

relieved by making the final harvest specifications effective on publication.

Under the provisions of 5 U.S.C. 553(d)(3), an agency can waive a delay in the effective date for good cause found and published with the rule. For all other fisheries not currently closed because the interim TACs were reached, the likely possibility exists for their closures prior to the expiration of a 30-day delayed effectiveness period because their interim TACs or PSC allowances could be reached.

Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace. The interim harvest specifications currently in effect are not sufficient to allow directed fisheries to continue predictably, resulting in unnecessary closures and disruption within the fishing industry and the potential for regulatory discards. The final harvest specifications establish increased TACs and PSC allowances to provide continued directed fishing for species that would otherwise be prohibited under the interim harvest specifications. These final harvest specifications were developed as quickly as possible, given Plan Team review in November 2004, Council consideration and recommendations in December 2004, and NOAA fisheries review and development in January–February 2005. Additionally, if the final harvest specifications are not effective by February 27, 2005, which is the start of the Pacific halibut season as specified by the IPHC, the longline sablefish fishery will not begin concurrently with the Pacific halibut season. This would cause sablefish that is caught with Pacific halibut to be discarded, as both longline sablefish and Pacific halibut are managed under the same IFQ program. These final harvest specifications were developed as quickly as possible, given plan team review in November 2004, Council consideration and recommendations in December 2004, and NMFS review and development in January through February 2005.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105–277, Title II of Division C; Pub. L. 106–31, Sec. 3027; and Pub. L. 106–554, Sec. 209.

Dated: February 17, 2005.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332–5039–02; I.D. 112204A]

Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands; 2005 and 2006 Final Harvest Specifications for Groundfish

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

ACTION: 2005 and 2006 final harvest specifications for groundfish; apportionment of reserves; closures.

SUMMARY: NMFS announces 2005 and 2006 final harvest specifications and prohibited species catch (PSC) allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2005 and 2006 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish 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 in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The 2005 and 2006 final harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), February 24, 2005 through 2400 hrs, A.l.t., December 31, 2006.

ADDRESSES: Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall or from the Alaska Region Web site at <http://www.fakr.noaa.gov>. Copies of the final 2004 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2004, are available from the

North Pacific Fishery Management Council (Council), West 4th Avenue, Suite 306, Anchorage, AK 99510–2252 (907–271–2809) or from its Web site at <http://www.fakr.noaa.gov/npfmc>.

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

SUPPLEMENTARY INFORMATION:

Background

Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it under the Magnuson-Stevens 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) (see § 679.20(a)(1)(i)). Also specified are apportionments of TACs, and Community Development Quota (CDQ) reserve amounts, PSC allowances, and prohibited species quota (PSQ) reserve amounts. Regulations at § 679.20(c)(3) further require NMFS to consider public comment on the proposed annual TACs and apportionments thereof and the proposed PSC allowances, and to publish final harvest specifications in the **Federal Register**. The final harvest specifications set forth in Tables 1 through 17 of this action satisfy these requirements. For 2005 and 2006, the sum of TACs for each year is 2 million mt.

The 2005 and 2006 proposed harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 8, 2004 (69 FR 70974). Comments were invited and accepted through January 7, 2005. NMFS received three letters of comment on the proposed harvest specifications. These letters of comment are summarized and responded to in the Response to Comments section. NMFS consulted with the Council during the December 2004 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council’s December meeting, NMFS is implementing the 2005 and 2006 final harvest specifications as recommended by the Council.

Regulations at § 679.20(c)(2)(ii) establish the interim amounts of each

proposed initial TAC (ITAC) and allocations thereof, of each CDQ reserve established by § 679.20(b)(1)(iii), and of the proposed PSC allowances and PSQ reserves established by § 679.21 that become available at 0001 hours, A.l.t., January 1, and remain available until superseded by the final harvest specifications. NMFS published the 2005 interim harvest specifications in the **Federal Register** on December 23, 2004 (69 FR 76870). Regulations at § 679.20(c)(2)(ii) do not provide for an interim harvest specification for either the hook-and-line or pot gear sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota (IFQ) program. The 2005 final harvest specifications, PSC allowances and PSQ reserves contained in this action supersede the 2005 interim harvest specifications.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

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

In December 2004, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of groundfish stocks in the BSAI. This information was compiled by the Council's Plan Team and is presented in the final 2004 SAFE report for the BSAI groundfish fisheries, dated November 2004. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. The SAFE report is available for public review (see **ADDRESSES**). From these data and analyses, the Plan Team estimates an ABC for each species or species category.

In December 2004, the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for pollock, atka mackerel, rock sole, and the "other species" category, the SSC, AP, and Council endorsed the Plan Team's ABC

recommendations. For the 2006 OFL and ABC recommendations for Atka mackerel, rock sole and Bering Sea pollock the SSC used a downward revised projection of catch that results in higher OFLs and ABCs. For Aleutian Islands pollock, the SSC recommended using tier 5 management that calculates a lower ABC than the Plan Team's recommendation using tier 3 management. For Bogoslof pollock, the SSC recommended using a procedure that reduces the ABC proportionately to the ratio of current stock biomass to target stock biomass. For "other species", the SSC recommended using tier 6 management for the sharks and octopus species, that calculated lower ABCs, instead of the Plan Team's recommended tier 5 management. The Plan Team also recommended separate OFLs and ABCs for the species in the "other species" category, however, the current FMP specifies management at the group level. Since 1999, the SSC has recommended a procedure that moves gradually to a higher ABC for "other species" over a 10-year period instead of a large increase in one year. The 2005 and 2006 ABC amounts reflect the 7th and 8th years incremental increase in the ABC for "other species." For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted them.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required optimum yield (OY) range of 1.4 million to 2.0 million mt. The Council adopted the AP's 2005 and 2006 TAC recommendations, except for the 2005 rock sole, flathead sole, "other flatfish", yellowfin sole, Alaska plaice, Bering Sea pollock and "other species" category. The Council increased TAC amounts for rock sole, flathead sole, "other flatfish" by 500 mt each and the yellowfin sole TAC by 3,200 mt. It decreased the Bering Sea subarea pollock TAC by 2,500 mt, the Alaska plaice TAC by 2,000 mt, and the "other species" TAC by 200 mt. None of the Council's recommended TACs for 2005 or 2006 exceed the final 2005 or 2006 ABC for any species category. NMFS finds that the recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2004 SAFE report that was approved by the Council.

Other Rules Affecting the 2005 and 2006 Harvest Specifications

Amendments 48/48 to the FMP and to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA)

were approved by NMFS on October 12, 2004. The final rule implementing Amendments 48/48 was published November 8, 2004, (69 FR 64683). Amendments 48/48 revise the administrative process used to establish annual specifications for the groundfish fisheries of the GOA and the BSAI. The goals of Amendments 48/48 in revising the harvest specifications process are to (1) manage fisheries based on the best scientific information available, (2) provide for adequate prior public review and comment on Council recommendations, (3) provide for additional opportunity for Secretarial review, (4) minimize unnecessary disruption to fisheries and public confusion, and (5) promote administrative efficiency.

Based on the approval of Amendments 48/48, the Council recommended 2005 and 2006 final harvest specifications for BSAI groundfish. The 2006 harvest specifications will be updated in early 2006, when final harvest specifications for 2006 and new harvest specifications for 2007 are implemented.

In June 2004, the Council adopted Amendment 82 to the FMP. This amendment would establish a program for management of the Aleutian Islands (AI) directed pollock fishery. Section 803 of the Consolidated Appropriations Act of 2004 (CAA), Public Law (Pub. L.) No. 108-199, requires the AI directed pollock fishery to be allocated to the Aleut Corporation for economic development in Adak, Alaska. Prior to the CAA, the AI directed pollock fishery was managed pursuant to the American Fisheries Act (AFA), Pub. L. No. 105-277, Title II of Division C. The AFA allocated the AI directed pollock fishery to specific harvesters and processors named in the AFA. The CAA supersedes that portion of the AFA. Together, the CAA and the AFA effectively allocated the AI directed pollock fishery to the Aleut Corporation after subtraction of the CDQ directed fishing allowance and incidental catch allowance (ICA) from the AI pollock TAC. The implementation of section 803 of the CAA requires amending AFA provisions in the FMP and in the regulations at 50 CFR part 679. This would be accomplished by Amendment 82 which was approved by the Secretary of Commerce on February 9, 2005.

Until the regulations for Amendment 82 are effective, NMFS will prohibit the non-CDQ AI directed pollock fishery in the final harvest specifications for 2005 and 2006 based on statutory language of section 803 of the CAA. The AI pollock TAC recommended by the Council under provisions of proposed

Amendment 82 are included in the 2005 and 2006 final harvest specifications to allow the Administrator, Alaska Region, NMFS, (Regional Administrator), to open the AI directed pollock fishery if and when the regulations for Amendment 82 are effective. As stated above, this prohibition is authorized by section 803 of the CAA, which prohibits fishing or processing of any part of the AI non-CDQ pollock allocation except with permission of the Aleut Corporation or its designated agent. For additional information, see the November 16, 2004, notice of availability (69 FR 67107) and the December 7, 2004, proposed rule for Amendment 82 (69 FR 70589).

Changes From the 2005 and 2006 Proposed Harvest Specifications in the BSAI

In October 2004, the Council's recommendations for the 2005 and 2006 proposed harvest specifications (69 FR 70974, December 8, 2004) were based largely upon information contained in the final 2003 SAFE report for the BSAI groundfish fisheries, dated November 2003. The Council recommended that OFLs and ABCs for stocks in tiers 1 through 3 be based on biomass projections as set forth in the 2003 SAFE report and estimates of groundfish harvests through the 2004 fishing year. For stocks in tiers 4 through 6, for which projections could not be made, the Council recommended that OFL and ABC levels be unchanged from 2004 until the final 2004 SAFE report could be completed. The final 2004 SAFE report (dated November 2004), which was not available when the Council made its recommendations in October 2004, contains the best and most recent scientific information on the condition of the groundfish stocks and was considered in December by the Council in making its recommendations for the 2005 and 2006 final harvest specifications. Based on the final 2004 SAFE report, the sum of the 2005

recommended final TACs for the BSAI (2,000,000 mt) is the same as the sum of the 2005 proposed TACs. The sum of the 2006 recommended final TACs for the BSAI (2,000,000 mt) is 1,577 mt higher than the 2006 proposed TACs (1,998,423 mt). This represents a .08-percent increase overall. Those species for which the final 2005 TAC is lower than the proposed 2005 TAC are Bogoslof pollock (decreased to 10 mt from 50 mt), Pacific cod (decreased to 206,000 mt from 215,952 mt), AI sablefish (decreased to 2,620 mt from 2,790 mt), Alaska plaice (decreased to 8,000 mt from 10,000 mt), and AI "other rockfish" (decreased to 590 mt from 634 mt). Those species for which the final 2005 TAC is higher than the proposed 2005 TAC are Bering Sea pollock (increased to 1,478,500 from 1,474,450 mt), Bering Sea sablefish (increased to 2,440 mt from 2,418 mt), rock sole (increased to 41,500 mt from 41,450 mt), flathead sole (increased to 19,500 mt from 19,000 mt), "other flatfish" (increased to 3,500 mt from 3,000 mt), yellowfin sole (increased to 90,686 mt from 86,075 mt), Pacific ocean perch (increased to 12,600 mt from 12,020 mt), shortraker rockfish (increased to 596 mt from 526 mt), rougheye rockfish (increased to 223 from 195 mt), and "other species" (increased to 29,000 mt from 27,205 mt). Those species for which the final 2006 TAC is lower than the proposed 2006 TAC are Bogoslof pollock (decreased to 10 mt from 50 mt), Pacific cod (decreased to 195,000 mt from 215,500 mt), AI sablefish (decreased to 2,480 mt from 2,589 mt), Bering Sea greenland turbot (decreased to 2,500 mt from 2,700 mt), and AI "other rockfish" (decreased to 590 mt from 634). Those species for which the final 2006 TAC is higher than the proposed 2006 TAC are Bering Sea pollock (increased to 1,487,756 from 1,474,000 mt), Bering Sea sablefish (increased to 2,310 mt from 2,244 mt), rock sole (increased to 42,000 mt from 41,000 mt), flathead sole (increased to

20,000 mt from 19,000 mt), yellowfin sole (increased to 90,000 mt from 86,075 mt), Pacific ocean perch (increased to 12,600 mt from 12,170 mt), shortraker rockfish (increased to 596 mt from 526 mt), rougheye rockfish (increased to 223 from 195 mt), and "other species" (increased to 29,200 mt from 27,205 mt). As mentioned in the 2005 and 2006 proposed harvest specifications, NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC of several target species.

The 2005 and 2006 final TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed ABCs for any single species/complexes. Compared to the 2005 proposed harvest specifications, the Council's 2005 final TAC recommendations increase fishing opportunities for fishermen and economic benefits to the nation for species for which the Council had sufficient information to raise TAC levels. These include Bering Sea pollock, Bering Sea sablefish, yellowfin sole, AI Pacific ocean perch, shortraker rockfish, rougheye rockfish, and "other species." Conversely, the Council reduced TAC levels to provide greater protection for several species, these include Bogoslof pollock, Pacific cod, AI sablefish, Bering Sea Pacific ocean perch, AI "other rockfish." The changes recommended by the Council were based on the best scientific information available, consistent with National Standard 2 of the Magnuson-Stevens Act, and within a reasonable range of variation from the proposed TAC recommendations so that the affected public was fairly apprized and could have made meaningful comments.

Table 1 lists the 2005 and 2006 final OFL, ABC, TAC, ITAC and CDQ reserve amounts of groundfish in the BSAI. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1.—2005 AND 2006 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUND FISH IN THE BSAI.¹

[Amounts are in metric tons]

Species	Area	2005					2006				
		OFL	ABC	TAC	ITAC ²	CDQ ³	OFL	ABC	TAC	ITAC ²	CDQ ³
Pollock ⁴	BS ²	2,100,000	1,960,000	1,478,500	1,330,650	147,850	1,944,000	1,617,000	1,487,756	1,338,980	148,776
	AI ²	39,100	29,400	19,000	17,100	1,900	39,100	29,400	19,000	17,100	1,900
	Bogoslof	39,600	2,570	10	10		39,600	2,570	10	10	
Pacific cod	BSAI	265,000	206,000	206,000	175,100	15,450	226,000	195,000	195,000	165,750	14,625
Sablefish ⁵	BS	2,950	2,440	2,440	2,013	336	2,690	2,310	2,310	982	87
	AI	3,170	2,620	2,620	2,129	442	2,880	2,480	2,480	527	47
Atka mackerel	BSAI	147,000	124,000	63,000	53,550	4,725	127,000	107,000	63,000	53,550	4,725
	EAI/BS		24,550	7,500	6,375	563		21,190	7,500	6,375	563
	CAI		52,830	35,500	30,175	2,663		45,580	35,500	30,175	2,663
	WAI		46,620	20,000	17,000	1,500		40,230	20,000	17,000	1,500
Yellowfin sole	BSAI	148,000	124,000	90,686	77,083	6,801	133,000	114,000	90,000	76,500	6,750
Rock sole	BSAI	157,000	132,000	41,500	35,275	3,113	145,000	122,000	42,000	35,700	3,150
Greenland turbot	BSAI	19,200	3,930	3,500	2,975	263	11,100	3,600	3,500	2,975	263
	BS		2,720	2,700	2,295	203		2,500	2,500	2,125	188
	AI		1,210	800	680	60		1,100	1,000	850	75
Arrowtooth flounder	BSAI	132,000	108,000	12,000	10,200	900	103,000	88,400	12,000	10,200	900
Flathead sole	BSAI	70,200	58,500	19,500	16,575	1,463	56,100	48,400	20,000	17,000	1,500
Other flatfish ⁶	BSAI	28,500	21,400	3,500	2,975	263	28,500	21,400	3,000	2,550	225
Alaska plaice	BSAI	237,000	189,000	8,000	6,800	600	115,000	109,000	10,000	8,500	750
Pacific ocean perch	BSAI	17,300	14,600	12,600	10,710	945	17,408	14,600	12,600	10,710	945
	BS		2,920	1,400	1,190	105		2,920	1,400	1,190	105
	EAI		3,210	3,080	2,618	231		3,210	3,080	2,618	231
	CAI		3,165	3,035	2,580	228		3,165	3,035	2,580	228
	WAI		5,305	5,085	4,322	381		5,305	5,085	4,322	381
Northern rockfish	BSAI	9,810	8,260	5,000	4,250	375	9,480	8,040	5,000	4,250	375
Shortraker rockfish	BSAI	794	596	596	507	45	794	596	596	507	45
Rougheye rockfish	BSAI	298	223	223	190	17	298	223	223	190	17
Other rockfish ⁷	BSAI	1,870	1,400	1,050	893	79	1,870	1,400	1,050	893	79
	BS		810	460	391	35		810	460	391	35
	AI		590	590	502	44		590	590	502	44
Squid	BSAI	2,620	1,970	1,275	1,084		2,620	1,970	1,275	1,084	
Other species ⁸	BSAI	87,920	53,860	29,000	24,650	2,175	87,920	57,870	29,200	24,820	2,190
Total		3,509,332	3,044,769	2,000,000	1,774,719	186,608	3,093,360	2,547,259	2,000,000	1,772,778	187,350

¹These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

²Except 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.

³Except for pollock, squid and the hook-and-line or pot gear allocation of sablefish, one half of the amount of the TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (see §§679.20(b)(1)(iii) and 679.31).

⁴Under §679.20(a)(5)(i)(A)(7), the annual Bering Sea pollock TAC after subtraction for the CDQ directed fishing allowance—10 percent and the ICA—3.35 percent, is further allocated by sector for a directed pollock fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under regulations that would be effective with the final rule implementing Amendment 82, the annual AI pollock TAC, after first subtracting for the CDQ directed fishing allowance—10 percent and second the ICA—2,000 mt, would be allocated to the Aleut Corporation for a directed pollock fishery.

⁵Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear and 7.5 percent of the sablefish TAC allocated to trawl gear is reserved for use by CDQ participants (see §679.20(b)(1)(iii)).

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

⁷“Other rockfish” includes all *Sebastes* and *Sebastes/obus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

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

Reserves and the Incidental Catch Allowance (ICA) for Pollock

Regulations at § 679.20(b)(1)(i) require that 15 percent of the TAC for each target species or species group, except for pollock and the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. Regulations at § 679.20(b)(1)(iii) require that one-half of each TAC amount placed in the non-specified reserve (7.5 percent), with the exception of squid, be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Regulations at § 679.20(a)(5)(i)(A) also require that 10 percent of the BSAI pollock TACs be allocated to the pollock CDQ directed fishing allowance. The entire Bogoslof District pollock TAC is allocated as an ICA (see § 679.20(a)(5)(ii)). 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 PSQ reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

Under regulations at § 679.20(a)(5)(i)(A)(1), NMFS allocates a pollock ICA of 3.35 percent of the Bering Sea subarea pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance is based on an examination of the incidental catch of pollock, including CDQ vessels, in target fisheries other than pollock from 1998 through 2004. During this 6-year period, the incidental catch of pollock ranged from a low of 2 percent in 2003, to a high of 5 percent in 1999, with a 6-year average of 3 percent. Under regulations that would be effective with the final rule implementing Amendment 82, NMFS is specifying a 2,000 mt ICA for AI subarea pollock after subtraction of the 10 percent CDQ directed fishing

allowance. The Aleut Corporation's directed pollock fishing allowance will be closed until regulations implementing Amendment 82 (if approved) become effective.

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 apportioned to a target species or to the "other species" category during the year, providing that such apportionments do not result in overfishing, see § 679.20(b)(1)(ii). The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC to an amount that is equal to TAC minus the CDQ reserve.

TABLE 2.—2005 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES
[Amounts are in metric tons]

Species—area or subarea	2005 reserve amount	2005 final ITAC	2006 reserve amount	2006 final ITAC
Atka mackerel—Eastern Aleutian District and Bering Sea subarea	563	6,938	563	6,938
Atka mackerel—Central Aleutian District	2,663	32,838	2,663	32,838
Atka mackerel—Western Aleutian District	1,500	18,500	1,500	18,500
Pacific ocean perch—Eastern Aleutian District	231	2,849	231	2,849
Pacific ocean perch—Central Aleutian District	228	2,808	228	2,808
Pacific ocean perch—Western Aleutian District	381	4,703	381	4,703
Pacific cod—BSAI	15,450	190,550	14,625	180,375
Shortraker rockfish-BSAI	45	552	45	552
Rougheye rockfish-BSAI	17	207	17	207
Northern rockfish-BSAI	375	4,625	375	4,625
Other rockfish—Bering Sea subarea	35	426	35	426
Total	21,488	264,996	20,663	254,821

Allocation of Pollock TAC Under the AFA

Regulations at § 679.20(a)(5)(i)(A), require, after subtracting first the 10 percent for the CDQ program and second the 3.35 percent for the ICA, the Bering Sea subarea pollock to be allocated as a directed fishing allowance (DFA) as follows: 50 percent to the inshore component, 40 percent to the catcher/processor component, and 10 percent to the mothership component. In the Bering Sea subarea, the A season, January 20—June 10, is allocated 40 percent of the DFA and the B season, June 10—November 1, is allocated 60 percent of the DFA. The AI directed pollock fishery allocation to the Aleut Corporation remains after subtracting first the 10 percent for the CDQ DFA

and second the 2,000 mt for the ICA. The Aleut Corporation directed pollock fishery is closed to directed fishing until the management provisions for the AI directed pollock fishery become effective under Amendment 82. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery. Table 3 lists these 2005 and 2006 amounts.

The regulations also contain several specific requirements concerning pollock and pollock allocations under § 679.20(a)(5)(i)(A)(4). First, 8.5 percent of the pollock allocated to the catcher/processor sector will be available for harvest by AFA catcher vessels with catcher/processor sector endorsements, unless the Regional Administrator

receives a cooperative contract that provides for the distribution of harvest between AFA catcher/processors and AFA catcher vessels in a manner agreed to by all members. Second, AFA catcher/processors not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the catcher/processor sector. Table 3 lists the 2005 and 2006 allocations of pollock TAC. Tables 10 through 17 list other provisions of the AFA, including inshore pollock cooperative allocations and listed catcher/processor and catcher vessel harvesting sideboard limits.

Table 3 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at

§ 679.22(a)(7)(vii), is limited to 28 percent of the annual directed fishing allowance (DFA) until April 1. The remaining 12 percent of the 40 percent of the annual DFA allocated to the A season may be taken outside of the SCA

before April 1 or inside the SCA after April 1. If the 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will

be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 3 lists by sector these 2005 and 2006 amounts.

TABLE 3.—2005 AND 2006 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)¹

[Amounts are in metric tons]

Area and sector	2005 Allocations	2005 A season ¹		2005 B season ¹ B season DFA	2006 Allocations	2006 A season ¹		2006 B season ¹ B season DFA
		A season DFA	SCA harvest limit ²			A season DFA	SCA harvest limit ²	
Bering Sea subarea	1,478,500	.....	.....	.....	1,487,756	.....	.....	.....
CDQ DFA	147,850	59,140	41,398	88,710	148,776	59,510	41,657	89,265
ICA ¹	44,577	.....	.....	.....	44,856	.....	.....	.....
AFA Inshore	643,037	257,215	180,050	385,822	647,062	258,825	181,177	388,237
AFA Catcher/Processors ³	514,429	205,772	144,040	308,658	517,650	207,060	144,942	310,590
Catch by C/Ps	470,703	188,281	.....	282,422	473,650	189,460	.....	284,190
Catch by CVs ³	43,726	17,491	.....	26,236	44,000	17,600	.....	26,400
Unlisted C/P Limit ⁴	2,572	1,029	.....	1,543	2,588	1,035	.....	1,553
AFA Motherships	128,607	51,443	36,010	77,164	129,412	51,765	36,235	77,647
Excessive Harvesting Limit ⁵	225,063	.....	.....	.....	226,472	.....	.....	.....
Excessive Processing Limit ⁶	385,822	.....	.....	.....	388,237	.....	.....	.....
Total Bering Sea DFA	1,478,500	573,569	401,499	860,354	1,487,756	577,160	404,012	865,740
Aleutian Islands subarea ¹	19,000	.....	.....	.....	19,000	.....	.....	.....
CDQ DFA	1,900	760	.....	1,140	1,900	760	.....	1,140
ICA	2,000	1,200	.....	800	2,000	1,200	.....	800
Aleut Corporation	15,100	9,800	.....	5,300	15,100	9,800	.....	5,300
Bogoslof District ICA ⁷	10	.....	.....	.....	10	.....	.....	.....

¹ Under § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock after subtraction for the CDQ DFA—10 percent and the ICA—3.35 percent, the pollock TAC is allocated as a DFA as follows: inshore component—50 percent, catcher/processor component—40 percent, and mothership component—10 percent. In the Bering Sea subarea, the A season, January 20–June 10, is allocated 40 percent of the DFA and the B season, June 10–November 1 is allocated 60 percent of the DFA. The Aleutian Islands (AI) directed pollock fishery allocation to the Aleut Corporation remains after first subtracting for the CDQ DFA—10 percent and second the ICA—2,000 mt. The Aleut Corporation directed pollock fishery is closed to directed fishing until the management provisions for the AI directed pollock fishery become effective under Amendment 82. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

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

³ Under § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processers shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processers.

⁴ Under § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processers are limited to harvesting not more than 0.5 percent of the catcher/processers sector's allocation of pollock.

⁵ Under § 679.20(a)(5)(i)(A)(6) NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the pollock DFAs.

⁶ Under § 679.20(a)(5)(i)(A)(7) NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the pollock DFAs.

⁷ The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only, and are not apportioned by season or sector.

Allocation of the Atka Mackerel ITAC

Under § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to jig gear. The amount of this allocation is determined annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approved, a 1 percent allocation of the Atka mackerel ITAC in the Eastern Aleutian District and the

Bering Sea subarea to the jig gear in 2005 and 2006. Based on an ITAC and a reserve apportionment which together total 6,938 mt, the jig gear allocation is 69 mt.

Regulations at § 679.20(a)(8)(ii)(A) apportion the Atka mackerel ITAC into two equal seasonal allowances. After subtraction of the jig gear allocation, the first seasonal allowance is made available for directed fishing from January 1 (January 20 for trawl gear) to April 15 (A season), and the second seasonal allowance is made available

from September 1 to November 1 (B season) (see Table 4).

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

TABLE 4.—2005 AND 2006 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC ¹

[Amounts are in metric tons]

Subarea and component	2005 and 2006 TAC	CDQ reserve	CDQ re-serve HLA limit ⁴	ITAC	Seasonal allowances ²			
					A season ³		B season ³	
					Total	HLA limit ⁴	Total	HLA limit ⁴
Western AI District	20,000	1,500	900	18,500	9,250	5,550	9,250	5,550
Central AI District	35,500	2,663	1,598	32,838	16,419	9,851	16,419	9,851
EAI/BS subarea ⁵	7,500	563	.....	6,938	.....	.....	.....	.....
Jig (1%) ⁶ .....	.....	.....	.....	69	.....	.....	.....	.....
Other gear (99%) .....	.....	.....	.....	6,868	3,434	.....	3,434	.....
Total	63,000	4,725	.....	58,275	29,103	.....	29,103	.....

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

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

³ The A season is January 1 (January 20 for trawl gear) to April 15 and the B season is September 1 to November 1.

⁴ Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2005 and 2006, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

⁵ Eastern Aleutian District and the Bering Sea subarea.

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

Allocation of the Pacific Cod ITAC

Under § 679.20(a)(7)(i)(A), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear. Under regulations at § 679.20(a)(7)(i)(B), the portion of the Pacific cod ITAC allocated to trawl gear is further allocated 50 percent to catcher vessels and 50 percent to catcher/processors. Under regulations at § 679.20(a)(7)(i)(C)(1), a portion of the Pacific cod ITAC allocated to hook-and-line or pot gear is set aside as an ICA of Pacific cod in directed fisheries for groundfish using these gear types. Based on anticipated incidental catch in these fisheries, the Regional Administrator specifies an ICA of 500 mt. The remainder of Pacific cod ITAC is further allocated to vessels using hook-and-line or pot gear as the following DFAs: 80 percent to hook-and-line catcher/processors, 0.3 percent to hook-and-line

catcher vessels, 3.3 percent to pot catcher/processors, 15 percent to pot catcher vessels, and 1.4 percent to catcher vessels under 60 feet (18.3 m) length overall (LOA) using hook-and-line or pot gear.

Due to concerns about the potential impact of the Pacific cod fishery on Steller sea lions and their critical habitat, the apportionment of the ITAC disperses the Pacific cod fisheries into two seasonal allowances (see §§ 679.20(a)(7)(iii)(A) and 679.23(e)(5)). For pot and most hook-and-line gear, the first seasonal allowance of 60 percent of the ITAC is made available for directed fishing from January 1 to June 10, and the second seasonal allowance of 40 percent of the ITAC is made available from June 10 (September 1 for pot gear) to December 31. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is January

20 to April 1 and is allocated 60 percent of the ITAC. The second season, April 1 to June 10, and the third season, June 10 to November 1, are each allocated 20 percent of the ITAC. The trawl catcher vessel allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processor allocation is allocated 50 percent in the first season, 30 percent in the second season, and 20 percent in the third season. For jig gear, the first season and third seasons are each allocated 40 percent of the ITAC and the second season is allocated 20 percent of the ITAC. Table 5 lists the 2005 and 2006 allocations and seasonal apportionments of the Pacific cod ITAC. In accordance with §§ 679.20(a)(7)(ii)(D) and 679.20(a)(7)(iii)(B), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

TABLE 5.—2005 AND 2006 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD ITAC

[Amounts are in metric tons]

Gear sector	Percent	2005 Share of gear sector total	2005 Subtotal percentages for gear sectors	2005 Share of gear sector total	2005 Seasonal apportionment ¹		2006 Share of gear sector total	2006 Subtotal percentages for gear sectors	2006 Share of gear sector total	2006 Seasonal apportionment ¹	
					Date	Amount				Date	Amount
Total hook-and-line/pot gear.	51	97,181	.....	.....	.....	.....	91,991	.....	.....	.....	.....
Hook-and-line/pot ICA .....	.....	.....	.....	500	.....	.....	.....	.....	500	.....	.....
Hook-and-line/pot subtotal	.....	96,681	.....	.....	.....	.....	91,491	.....	.....	.....	.....
Hook-and-line C/P .....	.....	.....	80	77,344	Jan 1–Jun 10 ...	46,407	.....	80	73,193	Jan 1–Jun 10 ...	43,916
					Jun 10–Dec 31	30,938	.....			Jun 10–Dec 31	29,277
Hook-and-line CV .....	.....	.....	0.3	290	Jan 1–Jun 10 ...	174	.....	0.3	274	Jan 1–Jun 10	165
					Jun 10–Dec 31	116	.....			.....	110
Pot C/P .....	.....	.....	3.3	3,190	Jan 1–Jun 10 ...	1,914	.....	3.3	3,019	Jan 1–Jun 10 ...	1,812
					Sept 1–Dec 31	1,276	.....			Sept 1–Dec 31	1,208
Pot CV .....	.....	.....	15	14,502	Jan 1–Jun 10 ...	8,701	.....	15	13,724	Jan 1–Jun 10 ...	8,234
					Sept 1–Dec 31	5,801	.....			Sept 1–Dec 31	5,489

TABLE 5.—2005 AND 2006 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD ITAC—Continued
[Amounts are in metric tons]

Gear sector	Percent	2005 Share of gear sector total	2005 Subtotal percentages for gear sectors	2005 Share of gear sector total	2005 Seasonal apportionment ¹		2006 Share of gear sector total	2006 Subtotal percentages for gear sectors	2006 Share of gear sector total	2006 Seasonal apportionment ¹	
					Date	Amount				Date	Amount
CV < 60 feet LOA using Hook-and-line or Pot gear.			1.4	1,354				1.4	1,281		
Total Trawl Gear	47	89,559					84,776				
Trawl CV			50	44,779	Jan 20–Apr 1	31,345		50	42,388	Jan 20–Apr 1	29,672
					Apr 1–Jun 10	4,478				Apr 1–Jun 10	4,239
					Jun 10–Nov 1	8,956				Jun 10–Nov 1	8,478
Trawl CP			50	44,779	Jan 20–Apr 1	22,390		50	42,388	Jan 20–Apr 1	21,194
					Apr 1–Jun 10	13,434				Apr 1–Jun 10	12,716
					Jun 10–Nov 1	8,956				Jun 10–Nov 1	8,478
Jig	2	3,811			Jan 1–Apr 30	1,524	3,608			Jan 1–Apr 30	1,443
					Apr 30–Aug 31	762				Apr 30–Aug 31	722
					Aug 31–Dec 31	1,524				Aug 31–Dec 31	1,443
Total	100	190,550					180,375				

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

Sablefish Gear Allocation

Regulations at § 679.20(a)(4)(iii) and (iv) require that sablefish TACs for the Bering Sea and AI subareas be allocated between trawl and hook-and-line or pot gear. Gear allocations of the TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Regulations at § 679.20(b)(1)(iii)(B) require that 20 percent of the hook-and-line and pot gear allocation of sablefish be apportioned to the CDQ reserve. Additionally, regulations at § 679.20(b)(1)(iii)(A) require that 7.5

percent of the trawl gear allocation of sablefish (one half of the reserve) be apportioned to the CDQ reserve.

The Council recommended that specifications for the hook-and-line gear and pot gear sablefish individual fishing quota (IFQ) fisheries continue to be limited to one year to ensure that those fisheries are conducted concurrent with the halibut IFQ fishery and are based on the most recent survey information (69 FR 44634, July 27, 2004). Having the sablefish IFQ fisheries concurrent with the halibut IFQ fishery will reduce the potential for discards of halibut and sablefish in these fisheries. Because of the high value of this fishery, the Council recommended the setting of

TAC be based on the most recent survey information. Under the current IFQ fishery season start date, sablefish stock assessments based on the most recent survey are available before the beginning of the fishery to allow for rulemaking each year. The sablefish IFQ fisheries remain closed at the beginning of each fishing year, until the final specifications for the sablefish IFQ fisheries are in effect. The trawl sablefish fishery will be managed using specifications for up to a two-year period, similar to GOA pollock, Pacific cod and the "other species" category. Table 6 specifies the 2005 and 2006 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6.—2005 AND 2006 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS
[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2005 Share of TAC	2005 ITAC ¹	2005 CDQ reserve	2006 Share of TAC	2006 ITAC	2006 CDQ reserve
Bering Sea:							
Trawl ²	50	1,220	1,037	92	1,155	982	87
Hook-and-line/pot gear ³	50	1,220	976	244			
Total	100	2,440	2,013	336	2,310	982	87
Aleutian Islands:							
Trawl ²	25	655	557	49	620	527	47
Hook-and-line/pot gear ³	75	1,965	1,572	393			
Total	100	2,620	2,129	442	2,480	527	47

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

² For the portion of the sablefish TAC allocated to vessels using trawl gear, one half of the reserve (7.5 percent of the specified TAC) is reserved for the CDQ program.

³ For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to 1 year.

Allocation of PSC Limits for Halibut, Salmon, Crab, and Herring

PSC limits for halibut are set forth in regulations at § 679.21(e). For the BSAI trawl fisheries, the limit is 3,675 mt of halibut mortality and for non-trawl fisheries, the limit is 900 mt of halibut mortality. Regulations at § 679.21(e)(1)(vii) specify a 2005 and 2006 chinook salmon PSC limit for the pollock fishery to be 29,000 fish. Regulations at § 679.21(e)(1)(i) allocate 7.5 percent, or 2,175 chinook salmon, as the PSQ for the CDQ program and the remaining 26,825 chinook salmon to the non-CDQ fisheries. Amendment 82 and its implementing rule would establish an AI chinook salmon limit of 700 fish. Regulations at § 679.21(e)(1)(i) would allocate 7.5 percent, or 53 chinook salmon, as an AI PSQ for the CDQ program and the remaining 647 chinook salmon to the non-CDQ fisheries. Regulations at § 679.21(e)(1)(viii) specify a 2005 and 2006 non-chinook salmon PSC limit of 42,000 fish. Regulations at § 679.21(e)(1)(i) allocate 7.5 percent or 3,150 non-chinook salmon as the PSQ for the CDQ program and the remaining 38,850 non-chinook salmon to the non-CDQ fisheries. PSC limits for crab and herring are specified annually based on abundance and spawning biomass.

The red king crab mature female abundance is estimated from the 2004 survey data to be 35.4 million king crab and the effective spawning biomass is estimated to be 61.9 million pounds (27,500 mt). Based on the criteria set out at § 679.21(e)(1)(ii), the 2005 and 2006 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals as a result of the mature female abundance being above 8.4 million king crab and the effective spawning biomass estimate being greater than 55 million pounds (24,948 mt).

Regulations at § 679.21(e)(3)(ii)(B) establish criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to up to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/“other flatfish” fishery category and are based on the need to optimize the groundfish harvest relative to red king crab bycatch. The Council recommended, and NMFS approves, a red king crab bycatch limit equal to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/

“other flatfish” fishery category within the RKCSS.

Based on 2004 survey data, the *Chionoecetes bairdi* crab abundance is estimated to be 437.41 million animals. Given the criteria set out at § 679.21(e)(1)(iii), the 2005 and 2006 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2 as a result of the *C. bairdi* crab abundance estimate of over 400 million animals.

Under § 679.21(e)(1)(iv), the PSC limit for *C. opilio* crab is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2004 survey estimate of 4.421 billion animals, the calculated limit is 5,008,993 animals. Under § 679.21(e)(1)(iv)(B), the 2005 and 2006 *C. opilio* crab PSC limit will be 5,008,993 animals minus 150,000 animals which results a limit of 4,858,993 animals.

Under § 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2005 and 2006 herring biomass is 201,180 mt. This amount was derived using 2004 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the 2005 and 2006 herring PSC limit is 2,012 mt.

Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for halibut and crab is allocated 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 into PSC bycatch allowances among five fishery categories. Table 7 lists the fishery bycatch allowances for the trawl and non-trawl fisheries.

Regulations at § 679.21(e)(4)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, NMFS, after consultation with the Council, is exempting pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because these fisheries use selective gear types that take few halibut compared to other gear types such as non-pelagic trawl. In 2004, total

groundfish catch for the pot gear fishery in the BSAI was approximately 18,719 mt with an associated halibut bycatch mortality of about 4 mt. The 2004 groundfish jig gear fishery harvested about 216 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and thus 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 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 sablefish IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or his or her hired master is aboard and is holding unused halibut IFQ. NMFS is approving the Council's recommendation. This provision results in reduced halibut discard in the sablefish fishery. In 1995, about 36 mt of halibut discard mortality was estimated for the sablefish IFQ fishery. The estimates for 1996 through 2004 have not been calculated; however, 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 in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are: (1) Seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. In December 2004, the Council's AP recommended seasonal PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based upon the above criteria.

The Council recommended, and NMFS approves, the PSC apportionments specified in Table 7.

TABLE 7.—2005 AND 2006 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl fisheries	Prohibited species and zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1 ¹	<i>C. opilio</i> (animals) COBLZ ¹	<i>C. bairdi</i> (animals)	
					Zone 1 ¹	Zone 2 ¹
Yellowfin sole	886	183	33,843	3,101,915	340,844	1,788,459
January 20–April 1	262	.....	.....	.....	.....	.....
April 1–May 21	195	.....	.....	.....	.....	.....
May 21–July 5	49	.....	.....	.....	.....	.....
July 5–December 31	380	.....	.....	.....	.....	.....
Rock sole/other flat/flathead sole ²	779	27	121,413	1,082,528	365,320	596,154
January 20–April 1	448	.....	.....	.....	.....	.....
April 1–July 5	164	.....	.....	.....	.....	.....
July 5–December 31	167	.....	.....	.....	.....	.....
Turbot/arrowtooth/sablefish ³ .....	.....	12	.....	44,946	.....	.....
Rockfish: July 5–December 31	69	10	.....	44,945	.....	10,988
Pacific cod	1,434	27	26,563	139,331	183,112	324,176
Midwater trawl pollock .....	.....	1,562	.....	.....	.....	.....
Pollock/Atka mackerel/other ⁴	232	192	406	80,903	17,224	27,473
Red King Crab Savings Subarea ⁶ .....	.....	.....	.....	.....	.....	.....
(non-pelagic trawl) .....	.....	.....	42,495	.....	.....	.....
Total trawl PSC	3,400	2,012	182,225	4,494,569	906,500	2,747,250
Non-trawl Fisheries						
Pacific cod–Total	775	.....	.....	.....	.....	.....
January 1–June 10	320	.....	.....	.....	.....	.....
June 10–August 15	0	.....	.....	.....	.....	.....
August 15–December 31	455	.....	.....	.....	.....	.....
Other non-trawl–Total	58	.....	.....	.....	.....	.....
May 1–December 31	58	.....	.....	.....	.....	.....
Groundfish pot and jig	exempt	.....	.....	.....	.....	.....
Sablefish hook-and-line	exempt	.....	.....	.....	.....	.....
Total non-trawl PSC	833	.....	.....	.....	.....	.....
PSC reserve ⁵	342	.....	14,775	364,424	73,500	222,750
PSC grand total	4,575	2,012	197,000	4,858,993	980,000	2,970,000

¹ Refer to § 679.2 for definitions of areas.

² "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole and arrowtooth flounder.

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

⁴ Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.

⁵ With the exception of herring, 7.5 percent of each PSC limit is allocated to the CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

⁶ In December 2004, the Council recommended that Red King Crab bycatch for trawl fisheries within the RKCSS be limited to 35 percent of the total allocation to the rock sole/flathead sole/"other flatfish" fishery category (see § 679.21(e)(3)(ii)(B)).

Halibut Discard Mortality Rates

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

The Council recommended, and NMFS concurs, that the recommended halibut DMR developed by the staff of the International Pacific Halibut Commission (IPHC) for the 2005 and 2006 BSAI groundfish fisheries be used to monitor halibut bycatch allowances established for the 2005 and 2006 groundfish fisheries (see Table 8). These DMRs were developed by the IPHC using the 10-year mean DMRs for the BSAI non-CDQ groundfish fisheries. Plots of annual DMRs against the 10-year mean indicated little change since 1990 for most fisheries. DMRs were

more variable for the smaller fisheries which typically take minor amounts of halibut bycatch. The IPHC will analyze observer data annually and recommend changes to the DMR where a fishery DMR shows large variation from the mean. The IPHC has been calculating the CDQ fisheries DMR since 1998 and a 10-year mean is not available. The Council recommended and NMFS concurs with the DMR recommended by the IPHC for 2005 and 2006 CDQ fisheries. The justification for these DMRs is discussed in Appendix A of the final SAFE report dated November 2004.

TABLE 8.—2005 AND 2006 ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI FISHERIES

Fishery	Preseason assumed mortality (percent)
Hook-and-line gear fisheries:	
Greenland turbot	15
Other species	11
Pacific cod	11
Rockfish	16
Trawl gear fisheries:	
Atka mackerel	78
Flathead sole	67
Greenland turbot	72
Non-pelagic pollock	76
Pelagic pollock	85
Other flatfish	71
Other species	67
Pacific cod	68
Rockfish	74
Rock sole	77
Sablefish	49
Yellowfin sole	78
Pot gear fisheries:	
Other species	8
Pacific cod	8
CDQ trawl fisheries:	
Atka mackerel	85
Flathead sole	67
Non-pelagic pollock	85
Pelagic pollock	90
Rockfish	74
Yellowfin sole	84
CDQ hook-and-line fisheries:	
Greenland turbot	15
Pacific cod	10
CDQ pot fisheries:	
Pacific cod	8
Sablefish	33

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes 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 (see § 697.20(d)(1)(iii)). Similarly, under regulations at § 679.21(e), if the Regional Administrator determines that a fishery category’s bycatch allowance of halibut, red king crab, *C. bairdi* crab or *C. opilio*

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 remaining allocation amounts in Table 9 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2005 and 2006 fishing year:

TABLE 9.—2005 AND 2006 DIRECTED FISHING CLOSURES ¹

[Amounts are in metric tons]

Area	Species	2005 Incidental catch allowance	2006 Incidental catch allowance
Bogoslof District	Pollock	10	10
Aleutian Islands subarea	Non-CDQ Pollock	2,000	2,000
	“Other rockfish”	502	502
Bering Sea subarea	Pacific ocean perch	1,190	1,190
	“Other rockfish”	426	426
Bering Sea and Aleutian Islands	Northern rockfish	4,625	4,625
	Shortraker rockfish	552	552
	Rougheye rockfish	207	207
	“Other species”	24,650	24,820
	CDQ Northern rockfish	375	375
	CDQ Shortraker rockfish	45	45

TABLE 9.—2005 AND 2006 DIRECTED FISHING CLOSURES ¹—Continued

[Amounts are in metric tons]

Area	Species	2005 Incidental catch allowance	2006 Incidental catch allowance
	CDQ Rougheye rockfish	17	17
	CDQ "Other species"	2,175	2,190

¹ Maximum retainable amounts may be found in Table 11 to CFR part 679.

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these species in the specified areas and these closures are effective immediately through 2400 hrs, A.l.t., December 31, 2006.

In addition, the BSAI Zone 1 annual red king crab allowance specified for the trawl rockfish fishery (see § 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish fishery is 0 mt. The BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories is 0 mt (see § 679.21(e)(3)(iv)(C)). Therefore, in accordance with § 679.21(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI and directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI effective immediately through 2400 hrs, A.l.t., December 31, 2006. NMFS is also prohibiting directed fishing for rockfish outside Zone 1 in the BSAI through 1200 hrs, A.l.t., July 5, 2005.

Under authority of the 2005 interim harvest specifications (69 FR 76870, December 23, 2004), NMFS prohibited directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI effective 1200 hrs, A.l.t., January 20, 2005, through 1200 hrs, A.l.t., September 1, 2005 (70 FR 3311, January 24, 2005). NMFS opened the first directed fisheries in the HLA in area 542 and area 543 effective 1200 hrs, A.l.t., January 22, 2005. The first HLA fishery in area 542 remained open through 1200 hrs, A.l.t., February 5, 2005 and in area 543 remained open through 1200 hrs, A.l.t., January 29, 2005. The second directed fisheries in the HLA in area 542 and area 543 opened effective 1200 hrs, A.l.t., February 7, 2005. The second HLA fishery in area 542 remained open through 1200 hrs, A.l.t., February 21, 2005 and in area 543 remained open through 1200 hrs, A.l.t., February 14, 2005. NMFS prohibited directed fishing for Pacific cod by catcher vessels 60 feet (18.3 meters) length overall and longer using pot gear in the BSAI, effective 12 noon, A.l.t., February 13, 2005 (70 FR 7900, February 16, 2005). NMFS prohibited directed fishing for Atka mackerel in the Central Aleutian District of the BSAI, effective 12 noon, A.l.t., February 17, 2005.

These closures remain effective under authority of these 2005 and 2006 final

harvest specifications. These closures supersede the closures announced under the authority of the 2005 interim harvest specifications (69 FR 76870, December 23, 2005). While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR 679.

Bering Sea Subarea Inshore Pollock Allocations

Section 679.4(l) sets forth procedures for AFA inshore catcher vessel pollock cooperatives to apply for and receive cooperative fishing permits and inshore pollock allocations. Table 10 lists the 2005 and 2006 Bering Sea subarea pollock allocations to the seven inshore catcher vessel pollock cooperatives based on 2005 cooperative allocations that have been approved and permitted by NMFS for the 2005 fishing year. The Bering Sea subarea allocations may be revised pending adjustments to cooperatives' membership in 2006. Allocations for cooperatives and open access vessels are not made for the AI subarea because the CAA requires the non-CDQ directed pollock fishery in the AI subarea to be fully allocated to the Aleut Corporation.

TABLE 10.—2005 AND 2006 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

[Amounts are in metric tons]

Cooperative name and member vessels	Sum of member vessel's official catch histories ¹	Percentage of inshore sector allocation	2005 Annual cooperative allocation	2006 Annual cooperative allocation
<i>Akutan Catcher Vessel Association</i> ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MARK I, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER	245,922	28.130	180,886	182,018
<i>Arctic Enterprise Association</i> BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER	36,807	4.210	27,073	27,242

TABLE 10.—2005 AND 2006 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS—Continued
[Amounts are in metric tons]

Cooperative name and member vessels	Sum of member vessel's official catch histories ¹	Percentage of inshore sector allocation	2005 Annual cooperative allocation	2006 Annual cooperative allocation
<i>Northern Victor Fleet Cooperative</i> ANITA J, COLLIER BROTHERS, COM-MODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL	73,656	8.425	54,177	54,516
<i>Peter Pan Fleet Cooperative</i> AJ, AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PACIFIC CHALLENGER, PROVIDIAN, TOPAZ, WALTER N	23,850	2.728	17,542	17,652
<i>Unalaska Cooperative</i> ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,737	12.209	78,510	79,001
<i>UniSea Fleet Cooperative</i> ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, MAR-GUN, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE, STARWARD	213,521	24.424	157,054	158,037
<i>Westward Fleet Cooperative</i> ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, VIKING, WESTWARD I	173,744	19.874	127,795	128,595
Open access AFA vessels	0	0.00	0	0
Total inshore allocation	874,238	100	643,037	647,062

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

In accordance with section 679.20(a)(5)(i)(A)(3), NMFS must further divide the inshore sector allocation into separate allocations for cooperative and open access fishing. In addition, according to section 679.22(a)(7)(vii), NMFS must establish harvest limits inside the SCA and provide a set-aside

so that catcher vessels less than or equal to 99 ft (30.2 m) LOA have the opportunity to operate entirely within the SCA until April 1. Accordingly, Table 11 lists the Bering Sea subarea pollock allocation to the inshore cooperative and open access sectors and establishes a cooperative-sector SCA set-

aside for AFA catcher vessels less than or equal to 99 ft (30.2 m) LOA. The SCA set-aside for catcher vessels less than or equal to 99 ft (30.2 m) LOA that are not participating in a cooperative will be established inseason based on actual participation levels and is not included in Table 11.

TABLE 11.—2005 AND 2006 BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY
[Amounts are in metric tons]

Sector	2005 A season TAC	2005 A season SCA harvest limit ¹	2005 B season TAC	2006 A season TAC	2006 A season SCA harvest limit ¹	2006 B season TAC
Inshore cooperative sector:						
Vessels > 99 ft	n/a	154,632	n/a	n/a	155,600	n/a
Vessels ≤ 99 ft	n/a	25,418	n/a	n/a	25,577	n/a
Total	257,215	180,050	385,822	258,825	181,177	388,237
Open access sector	0	0 ²	0	0	0 ²	0
Total inshore sector	257,215	180,050	385,822	258,825	181,177	388,237

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

² The SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(7)(vii)(C)(2) which specifies that "the Regional Administrator will prohibit directed fishing for pollock by vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit before April 1 to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA until April 1."

Listed AFA Catcher/Processor Sideboard Limits

According to section 679.64(a), the Regional Administrator will restrict the ability of listed AFA catcher/processors to engage in directed fishing for groundfish species other than pollock to

protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. The basis for these sideboard limits is described in detail in the final rule implementing major provisions of

the AFA (67 FR 79692, December 30, 2002). Table 12 lists the 2005 and 2006 catcher/processor sideboard limits.

All groundfish other than pollock that are harvested by listed AFA catcher/processors, whether as targeted catch or incidental catch, will be deducted from

the sideboard limits in Table 12. However, groundfish other than pollock that are delivered to listed catcher/

processors by catcher vessels will not be deducted from the 2005 and 2006

sideboard limits for the listed catcher/processors.

TABLE 12.—2005 AND 2006 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUND FISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2005 ITAC available to trawl C/Ps	2005 C/P sideboard limit	2006 ITAC available to trawl C/Ps	2006 C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Pacific cod trawl	BSAI	12,424	48,177	0.258	44,779	11,553	42,388	10,936
Sablefish trawl	BS	8	497	0.016	1,037	17	982	16
	AI	0	145	0.000	557	0	527	0
Atka mackerel	Central AI							
	A season ¹	n/a	n/a	0.115	16,419	1,888	16,419	1,888
	HLA limit ²				9,851	1,133	9,851	1,133
	B season ¹	n/a	n/a	0.115	16,419	1,888	16,419	1,888
	HLA limit ²				9,851	1,133	9,851	1,133
	Western AI							
	A season ¹	n/a	n/a	0.200	9,250	1,850	9,250	1,850
	HLA limit ²				5,550	1,110	5,550	1,110
	B season ¹	n/a	n/a	0.200	9,250	1,850	9,250	1,850
	HLA limit ²				5,550	1,110	5,550	1,110
Yellowfin sole	BSAI	100,192	435,788	0.230	77,083	17,729	76,500	17,595
Rock sole	BSAI	6,317	169,362	0.037	35,275	1,305	34,700	1,284
Greenland turbot	BS	121	17,305	0.007	2,295	16	2,125	15
	AI	23	4,987	0.005	680	3	850	4
Arrowtooth flounder	BSAI	76	33,987	0.002	10,200	20	10,200	20
Flathead sole	BSAI	1,925	52,755	0.036	16,575	597	17,000	612
Alaska plaice	BSAI	14	9,438	0.001	6,800	7	8,500	9
Other flatfish	BSAI	3,058	52,298	0.058	2,550	148	2,550	148
Pacific ocean perch	BS	12	4,879	0.002	1,190	2	1,190	2
	Eastern AI	125	6,179	0.020	2,849	57	2,849	57
	Central AI	3	5,698	0.001	2,808	3	2,808	3
	Western AI	54	13,598	0.004	4,703	19	4,703	19
Northern rockfish	BSAI	91	13,040	0.007	4,625	32	4,625	32
Shortraker rockfish	BSAI	50	2,811	0.018	552	10	552	10
Rougheye rockfish	BSAI	50	2,811	0.018	207	4	207	4
Other rockfish	BS	18	621	0.029	426	12	426	12
	AI	22	806	0.027	502	14	502	14
Squid	BSAI	73	3,328	0.022	1,084	24	1,084	24
Other species	BSAI	553	68,672	0.008	24,650	197	24,820	199

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

² Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2005 and 2006, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

Section 679.64(a)(5) establishes a formula for PSC sideboard limits for listed AFA catcher/processors. These amounts are equivalent to the percentage of the PSC amounts taken in the groundfish fisheries other than pollock by the AFA catcher/processors listed in subsection 208(e) and section 209 of the AFA from 1995 through 1997 (see Table 13). These amounts were used to calculate the relative amount of PSC that was caught by pollock catcher/processors shown in Table 13. That

relative amount of PSC was then used to determine the PSC sideboard limits for listed AFA catcher/processors in the 2005 and 2006 groundfish fisheries other than pollock.

PSC that is caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock listed in Table 13 would accrue against the 2005 and 2006 PSC sideboard limits for the listed AFA catcher/processors. Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish

other than pollock for listed AFA catcher/processors once a 2005 or 2006 PSC sideboard limit listed in Table 13 is reached.

Crab or halibut PSC that is caught by listed AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/“other species” fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 13.—2005 AND 2006 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS¹

PSC species	1995–1997			2005 and 2006 PSC available to trawl vessels	2005 and 2006 C/P sideboard limit
	PSC catch	Total PSC	Ratio of PSC catch to total PSC		
Halibut mortality	955	11,325	0.084	3,400	286
Red king crab	3,098	473,750	0.007	182,225	1,276

TABLE 13.—2005 AND 2006 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES
SIDEBOARD LIMITS ¹—Continued

PSC species	1995—1997			2005 and 2006 PSC available to trawl ves-sels	2005 and 2006 C/P sideboard limit
	PSC catch	Total PSC	Ratio of PSC catch to total PSC		
<i>C. opilio</i> ²	2,323,731	15,139,178	0.153	4,494,569	687,669
<i>C. bairdi</i> :					
Zone 1 ²	385,978	2,750,000	0.140	906,500	126,910
Zone 2 ²	406,860	8,100,000	0.050	2,747,250	137,363

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

² Refer to § 679.2 for definitions of areas.

AFA Catcher Vessel Sideboard Limits

Under section 679.64(a), the Regional Administrator restricts the ability of AFA catcher vessels to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting

from the AFA and from fishery cooperatives in the directed pollock fishery. Section 679.64(b) establishes a formula for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rule implementing major provisions of the AFA (67 FR 79692, December 30,

2002). Tables 14 and 15 list the 2005 and 2006 AFA catcher vessel sideboard limits.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the sideboard limits listed in Table 14.

TABLE 14.—2005 AND 2006 BSAI AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD LIMITS
[Amounts are in metric tons]

Species	Fishery by area/season/processor/gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2005 ITAC	2005 Catcher vessel sideboard limits	2006 ITAC	2006 Catcher vessel sideboard limits
Pacific cod	BSAI					
	Jig gear	0.0000	3,811	0	3,608	0
	Hook-and-line CV					
	Jan 1–Jun10	0.0006	173	0	165	0
	Jun 10–Dec 31	0.0006	116	0	110	0
	Pot gear CV					
	Jan 1–Jun 10	0.0006	8,701	5	8,234	5
	Sept 1–Dec 31	0.0006	5,801	3	5,489	3
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	1,354	1	1,281	1
	Trawl gear CV					
Jan 20–Apr 1	0.8609	31,345	26,985	29,672	25,545	
Apr 1–Jun 10	0.8609	4,478	3,449	4,239	3,265	
Jun 10–Nov 1	0.8609	8,956	6,899	8,478	6,531	
Sablefish	BS trawl gear	0.0906	1,037	94	982	89
	AI trawl gear	0.0645	557	36	537	35
Atka mackerel	Eastern AI/BS					
	Jig gear	0.0031	69	0	69	0
	Other gear					
	Jan 1–Apr 15	0.0032	3,156	10	3,156	10
	Sept 1–Nov 1	0.0032	3,156	10	3,156	10
	Central AI					
	Jan–Apr 15	0.0001	16,419	2	16,419	2
	HLA limit	0.0001	9,851	1	9,851	1
	Sept 1–Nov 1	0.0001	16,419	2	16,419	2
	HLA limit	0.0001	9,851	1	9,851	1
Western AI						
Jan–Apr 15	0.0000	9,250	0	9,250	0	
HLA limit		5,550	0	5,550	0	
Sept 1–Nov 1	0.0000	9,250	0	9,250	0	
HLA limit		5,550	0	5,550	0	
Yellowfin sole	BSAI	0.0647	77,083	4,987	76,500	4,950
Rock sole	BSAI	0.0341	35,275	1,203	35,700	1,217
Greenland Turbot	BS	0.0645	2,295	148	2,125	137
	AI	0.0205	680	14	850	17
Arrowtooth flounder	BSAI	0.0690	10,200	704	10,200	704
Alaska plaice	BSAI	0.0441	6,800	300	8,500	375
Other flatfish	BSAI	0.0441	2,975	131	2,550	112

TABLE 14.—2005 AND 2006 BSAI AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD LIMITS—Continued
[Amounts are in metric tons]

Species	Fishery by area/season/processor/gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2005 ITAC	2005 Catcher vessel sideboard limits	2006 ITAC	2006 Catcher vessel sideboard limits
Pacific ocean perch	BS	0.1000	1,190	119	1,190	119
	Eastern AI	0.0077	2,849	22	2,849	22
	Central AI	0.0025	2,808	7	2,808	7
	Western AI	0.0000	4,703	0	4,703	0
Northern rockfish	BSAI	0.0084	4,625	39	4,625	39
Shortraker rockfish	BSAI	0.0037	552	2	552	2
Rougeye rockfish	BSAI	0.0037	207	1	207	1
Other rockfish	BS	0.0048	426	2	426	2
	AI	0.0095	502	5	502	5
Squid	BSAI	0.3827	1,084	415	1,084	415
Other species	BSAI	0.0541	24,650	1,334	24,820	1,343
Flathead Sole	BS trawl gear	0.0505	16,575	837	17,100	864

The AFA catcher vessel PSC limit for halibut and each crab species in the BSAI, for which a trawl bycatch limit has been established, will be a portion of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997, relative to the retained catch of all vessels in that fishery from 1995 through 1997. Table 15 lists the 2005

and 2006 PSC sideboard limits for AFA catcher vessels.

Halibut and crab PSC that are caught by AFA catcher vessels participating in any groundfish fishery for groundfish other than pollock listed in Table 15 will accrue against the 2005 and 2006 PSC sideboard limits for the AFA catcher vessels. Sections 679.21(d)(8) and (e)(3)(v) provide authority to close directed fishing for groundfish other

than pollock for AFA catcher vessels once a 2005 or 2006 PSC sideboard limit listed in Table 15 for the BSAI is reached. The PSC that is caught by AFA catcher vessels, while fishing for pollock in the BSAI, will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/“other species” fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 15.—2005 AND 2006 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI¹
[Amounts are in metric tons]

PSC species	Target fishery category ²	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2005 and 2006 PSC limit	2005 and 2006 AFA catcher vessel PSC sideboard limit	
Halibut	Pacific cod trawl	0.6183	1,434	887	
	Pacific cod hook-and-line or pot	0.0022	775	2	
	Yellowfin sole	January 20–April 1	0.1144	262	30
		April 1–May 21	0.1144	195	22
		May 21–July 5	0.1144	49	6
		July 5–December 31	0.1144	380	43
		Rock sole/flathead sole/other flatfish ⁵
	January 20–April 1	0.2841	448	127
		April 1–July 5	0.2841	164	47
		July 5–December 31	0.2841	167	47
		Turbot/Arrowtooth/Sablefish	0.2327	0	0
		Rockfish (July 1–December 31)	0.0245	69	2
Pollock/Atka mackerel/other species .....	.....	0.0227	232	5
	
Red King Crab	Pacific cod	0.6183	26,563	16,424	
	Yellowfin sole	0.1144	33,843	3,872	
	Rock sole/flathead sole/other flatfish ⁵	0.2841	121,413	34,493	
	Pollock/Atka mackerel/other species	0.0227	406	9	
<i>C. opilio</i>	Pacific cod	0.6183	139,331	86,148	
	Yellowfin sole	0.1144	3,101,915	354,859	
	Rock sole/flathead sole/other flatfish ⁵	0.2841	1,082,528	307,546	
	Pollock/Atka mackerel/other species	0.0227	80,903	1,836	
	Rockfish	0.0245	44,945	1,101	
COBLZ ³	Turbot/Arrowtooth/Sablefish	0.2327	44,946	10,459	
	Pacific cod	0.6183	183,112	113,218	
	Yellowfin sole	0.1144	340,844	38,993	
<i>C. bairdi</i>	Rock sole/flathead sole/other flatfish ⁵	0.2841	365,320	103,787	
	
Zone 1 ^{3,4} .....	.....	.....	.....	.....
	

TABLE 15.—2005 AND 2006 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI¹—Continued

[Amounts are in metric tons]

PSC species	Target fishery category ²	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2005 and 2006 PSC limit	2005 and 2006 AFA catcher vessel PSC sideboard limit
<i>C. bairdi</i> Zone 2 ³	Pollock/Atka mackerel/other species	0.0227	17,224	391
	Pacific cod	0.6183	324,176	200,438
	Yellowfin sole	0.1144	1,788,459	204,600
	Rock sole/flathead sole/other flatfish ⁵	0.2841	596,154	169,367
	Pollock/Atka mackerel/other species	0.0227	27,473	624
	Rockfish	0.0245	10,988	269

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

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

³ Refer to § 679.2 for definitions of areas.

⁴ In December 2004, the Council recommended that red king crab bycatch for trawl fisheries within the RKCSS be limited to 35 percent of the total allocation to the rock sole/flathead sole/“other flatfish” fishery category (see § 679.21(e)(3)(ii)(B)).

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

Sideboard Directed Fishing Closures

AFA Catcher/Processor and Catcher Vessel Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher/processor and catcher vessel sideboard limits listed in Tables 16 and 17 are necessary as incidental catch to

support other anticipated groundfish fisheries for the 2005 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 16 and 17 as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year.

Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by listed AFA catcher/processors for the species in the specified areas set out in Table 16 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 17.

TABLE 16.—2005 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES¹

[Amounts are in metric tons]

Species	Area	Gear types	2005 Sideboard limit	2006 Sideboard limit
Sablefish trawl	BS	Trawl	17	16
	AI	Trawl	0	0
Rock sole	BSAI	all	1,305	1,284
Greenland turbot	BS	all	16	15
	AI	all	3	4
Arrowtooth flounder	BSAI	all	20	20
Pacific ocean perch	BS	all	2	2
	Eastern AI	all	57	57
	Central AI	all	3	3
	Western AI	all	19	19
Northern rockfish	BSAI	all	32	32
Shortraker rockfish	BSAI	all	10	10
Rougheye rockfish	BSAI	all	4	4
Other rockfish	BS	all	12	12
	AI	all	14	14
Squid	BSAI	all	24	24
“Other species”	BSAI	all	197	199

¹ Maximum retainable amounts may be found in Table 11 to CFR part 679.

TABLE 17.—2005 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES¹

[Amounts are in metric tons]

Species	Area	Gear types	2005 Sideboard limit	2006 Sideboard limit
Pacific cod	BSAI	hook-and-line	0	0
	BSAI	pot	9	9
	BSAI	jig	0	0
Sablefish	BS	trawl	94	89

TABLE 17.—2005 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES ¹—Continued
[Amounts are in metric tons]

Species	Area	Gear types	2005 Sideboard limit	2006 Sideboard limit
Atka mackerel	AI	trawl	36	35
	Eastern AI/BS	jig	0	0
	Eastern AI/BS	other	20	20
	Central AI	all	4	4
Greenland Turbot	Western AI	all	0	0
	BS	all	148	137
Arrowtooth flounder	AI	all	14	17
	BSAI	all	704	704
Pacific ocean perch	BS	all	119	119
	Eastern AI	all	22	22
	Central AI	all	7	7
	Western AI	all	0	0
Northern rockfish	BSAI	all	39	39
Shorthead rockfish	BSAI	all	2	2
Rougheye rockfish	BSAI	all	1	1
Other rockfish	BS	all	2	5
	AI	all	5	5
Squid	BSAI	all	415	415
"Other species"	BSAI	all	1,334	1,343

¹ Maximum retainable amounts may be found in Table 11 to CFR part 679.

Response to Comments

NMFS received 3 letters of comment in response to the proposed 2005 and 2006 harvest specifications. These letters contained 17 separate comments that are summarized and responded to below.

Comment 1: The Council has yet to take any action on the review of the "Scientific Review of the Harvest Strategy Currently Used in the BSAI and GOA Groundfish Fishery Management Plans." The Council's current approach to setting catch rates results in rates that are too high for rockfish.

Response: The report referred to in the comment is:

Goodman, Daniel, Marc Mangel, Graeme Parkes, Terry Quinn, Victor Restrepo, Tony Smith, Kevin Stokes. 2002. "Scientific Review of the Harvest Strategy Currently Used in the BSAI and GOA Groundfish Fishery Management Plans." Prepared for the North Pacific Fishery Management Council. November 21, 2002.

Evaluation of fishery management strategies has been an ongoing research activity of the NMFS, Alaska Fisheries Science Center (AFSC) for years. Most recently, the Programmatic Supplemental Environmental Impact Statement (PSEIS) for the BSAI and GOA Groundfish FMPs devoted thousands of pages to evaluate both current and alternative fishery management strategies. A working group (WG) has been established to ensure the fisheries are managed based on the best available science, and tasked

with continuing and expanding the AFSC's research in the area of management strategy evaluation (MSE). MSE research is ongoing and the WG is expected to make significant advancements in this area over the next few years. The GOA SAFE report (page 387) evaluated the harvest strategy used in the rockfish assessments with particular attention given to the consideration of the harvest rates for rockfish because of their "low productivity" (Goodman *et al.* 2002). The evaluation indicated that the harvest strategy is sufficiently conservative. The stock assessments are updated annually and adjustments will be made if new data indicates a downturn in the fishery populations. Also, the rockfish section of the SSC's minutes from the December 2004 Council meeting states, "The SSC appreciates the attention given by the SAFE authors and the Plan Teams to the recommendations that the SSC made last year regarding the "F40 report" by Goodman *et al.*, the contributions to stock productivity of older female rockfish, local depletion, and the effects of disaggregation of the ABCs." At the February 2005 Council meeting, a discussion paper on rockfish management will be presented by Council staff. Also, the Council includes ecosystem research information in an ecosystem considerations appendix to the SAFE reports.

Comment 2: The EA fails to provide the public with a full and fair analysis of the consequence of implementing the FMPs; and there is no FMP level

environmental impact statement (EIS) that evaluates the effects of authorizing fishing pursuant to the FMPs.

Response: Pursuant to NEPA, NMFS prepared an EA for this action. The EA comprehensively analyzes the potential impacts of the 2005 and 2006 harvest specifications and provides the evidence to decide whether an agency must prepare an EIS. The analysis in the EA supports a finding of no significant impact on the human environment as a result of the 2005 and 2006 final harvest specifications. Therefore, an EIS is not required.

Comment 3: The commentor is concerned about the serious limitations and disappointed about the insufficient action taken regarding the Improved Retention/Improved Utilization (IR/IU) program.

Response: This action does not address IR/IU. In 1998, Groundfish FMP Amendments 49/49 were implemented, requiring 100 percent retention of all pollock and Pacific cod in all fisheries, regardless of gear type. This provided incentives for fishermen to avoid catching these species if they were not targeted, and also required that they be retained for processing if they were caught. An overall minimum groundfish retention standard was approved by the Council in June 2003, with increasing retention standards being phased in starting in 2005. NMFS is preparing a proposed rule based on the Council recommendations. Concurrently, the Council is developing a program that allows sectors targeting flatfish species in the BSAI to form fishery

cooperatives. This program is intended to provide these sectors with the operational tools necessary to adhere to the increased retention standards.

Comment 4: The Council and NMFS have taken no action to ensure that adverse impacts on essential fish habitat (EFH) will not occur during the EIS process and that the choice of reasonable alternatives will not be limited.

Response: NMFS prepared a draft EIS for EFH dated January 2004, which included a broad range of alternatives for minimizing the effects of fishing on EFH. Further information on the draft EIS may be found at the NMFS Alaska Region Web site at www.fakr.noaa.gov. NMFS is revising the EIS to include two additional alternatives based on public comments. The final EFH EIS is scheduled for publication by June 1, 2005. Fishing in accordance with this action in the context of the fishery as a whole could have led to adverse impacts on EFH. Therefore, NMFS prepared an EFH Assessment that incorporates all of the information required in 50 CFR 600.920(e)(3), and initiated EFH consultation pursuant to 50 CFR 600.920(i). The EFH Assessment is contained in the EA prepared for this action. The consultation found that this action continues to minimize to the extent practicable adverse effects on EFH.

Comment 5: Fishing, as allowed under the current specifications, is overfishing and starves all other marine life of food.

Response: None of the groundfish species managed in Alaska are known to be experiencing overfishing or are overfished as defined by the Magnuson-Stevens Act. Ecosystem considerations are part of the harvest specification process to ensure fish harvests impacts on the ecosystem are minimized as much as possible and that all organisms dependent on the marine ecosystem are adequately protected.

Comment 6: All quotas should be cut by 50 percent starting in 2005 and 10 percent each year thereafter. Also, marine sanctuaries should be established.

Response: The commentor provided no reason for the quotas to be reduced. The decisions on the amount of harvest are based on the best available science and socioeconomic considerations. NMFS finds that the ABCs and TACs are consistent with the biological condition of the groundfish stocks as described in the 2004 SAFE report and approved by the Council. Additionally, this action does not address the creation of marine sanctuaries. The concept of establishing marine reserves is explored in the draft

environmental impact statement (EIS) for essential fish habitat (EFH), dated January 2004. Further information on the draft EIS may be found at the NMFS Alaska Region Web site at www.fakr.noaa.gov.

Comment 7: A commentor incorporated the Pew Foundation reports on overfishing and the United Nations report on overfishing into their comment.

Response: The specific concerns and relationship of these reports to this action are not presented by the commentor. Because no further details are provided by the commentor, NMFS is unable to respond further to this comment.

Comment 8: The number of vessels that are allowed to catch fish are far too great.

Response: On January 1, 2000, the NMFS implemented the License Limitation Program (LLP), which limits the number, size, and specific operation of vessels that may be deployed in the groundfish fisheries in the exclusive economic zone off Alaska. By limiting the number of vessels that are eligible to participate in the affected fisheries, the LLP places an upper limit on the amount of capitalization that may occur in those fisheries. This upper limit will prevent future overcapitalization in those fisheries at levels that could occur if such a constraint was not present. The number of vessels participating in the groundfish fisheries off Alaska has decreased approximately 16 percent from 1,228 vessels in 2000 to 1,037 vessels in 2003.

Comment 9: Steller sea lions and other seal populations are being decimated by the commercial fisheries.

Response: Several species of groundfish, notably pollock, Pacific cod, and Atka mackerel, are important prey species for Steller sea lions and are also targeted by the groundfish fisheries. The pollock, Pacific cod, and Atka mackerel fisheries may compete with Steller sea lions by reducing the availability of prey for foraging sea lions. However, this potential competition between commercial fishers and Steller sea lions for pollock, Pacific cod, and Atka mackerel is addressed by regulations that limit the total amount of catch and impose temporal and spatial controls on harvest. These Steller sea lion protection measures are designed to preserve prey abundance and availability for foraging sea lions. These protection measures ensure the groundfish fisheries are unlikely to cause jeopardy of extinction or adverse modification or destruction of critical habitat for the Western distinct population segment of Steller sea lions.

Comment 10: NMFS does not use the "best" information. It uses manipulated information submitted by commercial fisheries. NMFS does zero law enforcement to catch illegal raping of the sea.

Response: NMFS used data from sources other than the fishing industry reported data. NMFS uses data from fisheries observers who are biologists working independently to collect biological information aboard commercial fishing vessels and at shoreside processing plants in Alaska. Observers are deployed by private, federally permitted observer providers. The NMFS, AFSC, Resource Assessment and Conservation Engineering Division conducts fishery surveys to measure the distribution and abundance of commercially important fish stocks in the BSAI and GOA. This data is used to investigate biological processes and interactions with the environment to estimate growth, mortality, and recruitment to improve the precision and accuracy of forecasting stock dynamics. Data derived from groundfish surveys are documented in scientific reports and are incorporated into stock assessment advice to the Council, international fishery management organizations, the fishing industry, and the general public. See comment 12 regarding NMFS fishery enforcement.

Comment 11: The time period for the public to comment on this proposed rule should be extended by 120 days.

Response: The commentor provided no reason for the comment period extension request. Because no justification is known for extending the comment period, the comment period remains 30 days for the proposed rule.

Comment 12: The fisherman are taking 3 times what they report.

Response: NMFS disagrees with the commentor's assertion that groundfish fishers systematically under-report their catch. The recordkeeping and reporting requirements in these fisheries are comprehensive, and NMFS and United States Coast Guard law enforcement officers conduct numerous vessel boardings each year. Reporting violations do occur, but they are relatively rare compared to the participation in the overall fishery and are prosecuted pursuant to the Magnuson-Stevens Act.

Comment 13: A commentor provided an article regarding the United Nations recommendations for banning of high seas bottom trawling.

Response: The commentor did not provide the relationship of this action to the article. This action is limited to the EEZ off Alaska and does not address high seas commercial fishing activities.

However, NMFS does work on issues concerning high seas commercial fishing activities. One example is the limitation of high seas drift net fishing for salmon in the north Pacific. As a result of this international treaty the United States is empowered to prohibit United States vessels from participating in this activity and enforce the terms of the treaty on the high seas. Also, NMFS, AFSC is conducting studies on the impacts of bottom trawls on the sea floor and the description of bottom types.

Comment 14: It is unclear why there is a slight difference between the 2005 and 2006 A/B season apportionments of the Aleut Corporation fishery.

Response: The values for 2005 and 2006 Aleut Corporation fisheries should be 9,800 mt for the A season and 5,300 mt for the B season. There was an error in the proposed specifications and it has been corrected in the final specifications based on the December Council recommendations.

Comment 15: The decrease in the AI pollock ABC from the proposed amount of 39,400 mt to the final amount of 29,400 mt will change the amount of the Aleut Corporation's A season fishery from 13,800 mt under the proposed harvest specifications to 9,800 mt under the final specifications. This should not affect the CDQ or ICA amounts, or the A season apportionments of the CDQ and ICA.

Response: The Aleut Corporations's A season allocation of pollock decreases from 13,800 mt under the proposed specifications to 9,800 mt under the final specifications. The CDQ and ICA amounts are the same as under the proposed and final specifications.

Comment 16: The commentor agrees that it is appropriate to maintain the 40/60 seasonal apportionment of the CDQ allocation.

Response: The CDQ pollock allocation in the AI will continue to be conducted with the same seasonal apportionments as currently specified for the AI and BS subareas and CDQ components under § 679.20(a)(5)(i)(B).

Comment 17: The ICA does not need to be set at 2,000 mt in the initial specifications.

Response: NMFS emphasizes that this is the first year of new management for AI pollock. In 2003, the total catch of AI pollock was 1,653 mt. NMFS is establishing an ICA of 2,000 mt to ensure enough pollock is available to support bycatch needs in other groundfish fisheries and to minimize the potential of disrupting the AI directed pollock fishery.

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary management measures are to announce 2005 final harvest specifications and prohibited species bycatch allowances for the groundfish fishery of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2005 and 2006 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. This action affects all fishermen who participate in the BSAI fishery. The specific amounts of OFL, ABC, TAC and PSC amounts are provided in tabular form to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Classification

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

A Final Regulatory Flexibility Analysis (FRFA) was prepared to evaluate the impacts of the 2005 and 2006 harvest level specifications on directly regulated small entities. This FRFA is intended to meet the statutory requirements of the Regulatory Flexibility Act (RFA).

The proposed rule for the BSAI specifications was published in the **Federal Register** on December 8, 2004 (69 FR 70974). A correction was published on December 22, 2004 (69 FR 76682). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and described in the classifications section of the preamble to the rule. Copies of the IRFA prepared for this action are available from Alaska, Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall. The public comment period ended on January 7, 2005. No comments were received on the IRFA or regarding the economic impacts of this rule.

The 2005 and 2006 harvest specifications establish harvest limits for the groundfish species and species groups in the BSAI. This action is necessary to allow fishing in 2005 and 2006. About 758 small catcher vessels, 24 small catcher-processors, and six small private non-profit CDQ groups

may be directly regulated by the BSAI specifications.

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities. This regulation does not duplicate, overlap, or conflict with any other Federal rules.

The FRFA examined the impacts of the preferred alternative on small entities within fisheries defined by the harvest of species groups whose TACs might be affected by the specifications. The FRFA identified the following adverse impacts of the preferred alternative on small fishing operations harvesting sablefish and Pacific cod in the BSAI and on CDQ groups operating in the BSAI.

The aggregate gross revenues for an estimated 53 small BSAI sablefish entities were estimated to decline by about \$1.6 million. A reduction in revenues of this magnitude would have accounted for about 2.7 percent of total 2003 gross revenues from all sources for these small entities.

The aggregated gross revenues for an estimated 120 small BSAI Pacific cod entities were estimated to decline by about \$1.7 million. A reduction in revenues of this magnitude would have accounted for about 1.3% of total 2003 gross revenues from all sources for these small entities.

The aggregate gross revenues for six small BSAI CDQ group entities were estimated to decline by about \$1.2 million between 2004 and 2006. This is less than 1 percent of the gross revenues for these allocations in 2004.

Although the preferred alternative had adverse impacts on some classes of small entities, compared to the fishery in the preceding year, alternatives that had smaller adverse impacts were precluded by biological management concerns. Four alternatives were evaluated, in addition to the preferred alternative. Alternative 1 set TACs equal to the maxF_{ABC} fishing rate. Alternative 1 was associated with high TACs, high revenues, and TACs that exceeded the statutory BSAI OY. Alternative 2, the preferred alternative, set TACs to produce the fishing rates recommended by the Council on the basis of Plan Team and SSC recommendations. Alternative 3 set TACs to produce fishing rates equal to half the maxF_{ABC} , and Alternative 4 set TACs to produce fishing rates equal to the last five years' average fishing rate. Alternative 5 set TACs equal to zero.

The BSAI Pacific cod fishermen and CDQ groups would have had larger gross revenues under Alternative 1 than under the preferred alternative. The BSAI sablefish fishermen would not have had larger gross revenues under

any alternative. While Pacific cod fishermen and CDQ groups would have had higher gross revenues under Alternative 1, total BSAI TACs would have been greater than the two million mt BSAI OY required by law. An increase in the TAC for Pacific cod would have had to come at the expense of TACs provided to other operations. Moreover, and most importantly, both the Pacific cod and sablefish TACs set under the preferred alternative were set equal to the ABCs recommended by the Council's BSAI Plan Team and its SSC. Higher TACs would not be consistent with prudent biological management of the fishery; therefore, Alternative 2 was chosen instead of Alternative 1 because it sets TACs as high as possible while still protecting the biological health of the stock. Alternative 2 was chosen instead of Alternatives 3, 4, or 5 because it provided these groups larger gross revenues than Alternatives 3, 4, or 5.

Under the provisions of 5 U.S.C. 553(b)(B), an agency can waive the requirement for prior notice and opportunity for public comment if for good cause it finds that such notice and comment is impracticable, unnecessary, or contrary to public interest. Certain fisheries, such as those for Pacific cod, Atka mackerel, and Pacific ocean perch, are intensive fast-paced fisheries. Other fisheries, such as those for flatfish and rockfish, are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch full TAC allocations in all these fisheries. Any delay in allocating full TAC in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. These final harvest specifications which contain this TAC allocation were developed as quickly as possible, given Plan Team review in November 2004, Council consideration and

recommendations in December 2004, and NOAA Fisheries review and development in January–February 2005. For the foregoing reasons and pursuant to 50 CFR 679.20(b)(3) and 5 U.S.C. 553(b)(B), NMFS finds good cause to waive the requirement for prior notice and opportunity for public comment for the apportionment of a portion of the non-specified reserve to fisheries that it has determined appropriate (see Table 2) to increase the ITAC to an amount that is equal to TAC minus the CDQ reserve in order to allow for the orderly conduct and efficient operation of these fisheries because such notice and comment is impracticable and contrary to the public interest.

Under the provisions of 5 U.S.C. 553(d)(1), an agency can waive a delay in the effective date of a substantive rule if it relieves a restriction. Unless this delay is waived, fisheries that are currently closed (see **SUPPLEMENTARY INFORMATION**) because the interim TACs were reached would remain closed until the final harvest specifications became effective. Those closed fisheries are restrictions on the industry that can be relieved by making the final harvest specifications effective on publication.

Under the provisions of 5 U.S.C. 553(d)(3), an agency can waive a delay in the effective date for good cause found and published with the rule. For all other fisheries not currently closed because the interim TACs were reached, the likely possibility exists for their closures prior to the expiration of a 30-day delayed effectiveness period because their interim TACs or PSC allowances could be reached.

Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by

freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace. The interim harvest specifications currently in effect are not sufficient to allow directed fisheries to continue predictably, resulting in unnecessary closures and disruption within the fishing industry and the potential for regulatory discards. The final harvest specifications establish increased TACs and PSC allowances to provide continued directed fishing for species that would otherwise be prohibited under the interim harvest specifications. These final harvest specifications were developed as quickly as possible, given Plan Team review in November 2004, Council consideration and recommendations in December 2004, and NOAA fisheries review and development in January–February 2005. Additionally, if the final harvest specifications are not effective by February 27, 2005, which is the start of the Pacific halibut season as specified by the IPHC, the longline sablefish fishery will not begin concurrently with the Pacific halibut season. This would cause sablefish that is caught with Pacific halibut to be discarded, as both longline sablefish and Pacific halibut are managed under the same IFQ program.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105–277, Title II of Division C; Pub. L. 106–31, Sec. 3027; Pub. L. 106–554, Sec. 209 and Pub. L. 108–199, Sec. 803.

Dated: February 17, 2005.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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