

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 961107312-7021-02; I.D. 102296B]

RIN 0648-XX69

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands; Final 1997 Harvest Specifications for Groundfish

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

ACTION: Final 1997 specifications of groundfish and associated management measures; apportionment of reserves; closures and inseason adjustment.

SUMMARY: NMFS announces final 1997 harvest specifications of total allowable catches (TACs), initial apportionments of TACs for each category of groundfish, and associated management measures in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish during the 1997 fishing year. NMFS is apportioning reserves to the initial TACs (ITACs) specified for certain species amounts to allow for full harvest opportunity of these TACs. NMFS is also closing fisheries and issuing an inseason adjustment as specified in the final 1997 groundfish specifications. These measures are intended to conserve and manage the groundfish resources in the BSAI.

EFFECTIVE DATES: The final 1997 harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), February 12, 1997 through 2400 hrs, A.l.t., December 31, 1997, or until changed by subsequent notification in the Federal Register. The closures to directed fishing and inseason adjustment are effective 1200 hrs, A.l.t., February 12, 1997, through 2400 hrs, A.l.t., December 31, 1997. Comments on the apportionment of reserves and inseason adjustment must be submitted by February 27, 1997.

ADDRESSES: The final Environmental Assessment (EA) prepared for the 1997 Total Allowable Catch Specifications may be obtained from the Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or by calling 907-586-7229. Comments on the

apportionment of reserves and inseason adjustment may be sent to Ronald J. Berg at the same address. The final 1997 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 1996, is available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salvesson, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION:**Background**

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson-Stevens Fishery Conservation and Management Act.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify annually the TAC for each target species and the "other species" category, the sum of which must be within the optimum yield (OY) 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 publish annually and solicit public comment on proposed annual TACs, prohibited species catch (PSC) allowances, seasonal allowances of the pollock TAC, and amounts for the pollock and sablefish Community Development Quota (CDQ) reserve. The final specifications set forth in Tables 1-9 of this action satisfy these requirements. For 1997, the sum of TACs is 2 million mt.

The proposed BSAI groundfish specifications and specifications for prohibited species bycatch allowances for the groundfish fishery of the BSAI were published in the Federal Register on November 26, 1996 (61 FR 60076), and corrected on January 17, 1997 (62 FR 2719). Comments were invited through December 23, 1996. Two comments were received and are summarized and responded to below in the Response to Comments section. Public consultation with the Council occurred during the December 11-15, 1996, Council meeting in Anchorage, AK. After considering public comments received, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 1997

specifications as recommended by the Council.

Interim Specifications

With the exception of hook-and-line and pot gear allocation of sablefish, regulations under § 679.20(c)(2)(ii) authorize one-fourth of each proposed ITAC and apportionment thereof, one-fourth of each proposed PSC allowance, and the first proposed seasonal allowance of pollock to be in effect on January 1 on an interim basis and to remain in effect until superseded by final initial specifications. NMFS published the interim 1997 specifications in the Federal Register on November 26, 1996 (61 FR 60044), and corrected on January 16, 1997 (62 FR 2445). The final 1997 initial groundfish harvest specifications and prohibited species bycatch allowances contained in this action supersede the interim 1997 specifications.

TAC Specifications and Acceptable Biological Catch (ABC)

The specified TAC for each species is based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) reviewed current biological information about the condition of groundfish stocks in the BSAI at their September and December 1996 meetings. This information was compiled by the Council's BSAI Groundfish Plan Team (Plan Team) and is presented in the final 1997 SAFE report for the BSAI groundfish fisheries, dated November 1996. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters. From these data and analyses, the Plan Team estimates an ABC for each species category.

A summary of the preliminary ABCs for each species for 1997 and other biological data from the September 1996 draft SAFE report were provided in the discussion supporting the proposed 1997 specifications (61 FR 60076, November 26, 1996, and corrected at 62 FR 2719, January 17, 1997). The Plan Team's recommended ABCs were reviewed by the SSC, AP, and Council at their September 1996 meetings. Based on the SSC's comments concerning technical methods and new biological data not available in September, the Plan Team revised its ABC recommendations in the final SAFE report, dated November 1996. The revised ABC recommendations were

again reviewed by the SSC, AP, and Council at their December 1996 meetings. While the SSC endorsed most of the Plan Team's recommendations for 1997 ABCs set forth in the final SAFE report, the SSC recommended revisions to ABC amounts calculated for pollock in the Bogoslof District, Greenland turbot, and sablefish. These revisions, as well as a summary of the SSC's discussion on eastern Bering Sea pollock, are discussed below.

Eastern Bering Sea pollock. The SSC concurred with the Plan Team's recommended 1997 ABC for eastern Bering Sea pollock (1.13 million mt). This recommendation was made after lengthy discussion about the desirability of reducing the Plan Team's recommended ABC to respond to concerns about future recruitment and potentially high fishing mortality of eastern Bering Sea pollock in Russian waters. The SSC's discussion focused on the following issues: (1) Choice of models used to estimate 1997 eastern Bering Sea stock biomass, (2) choice of fishing mortality rates upon which to base 1997 ABC, (3) the strengths and weaknesses of the Plan Team's forecast of incoming year-classes, (4) the effects of spatial and temporal distribution of fishing effort for pollock on the ecosystem, (5) the utility of foregoing catch from the upcoming harvest cycle, (6) impacts of Russian pollock harvests on the eastern Bering Sea stock, and (7) industry and conservation group recommendations for harvest levels in 1997.

The SSC discussed the relative merits of lowering ABC to forego catch in 1997 as a means to promote improved future recruitment and/or provide additional fish in subsequent years. The SSC concluded that the high natural mortality rate of pollock would greatly diminish any foregone catch before it could contribute to the next spawning cycle or before it became vulnerable to the next fishing season. Furthermore, pollock recruitment is highly variable at all levels of spawning stock size, so the addition of a small increment in spawning biomass through foregone catch in 1997 likely would have no discernible impact on future recruitment. The SSC concluded that uncertainty in estimates of future recruitment is a function of a declining population biomass, variability in environmental conditions affecting young pollock, an unquantifiable level of removals of eastern Bering Sea pollock in Russian waters, and variability in the assumed linear relationship between age 1 pollock in the NMFS bottom trawl survey and recruitment at age 3. If pollock biomass

continues to decline, fishing mortality will be adjusted downward for increasingly conservative management in future years. In 1997, data from a scheduled NMFS hydroacoustic trawl survey will be used to assess the status of this stock, as well as any necessary changes in its management for 1998.

Bogoslof pollock. NMFS 1996 survey data are used to estimate the biomass of Bogoslof pollock at 682,000 mt, a significant reduction from the 1995 estimate of 1.1 million mt. The Plan Team recommended an ABC of 115,000 mt based on a fishing mortality rate of about 21 percent applied to a projected 1997 biomass of 558,000 mt. The SSC believed the Bogoslof ABC should be reduced by the ratio of current biomass to target biomass, where target biomass is assumed to be 2 million mt. Consequently, the SSC recommended a 1997 Bogoslof ABC of 32,100 mt. The corresponding overfishing level, 43,800 mt, is estimated using a 30-percent exploitation rate adjusted by the ratio of current to target biomass.

The Council recommended that pollock be closed to directed fishing in the Bogoslof District and that a TAC of 1,000 mt be established to provide for bycatch in other groundfish fisheries. This recommendation was intended to accommodate uncertainty about whether or not Bogoslof pollock are a distinct self-sustaining population or surplus fish from the shelf populations. The Council's TAC recommendation also addresses concerns about the potential impacts of undocumented fishing effort in the Russian zone on young pollock that are primarily considered to be of U.S. origin. The Council's TAC recommendation is adopted in these final specifications (Table 1).

Greenland turbot. The Plan Team's ABC recommendation for Greenland turbot (16,800 mt) was based on a stock synthesis analysis of the status of this resource that is sensitive to the relative contributions of the longline and trawl fisheries to the total fishing mortality. In recent years, the longline fleet has taken about 80 percent of the total catch. Based on the assumption that the longline fleet will continue to take this proportion of total catch, the Plan Team recommended an ABC based on an exploitation rate of 0.346. However, the SSC asserted that difficulties exist in predicting the percentage of the total catch that trawl and longline gear will harvest and believed that a 50/50 split should be assumed in the development of ABC. This assumed split dictates an exploitation rate of 0.253, adjusted by a ratio of the current female spawning biomass and the $B_{40\%}$ female spawning

biomass (.94) as required under the Council's management strategy set out under Amendment 44 to the FMP. The application of this adjusted rate to the projected 1997 exploitable biomass results in an ABC of 14,400 mt. The declined status of this resource further prompted the SSC to recommend a phase in of the ABC over a 2-year period. Therefore, given that the ABC recommended by the SSC for this species in 1996 was 10,300 mt, the 1997 ABC suggested by the SSC is 12,350 mt.

The SSC concurred with the Plan Team's recommendation that the ABC be split so that two-thirds of the TAC be apportioned to the Bering Sea subarea and one-third is apportioned to the Aleutian Islands subarea. The intent of this apportionment is to spread fishing effort over a larger area and to avoid localized depletion. Using the SSC's recommended total ABC, this apportionment scheme results in eastern Bering Sea and Aleutian Islands ABCs of 8,275 mt and 4,075 mt, respectively. The Council concurred with the SSC's recommendation for ABC and adopted a 9,000-mt TAC, as recommended by the AP, with 6,030 mt and 2,970 mt apportioned to the Bering Sea and Aleutian Islands subareas, respectively.

Sablefish. The final 1997 SAFE report presents a revised assessment of exploitable biomass for BSAI and Gulf of Alaska sablefish that is higher relative to the preliminary assessment developed by the Plan Team in September 1996. This increase results from technical adjustments to the assessment model.

Nonetheless, the model indicates a declining trend in biomass due to low recruitment since 1981. A significant chance exists that biomass will drop below the lowest observed levels (post 1979) by the year 2001. The Plan Team's ABC recommendation, 3,060 mt for the combined Bering Sea and Aleutian Islands subareas, would result in an increase in actual exploitation rate. This fact, combined with 15 years of low recruitment prompted the SSC to defer to the NMFS stock assessment authors' more conservative recommendation for ABC; 1,308 mt for the eastern Bering Sea and 1,367 mt for the Aleutian Islands.

The Council adopted the SSC's recommendations for the 1997 ABCs. The final ABCs are listed in Table 1.

The Council adopted the AP's recommendations for TAC amounts. These recommendations were based on the final ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC in the required OY range of 1.4–2.0 million mt. None of the Council's recommended TACs for 1997

exceeds the final 1997 ABC for any species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks. The final TACs and overfishing levels for groundfish in the BSAI area for 1997 are given in Table 1 of this action.

Apportionment of TAC

Except for the hook-and-line and pot gear allocation of sablefish, each species' TAC initially is reduced by 15

percent to establish the ITAC for each species (§ 679.20(b)(1)(i)). The sum of the 15-percent amounts is the reserve. One-half of the pollock TACs placed in reserve is designated as a community development quota (CDQ) reserve for use by CDQ participants (§ 679.31(a)(1)). The remainder of the 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.

Table 1 lists the final 1997 ABC, TAC, and ITAC amounts, overfishing levels, and initial apportionments of groundfish in the BSAI. The apportionment of reserves to certain species ITAC amounts, as well as the apportionment of TAC amounts among fisheries and seasons, are discussed below.

TABLE 1.—FINAL 1997 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA ¹

Species	ABC	TAC	ITAC ^{2 3}	Overfishing level
Pollock:				
Bering Sea (BS)	1,130,000	1,130,000	960,500	1,980,000
Aleutian Islands (AI)	28,000	28,000	23,800	38,000
Bogoslof District	32,100	1,000	850	43,800
Pacific cod	306,000	270,000	229,500	418,000
Sablefish:				
BS	1,308	1,100	468	2,750
AI	1,367	1,200	255	2,860
Atka mackerel Total	66,700	66,700	56,695	81,600
Western AI	32,200	32,200	27,370	.....
Central AI	19,500	19,500	16,575	.....
Eastern AI/BS	15,000	15,000	12,750	.....
Yellowfin sole	233,000	230,000	195,500	339,000
Rock sole	296,000	97,185	82,607	427,000
Greenland turbot Total	12,350	9,000	7,650	22,600
BS	8,275	6,030	5,125	.....
AI	4,075	2,970	2,525	.....
Arrowtooth flounder	108,000	20,760	17,646	167,000
Flathead sole	101,000	43,500	36,975	145,000
Other flatfish ⁴	97,500	50,750	43,138	150,000
Pacific ocean perch:				
BS	2,800	2,800	2,380	5,400
AI Total	12,800	12,800	10,880	25,300
Western AI	6,390	6,390	5,431	.....
Central AI	3,170	3,170	2,695	.....
Eastern AI	3,240	3,240	2,754	.....
Other red rockfish: ⁵ BS	1,050	1,050	893	1,400
Sharpchin/Northern: AI	4,360	4,360	3,706	5,810
Shortraker/Rougheye: AI	938	938	797	1,250
Other rockfish ⁶				
BS	373	373	317	497
AI	714	714	607	952
Squid	1,970	1,970	1,675	2,620
Other Species ⁷	25,800	25,800	21,930	138,000
Totals	2,464,130	2,000,000	1,698,769	3,998,839

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

² Except for 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. One-half of the amount of the pollock 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)).

³ 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)). 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.

⁴ "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

⁵ "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.

⁶ "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye.

⁷ "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

Apportionment of Reserves

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the ITACs specified for the following species need to be supplemented from the nonspecific reserve because U.S. fishing vessels have demonstrated the capacity to harvest the full TAC amounts: Pollock in the Bering Sea subarea, pollock in the Aleutian Islands subarea, Atka mackerel in the BSAI, Pacific ocean perch in the

Aleutian Islands subarea, and Pacific cod in the BSAI. Initial TACs for these species have been supplemented from the nonspecific reserve during the past 5 years, and no reason exists to not make available the full TAC amounts for these species at the beginning of the fishing year to enhance the ability of the industry to plan accordingly. During its December 1996 meeting, the Council specifically received testimony from representatives for the Pacific cod

industry to release reserves at the beginning of the year and in a manner that complies with the apportionment of the initial ITAC (see below).

Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning amounts from the reserve necessary to increase the initial TAC to the full TAC amount for the following species, except for pollock, where the TAC still is reduced by 7.5 percent to provide for the CDQ reserve.

Species—area or subarea	Reserve amount (mt)
Pollock—Bering Sea	84,750
Pollock—Aleutian Is.	2,100
Atka Mackerel—Western Aleutian Is.	4,830
Atka Mackerel—Central Aleutian Is.	2,925
Atka mackerel—Eastern Aleutian Is. and Bering Sea Subarea	2,250
Pacific Ocean perch—Western Aleutian Is.	959
Pacific Ocean perch—Central Aleutian Is.	475
Pacific Ocean perch—Eastern Aleutian Is.	486
Pacific cod—BSAI	40,500
Total	139,275

This apportionment of reserve is consistent with § 679.20(b)(3). If applicable, these TACs are apportioned among seasons or gear types as authorized below.

Seasonal Allowances of Pollock TACs

Under § 679.20(a)(5)(i)(A), the pollock TAC for each subarea or district of the BSAI is divided, after subtraction of reserves (§ 679.20(b)(1)), into two seasonal allowances. The first allowance is available for directed fishing from January 1 to April 15 (roe season) and the second allowance is available from September 1 until November 1 (non-roe season).

The Council recommended that the seasonal allowances for the Bering Sea

pollock roe and non-roe seasons be specified at 45 percent and 55 percent of the TAC amounts, respectively (Table 2). These percentages are unchanged since 1993. As in past years, the pollock TAC amounts specified for the Aleutian Islands subarea and the Bogoslof District are not seasonally apportioned.

When specifying seasonal allowances of the pollock TAC, the Council and NMFS considered the factors specified in section 14.4.10 of the FMP. A discussion of these factors relative to the roe and non-roe seasonal allowances was presented in the proposed 1995 specifications for BSAI groundfish (59 FR 64383, December 14, 1994). At this time, the Council's findings are

unchanged from those set forth for 1995, given that the relative seasonal allowances are the same.

Apportionment of the Pollock TAC to the Inshore and Offshore Components

Regulations at § 679.20(a)(6)(i) require that the pollock TAC amounts specified for the BSAI be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the offshore component. Definitions of these components are found at § 679.2. The 1997 TAC specifications are consistent with these requirements (Table 2).

TABLE 2.—SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS^{1 2}

Subarea	TAC	ITAC ³	Roe season ⁴	Non-roe season ⁵
Bering Sea:				
Inshore		365,837	164,627	201,210
Offshore		679,413	305,736	373,677
	1,130,000	1,045,250	470,363	574,887
Aleutian Islands:				
Inshore		9,065	9,065	(6)
Offshore		16,835	16,835	(6)
	28,000	25,900	25,900	(6)
Bogoslof District:				
Inshore		298	298	(6)
Offshore		552	552	(6)
	1,000	850	850	(6)

¹ TAC = total allowable catch.

² Based on an offshore component allocation of 65 percent (ITAC) and an inshore component allocation of 35 percent (ITAC).

³ ITAC = initial TAC = 85 percent of TAC for the Bogoslof District and 92.5 percent of TAC for the Bering Sea and Aleutian Islands subareas. The ITAC for the Bering Sea and Aleutian Islands subareas reflects the apportionment of nonspecified reserve amounts.

⁴ January 1 through April 15—based on a 45/55 split (roe = 45 percent). Up to 100 percent of the ITAC specified for the Aleutian Islands subarea and the Bogoslof District may be harvested during the roe season.

⁵ September 1 until November 1—based on a 45/55 split (non-roe = 55 percent).

⁶ Remainder.

Apportionment of the Pollock TAC to the Western Alaska Community Development Quota

Regulations at § 679.31(a)(1) require one-half of the pollock TAC placed in the reserve for each subarea or district, or 7.5 percent of each TAC, be assigned to a CDQ reserve for each subarea or district. The 1997 CDQ reserve amounts for each subarea are as follows:

BSAI subarea	Pollock CDQ (mt)
Bering Sea	84,750
Aleutian Islands	2,100
Bogoslof	75
Total	86,925

Under regulations governing the CDQ program at subpart C of part 679, NMFS may allocate the 1997 pollock CDQ reserves to eligible Western Alaska communities or groups of communities that have an approved community development plan (CDP). NMFS has approved six CDPs and associated percentages of the CDQ reserve for each CDP recipient for 1996–98 (60 FR 66516, December 22, 1995). Table 3 lists the approved CDP recipients, and each recipient's allocation of the 1997 pollock CDQ reserve for each subarea.

TABLE 3.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE 1997 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS, AND THE BOGOSLOF DISTRICT (BD) AMONG APPROVED CDP RECIPIENTS

CDP recipient	Percent	Area	Allocation	Roe-season allowance ¹
Aleutian Pribilof Island Community Development Assn	16	BS	13,560	6,102
		AI	336	336
		BD	12	12
Total			13,908	6,450
Bristol Bay Economic Development Corp	20	BS	16,950	7,627
		AI	420	420
		BD	15	15
Total			17,385	8,062
Central Bering Sea Fishermen's Assn	4	BS	3,390	1,526
		AI	84	84
		BD	3	3
Total			3,477	1,613
Coastal Villages Fishing Coop	25	BS	21,188	9,535
		AI	525	525
		BD	19	19
Total			21,732	10,079
Norton Sound Fisheries Development Corp	22	BS	18,645	8,390
		AI	462	462
		BD	16	16
Total			19,123	8,868
Yukon Delta Fisheries Development Corp	13	BS	11,017	4,958
		AI	273	273
		BD	10	10
Total			11,300	5,241
Total	100		86,925	40,313

¹ No more than 45 percent of a CDP recipient's 1997 Bering Sea pollock allocation may be harvested during the pollock roe season, January 1 through April 15. Up to 100 percent of a recipient's 1997 Aleutian Islands or Bogoslof District pollock allocation may be harvested during this time period.

Allocation of the Pacific Cod TAC

Under § 679.20(a)(7), 2 percent of the Pacific cod TAC is allocated to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear. The portion of the Pacific cod TAC allocated to trawl gear is further allocated 50 percent to catcher vessels and 50

percent to catcher/processor vessels (§ 679.20(a)(7)(i)(B)).

At its December 1996 meeting, the Council recommended seasonal allowances of the portion of the Pacific cod TAC allocated to vessels using hook-and-line or pot gear. Seasonal allowances are authorized under § 679.20(a)(7)(iv) for the following three time periods: January 1 through April 30; May 1 through August 31; and

September 1 through December 31. The intent of the seasonal allowances is to provide for the harvest of Pacific cod when flesh quality and market conditions are optimum and Pacific halibut bycatch rates are low. The Council's recommendations for seasonal allowances are based on: (1) Seasonal distribution of Pacific cod relative to prohibited species distributions, (2)

variations in prohibited species bycatch rates experienced in the Pacific cod fisheries throughout the year, and (3) economic effects of seasonal allowances of Pacific cod on the hook-and-line and pot gear fisheries. Regulations at § 679.20(a)(7)(iv)(C) authorize NMFS, after consultation with the Council, to

determine the manner in which an unused portion of a seasonal allowance of Pacific cod will be reapportioned to remaining seasons during the same fishing year. Accordingly, the Council recommended that any unused portion of the first seasonal Pacific cod allowance specified for the Pacific cod

hook-and-line or pot gear fishery be reapportioned to the third seasonal allowance. NMFS concurs with this recommendation. The gear allocations and associated seasonal allowances of the Pacific cod TAC are specified in Table 4.

TABLE 4.—1997 GEAR SHARES OF THE BSAI PACIFIC COD TAC

Gear	Percent TAC	Share TAC (mt)	Seasonal apportionment		
			Date	Percent	Amount (mt)
Jig	2	5,400	Jan. 1–Dec. 31	100	5,400
Hook-and-line and pot gear	51	137,700	Jan. 1–Apr. 30	73	100,521
			May 1–Aug. 31	23	31,671
			Sep. 1–Dec. 31	4	5,508
Trawl gear ² :					
Total	47	126,900	Jan. 1–Dec. 31	100	126,900
Catcher vessel		63,450			
Catcher/processor		63,450			
Total	100	270,000			

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
² The portion of the Pacific cod TAC allocated to trawl gear is apportioned 50 percent to catcher vessels and 50 percent to catcher/processors under § 679.20(a)(7)(i)(B).

Sablefish Gear Allocation and CDQ Allocations for Sablefish

Regulations at § 679.20(a)(4) require that sablefish TACs for the BSAI subareas be divided between trawl and hook-and-line/pot gear types. Gear

allocations of TACs are established in the following proportions: Bering Sea subarea: Trawl gear—50 percent; hook-and-line/pot gear—50 percent; and Aleutian Islands subarea: Trawl gear—25 percent; hook-and-line/pot gear—75 percent. In addition, regulations under

§ 679.31(c) require NMFS to withhold 20 percent of the hook-and-line and pot gear sablefish allocation as sablefish CDQ reserve. Gear allocations of sablefish TAC and CDQ reserve amounts are specified in Table 5.

TABLE 5.—1997 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

Subarea	Gear	Percent of TAC (mt)	Share of TAC (mt)	Initial TAC (mt)	CDQ reserve
Bering Sea	Trawl	50	550	468	N/A
	Hook-and-line/pot gear ²	50	550	N/A	110
	Total		1,100	468	110
Aleutian Islands	Trawl	25	300	255	N/A
	Hook-and-line/pot gear ²	75	900	N/A	180
	Total		1,200	255	180

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 hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. Regulations at § 679.20(b)(1) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Under regulations governing the sablefish CDQ program at subpart C of part 679, NMFS may allocate the 1997 sablefish CDQ reserve to eligible Western Alaska communities or groups

of communities that have an approved CDP. NMFS has approved seven CDPs and associated percentages of the sablefish CDQ reserve for each CDP recipient for 1995–97 (59 FR 61877,

December 2, 1994). Table 6 lists the approved CDP recipients and each recipient's allocation of the 1997 sablefish CDQ reserve for each subarea.

TABLE 6.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS (MT) OF THE 1997 SABLEFISH CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS AMONG APPROVED CDP RECIPIENTS

Sablefish CDP recipient	Area	Percent	Allocation (mt)
Atka Fishermen's Association	BS	0	0

TABLE 6.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS (MT) OF THE 1997 SABLEFISH CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS AMONG APPROVED CDP RECIPIENTS—Continued

Sablefish CDP recipient	Area	Percent	Allocation (mt)
Bristol Bay Economic Development Corp.	AI	0	0
	BS	0	0
Coastal Villages Fishing Cooperative	AI	25	45
	BS	0	0
Norton Sound Economic Development Corporation	AI	25	45
	BS	25	28
Pribilof Island Fishermen	AI	30	54
	BS	0	0
Yukon Delta Fisheries Development Association	AI	0	0
	BS	75	82
Aleutian Pribilof Islands Community Development Association	AI	10	18
	BS	0	0
Total	AI	10	18
	BS	100	110
	AI	100	180

Allocation of Prohibited Species Catch (PSC) Limits for Crab, Halibut, and Herring

PSC limits of *C. bairdi* Tanner crab in Bycatch Limitation Zones (50 CFR 679.2) of the Bering Sea subarea and for Pacific halibut throughout the BSAI are established under § 679.21(e) as follows:

- Zone 1 trawl fisheries, 1 million *C. bairdi* Tanner crabs;
- Zone 2 trawl fisheries, 3 million *C. bairdi* Tanner crabs;
- BSAI trawl fisheries, 3,775 mt mortality of Pacific halibut;
- BSAI nontrawl fisheries, 900 mt mortality of Pacific halibut;

Regulations at § 679.21(e) also require that a PSC limit for red king crab in Zone 1 and for Pacific herring in the BSAI be specified annually based on abundance and spawning biomass criteria. Under new regulations implementing Amendment 37 to the FMP (61 FR 65985, December 16, 1996), the 1997 red king crab PSC limit in zone 1 is 100,000 crab based on the following criteria set out at § 679.21(e)(1)(i)(B): The number of mature female red king crab is above the threshold of 8.4 million mature crab and the effective spawning biomass is greater than 14.5 but less than 55 million lbs (24,948 mt). Based on a length-based analysis of NMFS 1996 trawl survey data, the Alaska Department of Fish and Game (ADF&G) estimates the abundance of mature females is 10.2 million crab and effective spawning biomass is 20.3 million lbs (9,206 mt).

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass (§ 679.21(e)(v)). The best estimate of 1997 herring biomass is

157,887 mt. This amount was derived using 1996 survey data and an age-structured biomass projection model developed by ADF&G. Therefore, the herring PSC limit for 1997 is 1,579 mt.

The *C. bairdi* PSC limits currently established in regulations are subject to change pending the approval of Amendment 41 to the FMP adopted by the Council at its September 1996 meeting. A proposed rule to implement Amendment 41 was published in the Federal Register on January 2, 1997 (62 FR 85). Based on the proposed rule and pending approval of Amendment 41 by NMFS, the 1997 *C. bairdi* PSC limit in Zones 1 and 2 would be adjusted downward to 750,000 crab and 2,100,000 crab, respectively. If Amendment 41 is not approved, the *C. bairdi* PSC limits will remain unchanged. At its December 1996 meeting, the Council also adopted a new PSC limit for *C. opilio* Tanner crab. NMFS anticipates that a proposed rule, as well as a proposed 1997 PSC limit for *C. opilio* crab, will be published in the Federal Register for public review and comment by March 1997.

Regulations under § 679.21(e)(3) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Regulations at § 679.21(e)(3)(iv) specify seven trawl fishery categories (midwater pollock, Greenland turbot/arrowtooth flounder/sablefish, rock sole/flathead sole/other flatfish, yellowfin sole, rockfish, Pacific cod, and bottom pollock/Atka mackerel/“other species”). Regulations at § 679.21(e)(4)(ii) authorize the apportionment of the nontrawl halibut PSC limit among five fishery categories (Pacific cod hook-and-line, sablefish hook-and-line, groundfish pot gear, groundfish jig gear, and other nontrawl

fishery categories). The fishery bycatch allowances for the trawl and nontrawl fisheries are listed in Table 7.

Regulations at § 679.21(e)(3)(ii)(B) require that an amount of the red king crab PSC limit be specified for the red king crab savings subarea (RKCSS), defined at § 679.21(e)(3)(ii)(B)(1), if the subarea is open to fishing by vessels using nonpelagic trawl gear. Under provisions of these regulations, the RKCSS will be open to fishing with nonpelagic trawl gear in 1997 because ADF&G had established a 1996 guideline harvest level for the commercial red king crab fishery in Bristol Bay. Consistent with § 679.21(e)(3)(ii)(B)(2), the red king crab bycatch allowance specified for the RKCSS is an amount equal to 35 percent of the red king crab bycatch allowance recommended by the Council for the rock sole/flathead sole/other flatfish fishery category (75,000 crab), or 26,250 crab. The bycatch allowance specified in Table 7 for the rock sole/flathead sole/other flatfish fishery category is reduced correspondingly to 48,750 crab. When the total number of red king crab taken by trawl vessels fishing in the RKCSS reaches the specified bycatch allowance, further directed fishing for groundfish in the RKCSS by vessels using nonpelagic trawl gear will be prohibited.

The fishery bycatch allowances listed in Table 7 reflect the recommendations made to the Council by its AP. With the exception of the red king crab bycatch allowance specified for the RKCSS, these recommendations generally reflect those established for 1996. The prohibited species bycatch allowances primarily were based on 1996 bycatch amounts, anticipated 1997 harvest of groundfish by trawl gear and fixed gear,

and assumed halibut mortality rates in the different groundfish fisheries.

Regulations at § 679.21(e)(4)(i) allow NMFS to exempt specified nontrawl fisheries from the halibut PSC limit. As in 1995 and 1996, the Council recommended that the pot gear, jig gear, and sablefish hook-and-line gear fishery categories be exempt from the halibut bycatch restrictions.

The Council recommended that the pot and jig gear fisheries be exempt from halibut-bycatch restrictions because these fisheries use selective gear types that experience low halibut bycatch mortality. In 1996, total groundfish catch for the pot gear fishery in the BSAI was approximately 33,841 mt with

an associated halibut bycatch mortality of about 21 mt. The 1996 groundfish jig gear fishery harvested about 264 mt of groundfish. The jig gear fleet is comprised of vessels less than 60 ft (18.3 m) length overall that are exempt from observer coverage requirements. As a result, no observer data are available on halibut bycatch in the BSAI jig gear fishery. Nonetheless, the selective nature of this gear type and the relatively small amount of groundfish harvested with jig gear likely results in a negligible amount of halibut bycatch mortality.

As in 1995 and 1996, the Council recommended that the sablefish Individual Fishing Quota (IFQ) fishery

be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (subpart D of 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. The best available information on the 1995 sablefish IFQ fishery indicates that less than 40 mt of halibut discard mortality was associated with this fishery. An estimate of halibut bycatch mortality associated with the 1996 sablefish IFQ fishery is not available. Nonetheless, no reason exists to suggest the 1996 bycatch mortality in this fishery differed significantly from that estimated for 1995.

TABLE 7.—FINAL 1997 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES

	Zone 1	Zone 2	BSAI-wide
Trawl fisheries			
Red king crab, number of animals:			
Yellowfin sole	10,000	.....	.....
Rock sole/flathead sole/other flatfish	48,750	.....	.....
Greenland turbot/arrowtooth/sablefish	0	.....	.....
Rockfish	0	.....	.....
Pacific cod	7,500	.....	.....
Pollock/Atka mackerel/other species	7,500	.....	.....
Red king crab savings subarea ¹	26,250	.....	.....
Total	100,000	.....	.....
C. <i>Bairdi</i> tanner crab, number of animals:			
Yellowfin sole	368,421	1,530,000	.....
Rock sole/flathead sole/other flatfish	394,736	510,000	.....
Greenland turbot/arrowtooth/sablefish	0	0	.....
Rockfish	0	10,000	.....
Pacific cod	177,632	278,571	.....
Pollock/Atka mackerel/other species	59,211	671,429	.....
Total	1,000,000	3,000,000	.....
Pacific halibut, mortality (MT):			
Yellowfin sole .....	.....	.....	930
Rock sole/flathead sole/other flatfish .....	.....	.....	795
Greenland turbot/arrowtooth/sablefish .....	.....	.....	0
Rockfish .....	.....	.....	100
Pacific cod .....	.....	.....	1,600
Pollock/Atka mackerel/other species .....	.....	.....	350
Total .....	.....	.....	3,775
Pacific herring (MT):			
Midwater pollock .....	.....	.....	1,142
Yellowfin sole .....	.....	.....	267
Rock sole/flathead sole/other flatfish .....	.....	.....	0
Greenland turbot/arrowtooth/sablefish .....	.....	.....	0
Rockfish .....	.....	.....	7
Pacific cod .....	.....	.....	20
Pollock/Atka mackerel/other species .....	.....	.....	143
Total .....	.....	.....	1,579
Nontrawl Fisheries			
Pacific halibut, mortality (MT):			
Pacific cod hook-and-line .....	.....	.....	840
Sablefish hook-and-line .....	.....	.....	(2)
Groundfish pot gear .....	.....	.....	(2)
Groundfish jig gear .....	.....	.....	(2)
Other nontrawl .....	.....	.....	60

TABLE 7.—FINAL 1997 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES—Continued

	Zone 1	Zone 2	BSAI-wide
Total			900

¹ The red king crab savings subarea is defined at § 679.21(e)(3)(ii)(B) as the portion of the red king crab savings area between 56°00' and 56°10' N. lat. The amount of the red king crab bycatch limit specified for this area under § 679.21(e)(3)(ii)(B)(2) is not designated by fishery and, when reached, will result in closure of the subarea to directed fishing for groundfish with nonpelagic gear (§ 679.21(e)(7)(ii)(B)).

² Exempt.

Seasonal Apportionments of PSC limits

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances. At its December 1996 meeting, the Council recommended that the trawl fishery halibut bycatch allowances, and the halibut bycatch allowance apportioned to the Pacific cod hook-and-line gear fishery be seasonally apportioned as shown in Table 8. The recommended seasonal apportionments reflect recommendations made to the Council by its AP.

The Council recommended seasonal apportionments of the halibut bycatch allowances specified for the trawl flatfish and rockfish fisheries to provide additional fishing opportunities in the BSAI early in the year and to reduce the incentive for trawl vessel operators to move from the BSAI to the Gulf of Alaska after the rock sole roe fishery is closed, typically by early March.

The recommended seasonal apportionment of the halibut bycatch allowance for the pollock/Atka mackerel/"other species" fishery category is based on the seasonal allowances of the Bering Sea pollock TAC recommended for the roe and non-roe seasons. Although most of the pollock harvested during the roe season will be taken with pelagic trawl gear and low halibut bycatch rates, any unused halibut bycatch mortality apportioned to the roe season will be available after the roe season.

The Council recommended three seasonal apportionments of the halibut bycatch allowance specified for the Pacific cod hook-and-line fishery. The intent of this recommendation was to provide amounts of halibut necessary to support the harvest of the seasonal apportionments of Pacific cod TAC listed in Table 4, as well as limit a hook-and-line fishery for Pacific cod during summer months when halibut bycatch rates are high. The third seasonal allowance of halibut bycatch mortality will become available September 15, even though the third seasonal allowance of Pacific cod specified for this fishery is available September 1

(Table 4). This means that directed fishing for the third seasonal allowance of Pacific cod by vessels using hook-and-line gear will be prohibited until September 15. The intent of the Council's recommendation was to limit fishing for Pacific cod by vessels using hook-and-line gear during summer months, including the first half of September, when halibut bycatch rates are relatively high. As authorized under § 679.21(e)(5)(iv), the Council further recommended that any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery be reapportioned to the third seasonal allowance to avoid opportunity for additional fishing for Pacific cod until September 15. The Council further recommended that any overage of a halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1997 in amounts proportional to those remaining seasonal bycatch allowances.

TABLE 8.—FINAL SEASONAL APPORTIONMENTS OF THE 1997 PACIFIC HALIBUT BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

	Pacific halibut seasonal
Trawl Fisheries Bycatch Allowances (mt)	
Yellowfin sole:	
Jan. 20–Mar. 31	210
Apr. 01–May 10	210
May 11–Aug. 14	100
Aug. 15–Dec. 31	410
Total	930
Rock sole/flathead sole/"other flatfish":	
Jan. 20–Mar. 31	485
Apr. 01–Jun. 30	130
Jul. 01–Dec. 31	180
Total	795
Rockfish:	
Jan. 20–Mar. 31	30
Apr. 01–Jun. 30	45
Jul. 01–Dec. 31	25
Total	100

TABLE 8.—FINAL SEASONAL APPORTIONMENTS OF THE 1997 PACIFIC HALIBUT BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES—Continued

	Pacific halibut seasonal
Pacific cod:	
Jan. 20–Dec. 31	1,600
Pollock/Atka mackerel/"other species":	
Jan. 20–Apr. 15	300
Apr. 16–Dec. 31	50
Total	350
Non-Trawl Gear	
Pacific cod hook-and-line: ¹	
Jan. 01–Apr. 30	495
May 01–Sep. 14	40
Sep. 15–Dec. 31	305
Total	840
Other nontrawl:	
Jan. 01–Dec. 31	60

¹ Any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery will be reapportioned to the third seasonal allowance. Any overage of a seasonal halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1997 in amounts proportional to those remaining seasonal bycatch allowances.

For purposes of monitoring the fishery halibut bycatch mortality allowances and apportionments, the Regional Administrator will use observed halibut bycatch 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 the fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the final annual SAFE report.

With one exception, the Council recommended that the assumed halibut mortality rates developed by staff of the International Pacific Halibut Commission (IPHC) for the 1997 BSAI groundfish fisheries be adopted for purposes of monitoring halibut bycatch allowances established for the 1997

groundfish fisheries. The IPHC's assumed halibut mortality rates generally are based on an average of mortality rates determined from NMFS observer data collected during 1994 and 1995. Assumed Pacific halibut mortality rates for BSAI fisheries during 1997 are specified in Table 9.

For the Pacific cod hook-and-line gear fishery, the Council recommended an assumed rate of 11.5 percent (the rate used in 1996) until such time in 1997 that the IPHC completes an analysis of 1996 observer data on halibut mortality rates in this fishery. The rate recommended by IPHC staff based on 1994 and 1995 observer data was 14 percent. The Council's recommendation was made in response to public testimony that the 1996 mortality rates improved substantially from earlier years due to a voluntary information program developed by the Pacific cod hook-and-line gear fleet to reduce halibut bycatch discard mortality rates. The Council further recommended that once the IPHC's analysis of 1996 data is complete, NMFS publish a notice in the Federal Register to change the assumed mortality rate for the Pacific cod hook-and-line fishery to reflect the 1996 observed mortality rate. NMFS concurs with the Council's recommendation.

TABLE 9.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1997

Fishery	Assumed mortality (percent)
Hook-and-line gear fisheries:	
Rockfish	15
Pacific cod	11.5
Greenland turbot	11
Sablefish	29
Trawl gear fisheries:	
Midwater pollock	79
Nonpelagic pollock	76
Yellowfin sole	79
Rock sole	73
Flathead sole	65
Other flatfish	65
Rockfish	72
Pacific cod	68
Atka mackerel	73
Arrowtooth flounder	66
Greenland turbot	66
Sablefish	23
Other species	68
Pot gear fisheries:	
Pacific cod	10

Closures to Directed Fishing and Inseason Adjustment

Under § 679.20(d), if the Regional Administrator determines that the amount of a target species or "other species" category apportioned to a fishery or, with respect to pollock, to an

inshore or offshore component allocation, is likely to be reached, the Regional Administrator may establish a directed fishing allowance for the species or species group. If the Regional Administrator established a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district. Similarly, under §§ 679.21(e)(7) and 679.21(e)(8), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, Pacific herring, red king crab, or *C. bairdi* Tanner crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the TAC amounts of pollock in the Bogoslof District, Pacific ocean perch in the Bering Sea subarea, shortraker/rougheye rockfish in the Aleutian Islands subarea, sharpchin/northern rockfish in the Aleutian Islands subarea, other red rockfish in the Bering Sea subarea and other rockfish in the Bering Sea and Aleutian Islands subareas will be necessary as incidental catch to support other anticipated groundfish fisheries. Therefore, NMFS is prohibiting directed fishing for these target species in the specified area identified in Table 10 to prevent exceeding the groundfish TACs specified in Table 1 of this document.

A Zone 1 red king crab bycatch allowance of zero crab is specified for the rockfish trawl fishery, which is defined at § 679.21(e)(3)(iv)(D). Similarly, the BSAI halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category, defined at § 679.21(e)(3)(iv)(C), is 0 mt. The BSAI herring bycatch allowance specified for the rock sole/flathead sole/other flatfish trawl fishery category, defined at § 679.21(e)(3)(iv)(B)(2), also is 0 mt. The Regional Administrator has determined, in accordance with §§ 679.21(e)(7)(ii), 679.21(e)(7)(iv), and § 679.21(e)(7)(v) that the red king crab bycatch allowance specified for the trawl rockfish fishery in Zone 1, the halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category, and the Pacific herring bycatch allowance specified for the rock sole/flathead sole/other flatfish trawl fishery category have been caught. Therefore, NMFS is prohibiting directed fishing for rockfish in Zone 1 by vessels using trawl gear; for Greenland turbot, arrowtooth flounder, and sablefish in the BSAI by vessels using trawl gear;

and for rock sole, flathead sole, and other flatfish in the Herring Savings Area defined at § 679.2 (See Table 10.).

NMFS issues an inseason adjustment closing the RKCSS to directed fishing for groundfish by vessels using nonpelagic trawl gear. This action is necessary to prevent exceeding the 1997 red king crab bycatch allowance specified for the RKCSS. The groundfish fishery by vessels using trawl gear in the BSAI began January 20, 1997. Vessels fishing for groundfish with nonpelagic trawl gear in Zone 1 south of 56 degrees North latitude, the southern boundary of the red king crab savings area, experienced high bycatch rates of red king crab, taking an estimated 27,000 animals in three days. Historical data show that bycatch rates of red king crab by vessels fishing for groundfish with nonpelagic trawl gear increase with increasing latitude in the red king crab savings area. If groundfish were available to vessels using nonpelagic trawl gear in the RKCSS for a minimum time period, NMFS anticipates that effort by those vessels would be substantial, resulting in the allowance of 26,250 red king crab being exceeded. This allowance is not expected to sustain the fishery although it is the maximum amount allowed under § 679.21(e)(3)(ii)(B)(2).

In accordance with § 679.25(a)(2)(i)(B), NMFS has determined that the red king crab for the red king crab bycatch allowance specified for the RKCSS will not adequately provide for nonpelagic trawl gear fishing operations in the subarea. Therefore, in accordance with § 679.25(a)(1)(i) and (a)(2)(i), the Regional Administrator has determined that closing the RKCSS to directed fishing for groundfish by vessels using nonpelagic trawl gear is necessary to prevent exceeding the red king crab bycatch allowance specified for the subarea and is the least restrictive measure to achieve that purpose. Without this prohibition of fishing, red king crab bycatch in excess of the allowance specified for the RKCSS would occur.

Under authority of the Interim 1997 Specifications (61 FR 60044, November 26, 1996), NMFS closed directed fishing for atka mackerel in the Eastern Aleutian District and the Bering Sea Subarea of the BSAI effective 1200 hrs, A.l.t., February 4, 1997, through 2400 hrs, A.l.t., December 31, 1997 (62 FR 5781, February 7, 1997). The amount of TAC remaining under the final specifications of groundfish following closure under the interim specifications will be used as incidental catch in directed fishing for other species in the

Eastern Aleutian District and Bering Sea Subarea. In accordance with § 679.20(d)(1)(iii), the closure to directed fishing for atka mackerel in the Eastern Aleutian District and the Bering Sea Subarea of the BSAI will remain in effect through 2400 hrs, A.I.t., December 31, 1997.

The closures listed in Table 10 supersede the closures announced in the 1997 interim specifications (61 FR 60044, November 26, 1996 and corrected at 62 FR 2445, January 16, 1997). In accordance with § 679.20(d)(1)(iii), § 679.21(e)(7), and § 679.25(a)(1)(i) and (a)(2)(i), the closures listed in Table 10 will remain

in effect through 2400 hrs, A.I.t., December 31, 1997. While these closure are in effect, the maximum retainable bycatch amounts at § 679.20(e) apply at any time during a fishing trip. Additional closures and restrictions may be found in existing regulations at 50 CFR part 679.

TABLE 10.—CLOSURES TO DIRECTED FISHING UNDER 1997 TACS¹

Fishery (All Gear):	Closed Area ²
Pollock in Bogoslof District	Statistical Area 518.
Pacific ocean perch	Bering Sea subarea.
Other red rockfish ³	Bering Sea subarea.
Shortraker/rougeye rockfish	Aleutian Islands subarea.
Sharpchin/northern rockfish	Aleutian Islands subarea.
Other rockfish ⁴	BSAI.
Atka mackerel	Eastern Aleutian District and Bering Sea Subarea.
Fishery (Trawl only):	
Rockfish	Zone 1.
Greenland turbot, arrowtooth, sablefish	BSAI.
Rock sole, flathead sole and other flatfish	Herring Savings Area.
Groundfish (nonpelagic trawl gear)	RKCSS.

¹ These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

² Refer to § 679.2 for definitions of areas, subareas, Bycatch Limitation Zone 1, and the Herring Savings Area, and to Figure 1 to Part 679 for a description of BSAI Statistical Areas. The red king crab savings subarea (RKCSS) is defined at § 679.21(e)(3)(ii)(B).

³ "Other red rockfish" includes shortraker, rougeye, sharpchin, and northern.

⁴ In the BSAI, "Other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch and the "other red rockfish" species.

Response to Comments

Comment 1. The draft environmental assessment prepared for the 1997 specifications provides an inadequate basis for a Finding of No Significant Impact. The environmental impact statement (EIS) prepared for the BSAI groundfish fishery was drafted 15 years ago. Since that time, the conduct of the fisheries has changed, new information regarding the affected groundfish species exists, and substantial and unanalyzed questions exist regarding the impact of the groundfish fisheries on the BSAI ecosystem. NMFS should prepare a supplement to the EIS which fully evaluates the potential impacts of the groundfish TACs on the BSAI ecosystem.

Response. NMFS acknowledges that the final EIS prepared for the BSAI groundfish fishery is 15 years old. Nonetheless, NMFS believes the final EA prepared for the 1997 BSAI groundfish specifications, as well as the documents incorporated by reference into the EA, adequately support a Finding of No Significant Impact (FONSI). The FONSI is based on the best available information contained in the SAFE report on the biological condition of groundfish stocks, the socioeconomic condition of the fishing industry, and consultation with the Council at its December 1996 meeting. For each species category, the Council recommended harvest amounts such

that catches at or below these amounts would not result in overfishing as defined by the FMP. The Council's recommended final TACs for many groundfish species differ from the proposed TACs due to new information on status of stocks and/or changes in exploitation strategy. Each of the Council's recommended TACs for 1997 is equal to or less than the ABC for each species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of the groundfish stocks.

Comment 2. The draft EA does not adequately assess the impact of proposed 1997 fishing levels on the age class distribution of declining stocks of pollock in the eastern Bering Sea, on endangered Steller sea lions, or on the unlisted species also suffering population declines. The draft EA also neglects to address dramatic increases in catches of pollock and Atka mackerel in areas designated as critical foraging habitat for Steller sea lions, the increasing effort directed on spawning pollock in the winter months, and the geographic and temporal concentration of fishing in the areas of the BSAI where the greatest declines of sea lion, other marine mammals, and seabirds have occurred.

Response. The issues of concern identified in *Comment 2* are addressed within the scope of the final EA, as well as in the documents incorporated by

reference into the final EA. Efforts to identify relationships between the Alaska groundfish fisheries and Steller sea lions are ongoing, but any potential linkages remain unclear. Overlaps between Steller sea lion prey and harvested species have been identified, particularly with reference to pollock and Atka mackerel stocks. However, no data currently are available to suggest that the recommended ABCs for these or any other species will adversely impact the recovery of Steller sea lions or other listed species. Participants in the Alaskan groundfish fisheries are not expected to significantly alter their fishing practices, either spatially or temporally, as a result of the 1997 groundfish specifications nor operate in any manner that would predictably pose obvious impacts to Steller Sea lions. New information on the declining abundance of juvenile pollock in the eastern Bering Sea is not expected to influence the fishery during 1997, because fishing effort will continue to concentrate on older age classes that are spatially separate from juvenile aggregations. Available information on the relationship between pollock spawner and recruit biomass suggests that the remaining unharvested mature portion of the stock is above the level that would cause further reductions in pollock recruitment.

Classification

This action is authorized under 50 CFR part 679 and is exempt from review under E.O. 12866.

This action adopts final 1997 harvest specifications for the BSAI, implements associated management measures, releases reserves to certain species ITACs, and closes specified fisheries. Generally, this action does not significantly revise management measures in a manner that would require time to plan or prepare for those revisions. In some cases, such as closures, action must be taken immediately to conserve fishery resources. In other cases, such as the apportionment of the nonspecified reserve to specified ITAC amounts, action must be taken immediately to convey a benefit to the industry in terms of providing the opportunity to plan for the full harvest of specified TAC amounts. Without the specified closures, prohibited species bycatch allowances will be exceeded, established TAC amounts will be overharvested, and retention of some groundfish species will become prohibited, which would disadvantage fishermen who could no longer retain bycatch amounts of these species. In some cases, the interim specifications in effect would be insufficient to allow directed fisheries to operate during a 30-day delayed effectiveness period, which would result in unnecessary closures and disruption within the fishing industry; in many of these cases, the final specifications will allow the fisheries to continue without interruption. The immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources and to convey a benefit to fishermen by providing an opportunity to harvest

available TAC amounts. Accordingly, the Assistant Administrator for Fisheries, NOAA (AA), finds good cause exists to waive the 30-day delayed effectiveness period under 5 U.S.C. 553(d)(3) with respect to such provisions. Comments on the apportionment of reserves will be received until February 27, 1997 (see **ADDRESSES**).

The AA under authority of 5 U.S.C. 553(b)(B) finds good cause that providing prior notice and an opportunity for public comment regarding the inseason adjustment closing the red king crab savings subarea of the BSAI is impracticable and contrary to the public interest. Similarly, under authority of 5 U.S.C. 553(d)(3), the AA finds good cause to waive the 30-day delay in effective date and immediate effectiveness is necessary to prevent exceeding the red king crab bycatch allowance specified for the RKCSS. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until February 27, 1997.

Pursuant to section 7 of the Endangered Species Act, NMFS and the U.S. Fish and Wildlife Service have determined that the groundfish fisheries operating under the 1997 BSAI TAC specifications are unlikely to jeopardize the continued existence or recovery of species listed as endangered or threatened or to adversely modify critical habitat of these species.

NMFS prepared an EA on the 1997 TAC specifications. The AA concluded that no significant impact on the environment will result from their implementation. A copy of the EA is available (see **ADDRESSES**).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to

the Chief Counsel for Advocacy of the Small Business Administration that this final specification will not have a significant economic impact on a substantial number of small entities. The number of fixed gear and trawl catcher vessels expected to be operating as small entities in the Bering Sea and Aleutian Islands groundfish fishery is 356, excluding catcher/processor vessels. All these small entities will be affected by the harvest limits established in the 1997 specifications but changes from 1996 are relatively minor and are expected to be shared proportionally among participants. For this reason, the expected effects would not likely cause a reduction in gross revenues of more than 5 percent, increase compliance costs by more than 10 percent, or force small entities out of business.

The Alaska commercial fishing industry is accustomed to shifting effort among alternative species and management areas in response to changes in TAC between years and inseason closures. Such mobility is necessary to survive in the open access fishery. Therefore, the annual specification process for Alaska groundfish for 1997 would not have significant economic impact on a significant number of small entities. No comments were received regarding this regulatory flexibility act certification. Thus no regulatory flexibility analysis was prepared.

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

Dated: February 12, 1997.

Nancy Foster,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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