent scientific information as reviewed by the Plan Team, SSC, AP, and Council and that includes public testimony and comment from the September Plan Team and October Council meetings. The preferred alternative also achieves optimum yield while preventing overfishing. Small entities would receive the maximum benefits under this alternative, in that they will be able to harvest target species and species

groups at the highest available level based on stock status and ecosystem concerns.

The six CDQ groups are comprised of 56 small governmental jurisdictions with direct involvement in groundfish CDQ fisheries that are within the RFA definition of small entities. Based on 1998 data, NMFS estimates less than 280 small entities harvest groundfish in the BSAI.

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

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

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

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