

component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,519 mt, and is setting aside the remaining 2,500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 23, 2007.

The AA also finds good cause to waive the 30 day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

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

Dated: January 26, 2007.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 07-954 Filed 2-27-07; 2:41 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 070213033-7033-01; I.D. 112706A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2007 and 2008 Final Harvest Specifications for Groundfish

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

**ACTION:** Final rule; closures.

**SUMMARY:** NMFS announces 2007 and 2008 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 2007 and 2008 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 (MSA).

**DATES:** The 2007 and 2008 final harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), March 2, 2007, through 2400 hrs, A.l.t., December 31, 2008.

**ADDRESSES:** Copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, or from the Alaska Region Web site at <http://www.fakr.noaa.gov>. Copies of the 2006 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2006, are available from the North Pacific Fishery Management 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](mailto:mary.furuness@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Federal regulations at 50 CFR part 679

implement the FMP and govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the MSA. 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 the total allowable catch (TAC) for each target species and for the "other species" category, the sum must be within the optimum yield (OY) 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. The final harvest specifications listed in Tables 1 through 15 of this action satisfy these requirements. For 2007 and 2008, the sum of TACs for each year is 2 million mt.

Section 679.20(c)(3) further requires 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 2007 and 2008 proposed harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 15, 2006 (71 FR 75460). Comments were invited and accepted through January 16, 2007. NMFS received 4 letters with several comments on the proposed harvest specifications. These comments are summarized and responded to in the Response to Comments section of this rule. NMFS consulted with the Council during the December 2006 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 2007 and 2008 final harvest specifications as recommended by the Council.

#### 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 1 represents the highest level of data quality and tier 6 the lowest level of data quality available.

In December 2006, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of the BSAI groundfish stocks. The Council's Plan Team compiled and presented this information in the 2006 SAFE report for the BSAI groundfish fisheries, dated November 2006. 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 OFL and ABC for each species or species category.

In December 2006 the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for Bering Sea subarea and Aleutian Islands (AI) subarea pollock, yellowfin sole, rock sole, and the "other species" category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. For 2007 and 2008, the SSC recommended higher pollock OFLs and ABCs than the OFLs and ABCs recommended by the Plan Team. For Bering Sea subarea pollock, the SSC recommended using a procedure that sets the ABCs at the  $F_{40\%}$  level which results in ABCs lower than the maximum permissible, but higher than the Plan Teams recommendations. For AI subarea pollock, the SSC recommended using tier 3 management which results in maximum permissible ABCs and OFLs higher than the tier 5 management recommended by the Plan Team. For yellowfin sole and rock sole, the SSC recommended using tier 1 management which results in maximum permissible ABCs and OFLs higher than the tier 3 management recommended by the Plan Team. For "other species," the SSC recommended using tier 6 management for shark and octopus species resulting in lower ABCs than the Plan Team's recommended tier 5 management. The SSC provided 2007 and 2008 ABC and OFL amounts obtained as the sum of the individual species ABCs in the "other species" category since the current FMP specifies management at the group level. For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted them.

The Plan Team, SSC, AP and Council recommended that total removals of Pacific cod from the BSAI not exceed ABC recommendations. In 2006, the Board of Fisheries for the State of Alaska (State) established a guideline harvest level (GHL) west of 170 degrees west longitude in the AI subarea equal to 3 percent of the Pacific cod ABC in the BSAI. Accordingly, the Council recommended that the 2007 and 2008 TACs be adjusted downward from the ABCs by amounts equal to the 2007 and 2008 GHLs.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's 2007 and 2008 TAC recommendations. None of the Council's recommended TACs for 2007 or 2008 exceeds the final 2007 or 2008 ABC for any species category. The 2007 and 2008 harvest specifications approved by the Secretary of Commerce (Secretary) are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS. The 2007 and 2008 TACs are less than the maximum permissible ABCs recommended by the Council's plan teams and SSC. NMFS finds that the recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2006 SAFE report that was approved by the Council.

#### **Other Rules Affecting the 2007 and 2008 Harvest Specifications**

The following paragraphs identify actions that are currently under consideration by the Council and that, if submitted to and approved by the Secretary, could change the 2007 and 2008 final harvest specifications. The existing 2007 harvest specifications will be updated in early 2007 when final harvest specifications for 2007 and new harvest specifications for 2008 are implemented. The 2008 harvest specifications will be updated in early 2008, when new harvest specifications for 2008 and 2009 are implemented.

In April 2006, the Council adopted Amendment 85 to the FMP. Amendment 85 would revise the BSAI Pacific cod sector allocations. If approved by the Secretary, final regulations implementing Amendment 85 are anticipated to be effective for the 2008 fishing year. The notice of availability of Amendment 85 to the FMP was published December 7, 2006 (71 FR 70943), and the comment period ended February 5, 2007. In June 2006

the Council adopted Amendment 80 to the FMP. Amendment 80 would provide specific groundfish allocations to the non-American Fisheries Act (AFA) trawl catcher/processor sector and allow the formation of cooperatives. If approved by the Secretary, final regulations implementing Amendment 80 also are anticipated to be effective for the 2008 fishing year. The Council also adopted Amendment 84 that would modify current regulations for managing incidental catch of Chinook and chum salmon and may change the PSC limits. The Council also is considering two proposals. One would allocate the Pacific cod TAC by Bering Sea subarea and AI subarea instead of a combined BSAI TAC. The other would separate some species from the "other rockfish" or "other species" categories to establish individual OFLs, ABCs, and TACs.

#### **Changes From the 2007 and 2008 Proposed Harvest Specifications in the BSAI**

In October 2006 the Council's recommendations for the 2007 and 2008 proposed harvest specifications (71 FR 75460, December 15, 2006) were based largely on information contained in the 2005 SAFE report for the BSAI groundfish fisheries, dated November 2005. The Council recommended that OFLs and ABCs for stocks in tiers 1 through 3 be based on biomass projections as set forth in the 2005 SAFE report and estimates of groundfish harvests through the 2006 fishing year. For stocks in tiers 4 through 6, for which biomass projections could not be made, the Council recommended that OFLs and ABCs be unchanged from 2006 until the 2006 SAFE report could be completed. The 2006 SAFE report (dated November 2006), which was not available when the Council made its recommendations in October 2006, contains the best and most recent scientific information on the condition of the groundfish stocks. In December 2006, the Council considered the 2006 SAFE report in making its recommendations for the 2007 and 2008 final harvest specifications. Based on the 2006 SAFE report, the sum of the 2007 and 2008 recommended final TACs for the BSAI (2,000,000 mt) is the same as the sum of the 2007 and 2008 proposed TACs. Compared to the 2007 and 2008 proposed harvest specifications, the Council's 2006 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 species include BSAI flathead sole, Pacific cod, sablefish,

yellowfin sole, "other flatfish," Pacific ocean perch, northern rockfish, "other rockfish," and squid. Conversely, the Council reduced TAC levels to provide greater protection for several species including Bering Sea subarea pollock,

rock sole, Greenland turbot, shorttraker rockfish, rougheye rockfish, and "other species." The changes recommended by the Council were based on the best scientific information available, consistent with National Standard 2 of

the MSA, and within a reasonable range of variation from the proposed TAC recommendations so that the affected public was fairly appraised and could make meaningful comments.

COMPARISON OF FINAL 2007 AND 2008 WITH PROPOSED 2007 AND 2008 TOTAL ALLOWABLE CATCH IN THE BSAI

Species	Area	2007 final TAC	2007 proposed TAC	2007 final minus proposed	2008 final TAC	2008 proposed TAC	2008 final minus proposed
Pollock	BS	1,394,000	1,419,800	-25,800	1,318,000	1,168,700	149,300
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	10	10	0	10	10	0
Pacific cod	BSAI	170,720	144,045	26,675	127,070	118,049	9,021
Sablefish	BS	2,980	2,580	400	2,970	2,240	730
	AI	2,810	2,620	190	2,800	2,260	540
Atka mackerel	EAI/BS	23,800	16,782	7,018	17,600	24,481	* - 6,881
	CAI	29,600	38,718	-9,118	22,000	27,728	-5,728
	WAI	9,600	7,500	2,100	15,300	12,891	2,409
Yellowfin sole	BSAI	136,000	117,100	18,900	150,000	106,400	43,600
Rock sole	BSAI	55,000	85,736	-30,736	75,000	111,600	-36,600
Greenland turbot	BS	1,680	1,815	-135	1,720	1,815	-95
	AI	760	815	-55	770	815	-45
Arrowtooth flounder	BSAI	20,000	20,000	0	30,000	144,800	-114,800
Flathead sole	BSAI	30,000	22,000	8,000	45,000	52,200	-7,200
Other flatfish	BSAI	10,000	5,000	5,000	21,400	18,100	3,300
Alaska plaice	BSAI	25,000	32,000	-7,000	60,000	129,637	-69,637
Pacific ocean perch	BS	2,160	3,020	-860	4,080	3,020	1,060
	EAI	4,970	3,322	1,648	4,900	3,322	1,578
	CAI	5,050	3,277	1,773	5,000	3,277	1,723
	WAI	7,720	5,481	2,239	7,620	5,481	2,139
Northern rockfish	BSAI	8,190	5,000	3,190	8,150	5,000	3,150
Shorttraker rockfish	BSAI	424	580	-156	424	580	-156
Rougheye rockfish	BSAI	202	224	-22	202	224	-22
Other rockfish	BS	414	810	-396	414	810	-396
	AI	585	590	-5	585	590	-5
Squid	BSAI	1,970	1,275	695	1,970	1,970	0
Other species	BSAI	37,355	40,900	-3,545	58,015	35,000	23,015
Total		2,000,000	2,000,000	0	2,000,000	2,000,000	0

As mentioned in the 2007 and 2008 proposed harvest specifications, NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the initial TAC (ITAC) of several target species.

NMFS is revising the BSAI species that will be allocated to the CDQ Program to include Bering Sea pollock, AI pollock, Pacific cod, sablefish from both the fixed gear and trawl gear allocations, Atka mackerel, yellowfin sole, rock sole, Bering Sea Greenland turbot, arrowtooth flounder, flathead sole, and AI Pacific ocean perch. This differs from the suite of species that NMFS proposed to allocate to the CDQ Program, as described in the 2007 and 2008 proposed harvest specifications (71 FR 75460, December 15, 2006). NMFS originally proposed, in addition to the species listed above, allocating AI Greenland turbot, "other flatfish," and

Alaska plaice to the CDQ Program. NMFS also proposed to not allocate sablefish from the trawl allocation to the CDQ Program.

Furthermore, NMFS is increasing the 2008 CDQ reserve allocations in Table 1 to 10.7 percent from 7.5 percent, except for pollock and sablefish. The statutory requirements and agency determination for changing the suite of species and percentage allocations made to the CDQ Program are described both in the 2007 and 2008 proposed harvest specifications and in the response to Comment 3 in the Response to Comments section of this action.

Catch in the CDQ fisheries of species in TAC categories that are not allocated to the CDQ Program will be managed under the regulations and fishery status that applies to the TAC category in the non-CDQ groundfish fisheries. Retention of species closed to directed

fishing will either be limited to maximum retainable amounts or all catch of the species will be required to be discarded. Notices of closures to directed fishing and retention requirements for these species will apply to the CDQ and non-CDQ sectors. The catch of these species in the CDQ fisheries would not constrain the catch of other CDQ species unless catch by all sectors approached an OFL.

The 2007 and 2008 final TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed ABCs for any single species or complex. Table 1 lists the 2007 and 2008 final OFL, ABC, TAC, ITAC, and CDQ reserve amounts of the BSAI groundfish. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1.—2007 AND 2008 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUND FISH IN THE BSAI<sup>1</sup>  
[Amounts are in metric tons]

Species	Area	2007					2008				
		OFL	ABC	TAC	ITAC <sup>2</sup>	CDQ <sup>3</sup>	OFL	ABC	TAC	ITAC <sup>2</sup>	CDQ <sup>3</sup>
Pollock <sup>4</sup>	BS <sup>2</sup>	1,640,000	1,394,000	1,394,000	1,254,600	139,400	1,431,000	1,318,000	1,318,000	1,186,200	131,800
	AI <sup>2</sup>	54,500	44,500	19,000	17,100	1,900	50,300	41,000	19,000	17,100	1,900
	Bogoslof	48,000	5,220	10	10	0	48,000	5,220	10	10	0
Pacific cod <sup>5</sup>	BSAI	207,000	176,000	170,720	145,112	12,804	154,000	131,000	127,070	108,010	13,596
	BS	3,520	2,980	2,980	2,458	410	3,290	2,970	2,970	1,263	111
	AI	3,320	2,810	2,810	2,284	474	3,100	2,800	2,800	596	52
Atka mackerel	BSAI	86,900	74,000	63,000	53,550	4,725	64,200	54,900	54,900	46,665	5,874
	EAI/BS	n/a	23,800	23,800	20,230	1,785	n/a	17,600	17,600	14,960	1,883
	CAI	n/a	29,600	29,600	25,160	2,220	n/a	22,000	22,000	18,700	2,354
	WAI	n/a	20,600	9,600	8,160	720	n/a	15,300	15,300	13,005	1,637
Yellowfin sole	BSAI	240,000	225,000	136,000	115,600	10,200	261,000	245,000	150,000	127,500	16,050
Rock sole	BSAI	200,000	198,000	55,000	46,750	4,125	271,000	268,000	75,000	63,750	8,025
Greenland turbot	BSAI	15,600	2,440	2,440	2,074	n/a	16,000	2,490	2,490	2,117	n/a
	BS	n/a	1,680	1,680	1,428	126	n/a	1,720	1,462	1,462	184
	AI	n/a	760	760	646	0	n/a	770	655	655	0
Arrowtooth flounder	BSAI	193,000	158,000	20,000	17,000	1,500	208,000	171,000	30,000	25,500	3,210
Flathead sole	BSAI	95,300	79,200	30,000	25,500	2,250	92,800	77,200	45,000	38,250	4,815
Other flatfish <sup>7</sup>	BSAI	28,500	21,400	10,000	8,500	0	28,500	21,400	21,400	18,190	0
Alaska plaice	BSAI	241,000	190,000	25,000	21,250	0	252,000	199,000	60,000	51,000	0
Pacific ocean perch	BSAI	26,100	21,900	19,900	16,915	n/a	25,600	21,600	21,600	18,360	n/a
	BS	n/a	4,160	2,160	1,836	0	n/a	4,080	4,080	3,468	0
	EAI	n/a	4,970	4,970	4,225	373	n/a	4,900	4,900	4,165	524
	CAI	n/a	5,050	5,050	4,293	379	n/a	5,000	5,000	4,250	535
	WAI	n/a	7,720	7,720	6,562	579	n/a	7,620	7,620	6,477	815
Northern rockfish	BSAI	9,750	8,190	8,190	6,962	0	9,700	8,150	8,150	6,928	0
Shortraker rockfish	BSAI	564	424	424	360	0	564	424	424	360	0
Rougheye rockfish	BSAI	269	202	202	172	0	269	202	202	172	0
Other rockfish <sup>8</sup>	BSAI	1,330	999	999	849	0	1,330	999	999	849	0
	BS	n/a	414	414	352	0	n/a	414	414	352	0
	AI	n/a	585	585	497	0	n/a	585	497	497	0
Squid	BSAI	2,620	1,970	1,970	1,675	0	2,620	1,970	1,970	1,675	0
Other species <sup>9</sup>	BSAI	91,700	68,800	37,355	31,752	0	91,700	68,800	58,015	49,313	0
Total		3,188,973	2,676,035	2,000,000	1,770,474	179,245	3,014,973	2,642,125	2,000,000	1,763,808	187,491

<sup>1</sup> These 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.  
<sup>2</sup> Except for pollock and the portion of the sablefish TAC allocated to hook-and-line and pot gear, 15 percent of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves.  
<sup>3</sup> Except for Aleutian Islands Greenland turbot, "other flatfish," Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish," squid, and "other species," 7.5 percent in 2007 and 10.7 percent in 2008 of the TAC is designated as a CDQ reserve for use by CDQ participants (see §§ 679.20(b)(1)(iii), 679.31, and section 305(i)(1)(B)(i) and (ii) of the MSA).  
<sup>4</sup> Under § 679.20(a)(5)(i)(A)(7), the annual Bering Sea subarea pollock TAC after subtraction for the CDQ directed fishing allowance (10 percent) and the incidental catch allowance (2.8 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 § 679.20(a)(5)(iii)(B)(2)(i) and (j), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery.  
<sup>5</sup> The Pacific cod TAC is reduced by 3 percent from the ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Aleutian Islands subarea.  
<sup>6</sup> Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear is reserved for use by CDQ participants (see § 679.20(b)(1)(iii)(B)).  
<sup>7</sup> "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.  
<sup>8</sup> "Other rockfish" includes all *Sebastes* and *Sebastes/lobus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.  
<sup>9</sup> "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**

Section 679.20(b)(1)(i) of the CFR requires the placement of 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, in a non-specified reserve. Section 679.20(b)(1)(iii)(A) of the CFR and section 305(i)(1)(B)(i) and (ii) of the MSA further require the allocation of one-half of each TAC amount that is placed in the non-specified reserve (7.5 percent of the TAC) in 2007 and 10.7 percent in 2008 be allocated to the groundfish CDQ reserve with the exception of Bogoslof pollock, Aleutian Islands Greenland turbot, "other flatfish," Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish," squid, and "other species," as explained above. Section 679.20(b)(1)(iii)(B) requires 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Sections 679.20(a)(5)(i)(A), 679.20(a)(5)(iii)(B)(2)(i), and 679.31(a) also require the allocation of 10 percent of the BSAI pollock TACs to the pollock CDQ directed fishing allowance (DFA). 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. Section 679.21(e)(1)(i) requires withholding of 7.5 percent of each PSC limit, with the exception of herring, as a PSQ reserve for the CDQ fisheries. Sections 679.30 and 679.31 set forth regulations governing the management of the CDQ and PSQ reserves.

Pursuant to § 679.20(a)(5)(i)(A)(1), NMFS allocates a pollock ICA of 2.8 percent of the Bering Sea subarea pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 1999 through 2006. During this 8-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006, to a high of 5 percent in 1999, with a 7-year average of 3.5 percent. Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), NMFS recommends pollock ICA of 1,600 mt for AI subarea pollock after subtraction of the 10 percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other

than pollock from 2003 through 2006. During this 4-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 10 percent in 2003, with a 4-year average of 7 percent.

The regulations do not designate the remainder of the non-specified reserve by species or species group. 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 by 7.5 percent of the TAC in 2007. In 2008, northern rockfish, shortraker rockfish, rougheye rockfish, and Bering Sea "other rockfish" are increased by 7.5 percent of TAC and Atka mackerel, Pacific ocean perch, and Pacific cod by 4.3 percent of the TAC.

**TABLE 2.—2007 AND 2008 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES**  
[Amounts are in metric tons]

Species—area or subarea	2007 Reserve amount	2007 Final ITAC	2008 Reserve amount	2008 Final ITAC
Atka mackerel—Eastern Aleutian District and Bering Sea subarea .....	1,785	22,015	757	15,717
Atka mackerel—Central Aleutian District .....	2,220	27,380	946	19,646
Atka mackerel—Western Aleutian District .....	720	8,880	658	13,663
Pacific ocean perch—Eastern Aleutian District .....	373	4,598	211	4,376
Pacific ocean perch—Central Aleutian District .....	379	4,672	215	4,465
Pacific ocean perch—Western Aleutian District .....	579	7,141	328	6,805
Pacific cod—BSAI .....	12,804	157,916	5,464	113,474
Shortraker rockfish—BSAI .....	32	392	32	392
Rougheye rockfish—BSAI .....	15	187	15	187
Northern rockfish—BSAI .....	614	7,576	611	7,539
Other rockfish—Bering Sea subarea .....	31	383	31	383
<b>Total .....</b>	<b>19,552</b>	<b>241,140</b>	<b>9,268</b>	<b>186,647</b>

**Allocation of Pollock TAC Under the American Fisheries Act (AFA)**

Section 679.20(a)(5)(i)(A) requires that the pollock TAC apportioned to the Bering Sea subarea, after subtraction of the 10 percent for the CDQ program and the 2.8 percent for the ICA, be allocated as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor sector, and 10 percent to the mothership sector. In the Bering Sea subarea, 40 percent of the DFA is

allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). In October 2006, the State's Board of Fisheries adopted a proposal for a 3,000 mt pollock fishery in State waters of the AI subarea. However, this action by the State does not require a downward adjustment of the Federal AI subarea pollock TAC because the combined TAC and GHF (22,000 mt) are less than the proposed ABC of 44,500 mt. The AI directed

pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 1,600 mt for the ICA. In the AI subarea, 40 percent of the ABC is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season. Table 3 lists these 2007 and 2008 amounts.

Section 679.20(a)(5)(i)(A)(4) also includes several specific requirements

regarding pollock allocations. 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 among 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 2007 and 2008 allocations of pollock TAC. Tables 10 through 15 list the AFA catcher/processor and catcher vessel harvesting sideboard limits. The tables for the pollock allocations to the Bering Sea subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at <http://www.fakr.noaa.gov>.

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 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 the SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be 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 2007 and 2008 amounts.

TABLE 3.—2007 AND 2008 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)<sup>1</sup>  
[Amounts are in metric tons]

Area and sector	2007 Allocations	2007 A season <sup>1</sup>		2007 B season <sup>1</sup>	2008 Allocations	2008 A season <sup>1</sup>		2008 B season <sup>1</sup>
		A season DFA	SCA harvest limit <sup>2</sup>	B season DFA		A season DFA	SCA harvest limit <sup>2</sup>	B season DFA
Bering Sea subarea .....	1,394,000	n/a	n/a	n/a	1,318,000	n/a	n/a	n/a
CDQ DFA .....	139,400	55,760	39,032	83,640	131,800	52,720	36,904	79,080
ICA <sup>1</sup> .....	35,129	n/a	n/a	n/a	33,214	n/a	n/a	n/a
AFA Inshore .....	609,736	243,894	170,726	365,841	576,493	230,597	161,418	345,896
AFA Catcher/Processors <sup>3</sup> .....	487,788	195,115	136,581	292,673	461,195	184,478	129,134	276,717
Catch by C/Ps .....	446,326	178,531	n/a	267,796	421,993	168,797	n/a	253,196
Catch by CVs <sup>3</sup> .....	41,462	16,585	n/a	24,877	39,202	15,681	n/a	23,521
Unlisted C/P Limit <sup>4</sup> .....	2,439	976	n/a	1,463	2,306	922	n/a	1,384
AFA Motherships .....	121,947	48,779	34,145	73,168	115,299	46,119	32,284	69,179
Excessive Harvesting Limit <sup>5</sup> .....	213,407	n/a	n/a	n/a	201,773	n/a	n/a	n/a
Excessive Processing Limit <sup>6</sup> .....	365,841	n/a	n/a	n/a	345,896	n/a	n/a	n/a
Total Bering Sea DFA .....	1,358,871	543,548	380,484	815,322	1,284,787	513,914	359,740	770,872
Aleutian Islands subarea <sup>1</sup> .....	19,000	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA .....	1,900	760	n/a	1,140	1,900	760	n/a	1,140
ICA .....	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation .....	15,500	15,500	n/a	0	15,500	15,500	n/a	0
Bogoslof District ICA <sup>7</sup> .....	10	n/a	n/a	n/a	10	n/a	n/a	n/a

<sup>1</sup> Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (2.8 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. 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.

<sup>2</sup> 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 less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

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

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

<sup>5</sup> Pursuant to § 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.

<sup>6</sup> Pursuant to § 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.

<sup>7</sup> 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**

Pursuant to § 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 2007 and 2008. Based on the 2007 ITAC of 22,015 mt, the jig gear allocation would be 220 mt for 2007. Based on the

2008 ITAC of 15,717 mt, the jig gear allocation would be 157 mt for 2008.

Section § 679.20(a)(8)(ii)(A) apportions 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; Table 4).

Pursuant to § 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.—2007 AND 2008 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC<sup>1</sup>

[Amounts are in metric tons]

Subarea and component	2007 TAC	2007 CDQ reserve <sup>2</sup>	2007 CDQ reserve HLA limit <sup>5</sup>	2007 ITAC	2007 Seasonal allowances <sup>3</sup>			
					A season <sup>4</sup>		B season <sup>4</sup>	
					Total	HLA limit <sup>5</sup>	Total	HLA limit <sup>5</sup>
Western AI District .....	9,600	720	432	8,880	4,440	2,664	4,440	2,664
Central AI District .....	29,600	2,220	1,332	27,380	13,690	8,214	13,690	8,214
EAI/BS subarea <sup>6</sup> .....	23,800	1,785	n/a	22,015	n/a	n/a	n/a	n/a
Jig (1%) <sup>7</sup> .....	n/a	n/a	n/a	220	n/a	n/a	n/a	n/a
Other gear (99%) .....	n/a	n/a	n/a	21,795	10,897	n/a	10,897	n/a
<b>Total .....</b>	<b>63,000</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>29,027</b>	<b>n/a</b>	<b>29,027</b>	<b>n/a</b>

  

Subarea and component	2008 TAC	2008 CDQ reserve <sup>2</sup>	2008 CDQ reserve HLA limit <sup>5</sup>	2008 ITAC	2008 Seasonal allowances <sup>3</sup>			
					A season <sup>4</sup>		B season <sup>4</sup>	
					Total	HLA limit <sup>5</sup>	Total	HLA limit <sup>5</sup>
Western AI District .....	15,300	1,637	982	13,663	6,831	4,099	6,831	4,099
Central AI District .....	22,000	2,354	1,412	19,646	9,823	5,894	9,823	5,894
EAI/BS subarea <sup>6</sup> .....	17,600	1,883	n/a	15,717	n/a	n/a	n/a	n/a
Jig (1%) <sup>7</sup> .....	n/a	n/a	n/a	157	n/a	n/a	n/a	n/a
Other gear (99%) .....	n/a	n/a	n/a	15,560	7,780	n/a	7,780	n/a
<b>Total .....</b>	<b>54,900</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>24,434</b>	<b>n/a</b>	<b>24,434</b>	<b>n/a</b>

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

<sup>2</sup> The CDQ reserve is 7.5 percent in 2007 and 10.7 percent in 2008 of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(iii), 679.31, and section 305(i)(1)(B)(i) and (ii) of the MSA).

<sup>3</sup> The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

<sup>4</sup> The A season is January 1 (January 20 for trawl gear) to April 15 and the B season is September 1 to November 1.

<sup>5</sup> 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 2007 and 2008, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

<sup>6</sup> Eastern Aleutian District and the Bering Sea subarea.

<sup>7</sup> 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**

Pursuant to § 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. Section 679.20(a)(7)(i)(B) further allocates the portion of the Pacific cod ITAC allocated to trawl gear as 50 percent to catcher vessels and 50 percent to catcher/processors. Section 679.20(a)(7)(i)(C)(1) sets aside a portion of the Pacific cod ITAC allocated to hook-and-line or pot gear as an ICA of Pacific cod in directed fisheries for groundfish using these gear types. The Regional Administrator specifies an ICA of 500 mt for 2007 and 2008 based on anticipated incidental catch in these fisheries. 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 ft (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 Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (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 ft (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 2007 and 2008 allocations and seasonal apportionments of the Pacific cod ITAC. In accordance with § 679.20(a)(7)(ii)(D) and (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.—2007 AND 2008 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD ITAC  
[Amounts are in metric tons]

Gear sector	Percent	2007 share of gear sector total	2007 subtotal percentages for gear sectors	2007 share of gear sector total	2007 seasonal apportionment <sup>1</sup>		2008 share of gear sector total	2008 subtotal percentages for gear sectors	2008 share of gear sector total	2008 seasonal apportionment <sup>1</sup>	
					Date	Amount				Date	Amount
Total hook-and-line/pot gear.	51	80,537	n/a	n/a	n/a	n/a	57,872	n/a	n/a	n/a	n/a
Hook-and-line/pot ICA.	n/a	n/a	n/a	500	n/a	n/a	n/a	n/a	500	n/a	n/a
Hook-and-line/pot sub-total.	n/a	80,037	n/a	n/a	n/a	n/a	57,372	n/a	n/a	n/a	n/a
Hook-and-line C/P ..	n/a	n/a	80	64,030	Jan 1–Jun 10 .....	38,419	n/a	80	45,897	Jan 1–Jun 10 .....	27,538
					Jun 10–Dec 31 .....	25,611				Jun 10–Dec 31 .....	18,359
Hook-and-line CV ...	n/a	n/a	0.3	240	Jan 1–Jun 10 .....	144	n/a	0.3	172	Jan 1–Jun 10 .....	103
					Jun 10–Dec 31 .....	96				Jun 10–Dec 31 .....	69
Pot C/P .....	n/a	n/a	3.3	2,641	Jan 1–Jun 10 .....	1,586	n/a	3.3	1,893	Jan 1–Jun 10 .....	1,136
					Sept 1–Dec 31 .....	1,055				Sept 1–Dec 31 .....	757
Pot CV .....	n/a	n/a	15	12,006	Jan 1–Jun 10 .....	7,203	n/a	15	8,606	Jan 1–Jun 10 .....	5,163
					Sept 1–Dec 31 .....	4,803				Sept 1–Dec 31 .....	3,443
CV < 60 ft LOA using Hook-and-line or Pot gear.	n/a	n/a	1.4	1,121	n/a	n/a	n/a	1.4	803	n/a	n/a
Total Trawl Gear .....	47	74,221	n/a	n/a	n/a	n/a	53,333	n/a	n/a	n/a	n/a
Trawl CV .....			50	37,110	Jan 20–Apr 1 .....	25,977		50	26,666	Jan 20–Apr 1 .....	18,666
					Apr 1–Jun 10 .....	3,711				Apr 1–Jun 10 .....	2,667
					Jun 10–Nov 1 .....	7,422				Jun 10–Nov 1 .....	5,333
Trawl CP .....			50	37,110	Jan 20–Apr 1 .....	18,555		50	26,666	Jan 20–Apr 1 .....	13,333
					Apr 1–Jun 10 .....	11,133				Apr 1–Jun 10 .....	8,000
					Jun 10–Nov 1 .....	7,422				Jun 10–Nov 1 .....	5,333
Jig .....	2	3,158	n/a	n/a	Jan 1–Apr 30 .....	1,263	2,269	n/a	n/a	Jan 1–Apr 30 .....	908
			n/a	n/a	Apr 30–Aug 31 .....	632		n/a	n/a	Apr 30–Aug 31 .....	453
			n/a	n/a	Aug 31–Dec 31 .....	1,263		n/a	n/a	Aug 31–Dec 31 .....	908
Total .....	100	157,916	n/a	n/a	n/a	n/a	113,474	n/a	n/a	n/a	n/a

<sup>1</sup> 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 ft (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**

Sections 679.20(a)(4)(iii) and (iv) require the allocation of sablefish TACs for the Bering Sea and AI subareas 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.

Section 679.20(b)(1)(iii)(B) requires apportionment of 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2007 fishing year to ensure those fisheries are conducted concurrent with the halibut IFQ fishery.

Concurrent sablefish and halibut IFQ fisheries would reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final specifications for the sablefish IFQ fisheries are in effect. Table 6 lists the 2007 and 2008 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6.—2007 AND 2008 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS  
[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2007 Share of TAC	2007 ITAC	2007 CDQ reserve	2008 Share of TAC	2008 ITAC	2008 CDQ reserve
Bering Sea:							
Trawl <sup>1</sup> .....	50	1,490	1,266	112	1,485	1,263	111
Hook-and-line/pot gear <sup>2</sup> .....	50	1,490	1,192	298	n/a	n/a	n/a
Total .....	100	2,980	2,458	410	1,485	1,263	111



TABLE 6.—2007 AND 2008 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACs—Continued

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2007 Share of TAC	2007 ITAC	2007 CDQ reserve	2008 Share of TAC	2008 ITAC	2008 CDQ reserve
Aleutian Islands:							
Trawl <sup>1</sup> .....	25	702	597	52	700	596	52
Hook-and-line/pot gear <sup>2</sup> .....	75	2,108	1,686	422	n/a	n/a	n/a
Total .....	100	2,810	2,283	474	2,800	596	52

<sup>1</sup> 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.

<sup>2</sup> 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

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to § 679.21(e)(1)(v) and (e)(2)(i), the BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Section 679.21(e)(1)(i) allocates 7.5 percent of these halibut mortality limits as the PSQ reserve for use by the groundfish CDQ program. Section 679.21(e)(1)(vii) specifies 29,000 fish as the 2007 and 2008 Chinook salmon PSC limit for the Bering Sea subarea pollock fishery. Section 679.21(e)(1)(i) allocates 7.5 percent, or 2,175 Chinook salmon, as the PSQ reserve for the CDQ program and allocates the remaining 26,825 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(ix) specifies 700 fish as the 2007 and 2008 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(1)(i) allocates 7.5 percent, or 53 Chinook salmon, as the AI subarea PSQ for the CDQ program and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(viii) specifies 42,000 fish as the 2007 and 2008 non-Chinook salmon PSC limit. Section 679.21(e)(1)(i) allocates 7.5 percent, or 3,150 non-Chinook salmon, as the PSQ for the CDQ program and allocates 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 2006 survey data at 29.7 million red king crabs and the effective spawning biomass is estimated as 157 million pounds (71,215 mt). Based on the criteria set out at § 679.21(e)(1)(ii), the 2007 and 2008 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit results from 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).

Section 679.21(e)(3)(ii)(B) establishes 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 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 2006 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated as 866 million animals. Given the criteria set out at § 679.21(e)(1)(iii), the 2007 and 2008 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits result from the *C. bairdi* crab abundance estimate of over 400 million animals.

Pursuant to § 679.21(e)(1)(iv), the PSC limit for snow crab (*C. opilio*) 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 2006 survey estimate of 3.25 billion animals, the calculated limit is 4,350,000 animals.

Pursuant to § 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.

Pursuant to § 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2007 and 2008 herring biomass is 178,652 mt. This amount was derived using 2006 survey data and an age-structured biomass projection model developed by the Alaska Department of

Fish and Game. Therefore, the herring PSC limit for 2007 and 2008 is 1,787 mt.

Section § 679.21(e)(3) requires the apportionment of each trawl PSC limit into PSC bycatch allowances for seven specified fishery categories. Section 679.21(e)(4)(ii) authorizes 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.

Section 679.21(e)(4)(ii) authorizes the exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, NMFS, after consultation with the Council, exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because (1) The pot gear fisheries have low halibut bycatch mortality, (2) halibut mortality for the jig gear fleet is assumed to be negligible, and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program (subpart D of 50 CFR part 679) requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ. In 2006, total groundfish catch for the pot gear fishery in the BSAI was approximately 19,721 mt, with an associated halibut bycatch mortality of about 5 mt. The 2006 jig gear fishery harvested about 84 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 jig gear and the low mortality rate of halibut caught with jig gear and released.

Section 679.21(e)(5) authorizes 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. The Council recommended and NMFS approves the

seasonal PSC apportionments in Table 7 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 7.—2007 AND 2008 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 <sup>1</sup>	<i>C. opilio</i> (animals) COBLZ <sup>1</sup>	<i>C. bairdi</i> (animals)	
					Zone 1 <sup>1</sup>	Zone 2 <sup>1</sup>
Yellowfin sole	936	153	33,843	3,098,288	340,844	1,788,459
January 20–April 1	312	n/a	n/a	n/a	n/a	n/a
April 1–May 21	195	n/a	n/a	n/a	n/a	n/a
May 21–July 1	49	n/a	n/a	n/a	n/a	n/a
July 1–December 31	380	n/a	n/a	n/a	n/a	n/a
Rock sole/other flat/flathead sole <sup>2</sup>	829	27	121,413	643,800	365,320	596,154
January 20–April 1	498	n/a	n/a	n/a	n/a	n/a
April 1–July 1	164	n/a	n/a	n/a	n/a	n/a
July 1–December 31	167	n/a	n/a	n/a	n/a	n/a
Turbot/arrowtooth/sablefish <sup>3</sup>	n/a	12	n/a	40,238	n/a	n/a
Rockfish	n/a	n/a	n/a	n/a	n/a	n/a
July 1–December 31	69	10	n/a	40,237	n/a	10,988
Pacific cod	1,334	27	26,563	120,712	183,112	324,176
Midwater trawl pollock	n/a	1,364	n/a	n/a	n/a	n/a
Pollock/Atka mackerel/other <sup>4</sup>	232	194	406	80,475	17,224	27,473
Red King Crab Savings Subarea <sup>5</sup>	n/a	n/a	n/a	n/a	n/a	n/a
(non-pelagic trawl)	n/a	n/a	42,495	n/a	n/a	n/a
<b>Total trawl PSC</b>	<b>3,400</b>	<b>1,787</b>	<b>182,225</b>	<b>4,023,750</b>	<b>906,500</b>	<b>2,747,250</b>
<b>Non-trawl Fisheries</b>						
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					
<b>Total non-trawl PSC</b>	<b>833</b>					
PSQ reserve <sup>6</sup>	342	n/a	14,775	326,250	73,500	222,750
<b>PSC grand total</b>	<b>4,575</b>	<b>1,787</b>	<b>197,000</b>	<b>4,350,000</b>	<b>980,000</b>	<b>2,970,000</b>

<sup>1</sup> Refer to § 679.2 for definitions of areas.

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

<sup>3</sup> Greenland turbot, arrowtooth flounder, and sablefish fishery category.

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

<sup>5</sup> In December 2006, 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)).

<sup>6</sup> 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.

**Halibut Discard Mortality Rates**

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, 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 approves, the halibut DMRs developed and recommended by staff of the International Pacific Halibut Commission (IPHC) for the 2007 and 2008 BSAI groundfish fisheries. These

DMRs will be used for monitoring the 2007 and 2008 halibut bycatch allowances (see Table 8). The IPHC developed these DMRs using the 10-year mean DMRs for the BSAI non-CDQ groundfish fisheries. 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 DMRs for the CDQ fisheries since 1998, and a 10-year mean is not yet available. Until 10 years of data from CDQ fishing has been

collected, recommendations will be based on averaging all available data. The justification for the DMRs is discussed in Appendix A of the 2006

SAFE report dated November 2006 and is available from the Council (see ADDRESSES).

TABLE 8.—2007 AND 2008 ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut mortality (percent)
Hook-and-line	Greenland turbot	13
	Other species	11
	Pacific cod	11
Trawl	Rockfish	17
	Arrowtooth flounder	75
	Atka mackerel	76
	Flathead sole	70
	Greenland turbot	70
	Non-pelagic pollock	74
	Pelagic pollock	88
	Other flatfish	74
	Other species	70
	Pacific cod	70
	Rockfish	76
	Rock sole	80
	Sablefish	75
	Yellowfin sole	80
Pot	Other species	7
	Pacific cod	7
CDQ trawl	Atka mackerel	86
	Flathead sole	70
	Non-pelagic pollock	85
	Pelagic pollock	90
	Rockfish	76
CDQ hook-and-line	Yellowfin sole	86
	Greenland turbot	13
	Pacific cod	10
CDQ pot	Pacific cod	7
	Sablefish	34

**Directed Fishing Closures**

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group, if the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category has been or will be reached. If the Regional Administrator establishes a DFA, 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, pursuant to § 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 2007 and 2008 fishing years.

TABLE 9.—2007 AND 2008 DIRECTED FISHING CLOSURES <sup>1</sup>  
[Amounts are in metric tons]

Area	Species	2007 Incidental catch allowance	2008 Incidental catch allowance
Bogoslof District	Pollock	10	10
	ICA Pollock	1,600	1,600
Aleutian Islands subarea	“Other rockfish”	497	497
	Pacific ocean perch	1,836	3,468
	“Other rockfish”	383	383
Bering Sea subarea	ICA Pollock	35,129	33,214
	Northern rockfish	7,576	7,539
Bering Sea and Aleutian Islands	Shortraker rockfish	392	392
	Rougheye rockfish	187	187
	“Other species”	31,752	49,313

<sup>1</sup> Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA 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 effective at 1200 hrs, A.l.t., March 2, 2007, through 2400 hrs, A.l.t., December 31, 2008.

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. Also, 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 at 1200 hrs, A.l.t., March 2, 2007, through 2400 hrs, A.l.t., December 31, 2008. NMFS also is prohibiting directed fishing for rockfish outside Zone 1 in the BSAI through 1200 hrs, A.l.t., July 1, 2007, for 2007 and July 1, 2008, for 2008.

Under authority of the 2006 and 2007 final harvest specifications (71 FR 10894, March 3, 2006), 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., February 3, 2007, through 1200 hrs, A.l.t., September 1, 2007 (72 FR 5644, February 7, 2007). NMFS opened the first directed fisheries in the HLA in area 542 and area 543 effective 1200 hrs, A.l.t., February 5, 2007. The first HLA fishery in area 542 remained open through 1200 hrs, A.l.t., February 19, 2007. The first HLA fishery in area 543 remained open through 1200 hrs, A.l.t., February 6, 2007. The second directed fisheries in the HLA in area 542 and area 543 opened effective 1200 hrs, A.l.t., February 21, 2007. The second HLA fishery in area 542 remained open through 1200 hrs, A.l.t., March 7, 2007. The second HLA fishery in area 543 remained open through 1200 hrs, A.l.t.,

February 22, 2007. NMFS prohibited directed fishing for Pacific cod by catcher vessels 60 ft (18.3 m) LOA and longer using pot gear in the BSAI, effective 12 hrs, A.l.t., January 26, 2007 through 1200 hrs, A.l.t., September 1, 2007 (72 FR 4217, January 30, 2007). NMFS prohibited directed fishing for non-CDQ pollock with trawl gear in the Chinook Salmon Savings Areas of the BSAI, effective 12 noon, A.l.t., February 6, 2007, through 12 noon, A.l.t., April 15, 2007, and from 12 noon, A.l.t., September 1, 2007, through 12 midnight, A.l.t., December 31, 2007 (72 FR 6178, February 9, 2007). NMFS prohibited directed fishing for Pacific cod by catcher processor vessels using hook-and-line gear in the BSAI, effective 12 noon, A.l.t., February 12 2007, until 12 noon, A.l.t., August 15, 2007 (72 FR 7354, February 15, 2007). NMFS closed directed fishing for the rock sole, flathead sole, and "other flatfish" fishery category by vessels using trawl gear in the BSAI effective 12 noon, A.l.t., February 17, 2007 through 12 noon, A.l.t., April 1, 2007 (72 FR xxxx, February 22, 2007). NMFS prohibiting directed fishing for Pacific cod by catcher processor vessels using pot gear in the BSAI, effective 12 noon, A.l.t., February 20, 2007 through 1200 hrs, A.l.t., September 1, 2007 (72 FR xxxx, February 23, 2007). NMFS prohibited directed fishing for Pacific cod by catcher vessels 60 feet (18.3 meters (m)) LOA and longer using hook-and-line gear in the BSAI, effective 12 noon, A.l.t., February 21, 2007 (72 FR xxxx, February 26, 2007).

These closures remain effective under authority of these 2007 and 2008 final harvest specifications. These closures supersede the closures announced under authority of the 2006 and 2007 final harvest specifications (71 FR 10894, March 3, 2006). 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 part 679.

#### **Amendment 68 Sideboards**

Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108-199) grants NMFS specific statutory authority to manage the Central Gulf of Alaska rockfish fisheries. The Council

adopted a Central Gulf of Alaska Rockfish Pilot Program (Rockfish Program) to meet the requirements of Section 802 on June 6, 2005. The Secretary approved Amendment 68 on August 11, 2006. The elements of the Rockfish Program are discussed in detail in the proposed and final rules for Amendment 68 to the FMP for Groundfish of the GOA (71 FR 33040, June 7, 2006 and 71 FR 67210, November 20, 2006, respectively). The final rule for Amendment 68 includes prohibitions on catcher vessels fishing specific groundfish fisheries in the BSAI and limitations on fishing Pacific cod in the BSAI during July. The basis for the fishing prohibitions and the BSAI catcher vessel Pacific cod sideboard limit is described in detail in the final rule for Amendment 68 (71 FR 67210, November 20, 2006). Section 679.82(d)(6)(i) establishes the BSAI catcher vessel Pacific cod sideboard limit as 0.0 mt. Therefore, in accordance with § 679.82(d)(7)(ii), NMFS is prohibiting directed fishing for BSAI Pacific cod in July for catcher vessels under the Rockfish Program sideboard limitations.

#### **Listed AFA Catcher/Processor Sideboard Limits**

According to § 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 10 lists the 2007 and 2008 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 10. However, groundfish other than pollock that are delivered to listed catcher/processors by catcher vessels will not be deducted from the 2007 and 2008 sideboard limits for the listed catcher/processors.

TABLE 10.—2007 AND 2008 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUND FISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2007 ITAC available to trawl C/Ps	2007 C/P sideboard limit	2008 ITAC available to trawl C/Ps	2008 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	37,110	9,574	26,666	6,880
Sablefish trawl .....	BS .....	8	497	0.016	1,266	20	1,263	20
	AI .....	0	145	0.000	597	0	596	0
Atka mackerel .....	Central AI .....	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	A season <sup>1</sup> .....	n/a	n/a	0.115	13,690	1,574	9,823	1,130
	HLA limit <sup>2</sup> .....	n/a	n/a	n/a	8,214	945	5,894	678
	B season <sup>1</sup> .....	n/a	n/a	0.115	13,690	1,574	9,823	1,130
	HLA limit <sup>2</sup> .....	n/a	n/a	n/a	8,214	945	5,894	678
	Western AI .....	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	A season <sup>1</sup> .....	n/a	n/a	0.200	4,440	888	6,831	1,366
	HLA limit <sup>2</sup> .....	n/a	n/a	n/a	2,664	533	4,099	820
	B season <sup>1</sup> .....	n/a	n/a	0.200	4,440	888	6,831	1,366
	HLA limit <sup>2</sup> .....	n/a	n/a	n/a	2,664	533	4,099	820
Yellowfin sole .....	BSAI .....	100,192	435,788	0.230	115,600	26,588	127,500	29,325
Rock sole .....	BSAI .....	6,317	169,362	0.037	46,750	1,730	63,750	2,359
Greenland turbot ...	BS .....	121	17,305	0.007	1,428	10	1,462	10
	AI .....	23	4,987	0.005	646	3	655	3
Arrowtooth flounder	BSAI .....	76	33,987	0.002	17,000	34	25,500	51
Flathead sole .....	BSAI .....	1,925	52,755	0.036	25,500	918	38,250	1,377
Alaska plaice .....	BSAI .....	14	9,438	0.001	21,250	21	51,000	51
Other flatfish .....	BSAI .....	3,058	52,298	0.058	8,500	493	18,190	1,055
Pacific ocean perch	BS .....	12	4,879	0.002	1,836	4	3,468	7
	Eastern AI .....	125	6,179	0.020	4,598	92	4,376	88
	Central AI .....	3	5,698	0.001	4,672	5	4,465	4
	Western AI .....	54	13,598	0.004	7,141	29	6,805	27
Northern rockfish ...	BSAI .....	91	13,040	0.007	7,576	53	7,539	53
Shortraker rockfish	BSAI .....	50	2,811	0.018	392	7	392	7
Rougheye rockfish	BSAI .....	50	2,811	0.018	187	3	187	3
Other rockfish .....	BS .....	18	621	0.029	383	11	383	11
	AI .....	22	806	0.027	497	13	497	13
Squid .....	BSAI .....	73	3,328	0.022	1,675	37	1,675	37
Other species .....	BSAI .....	553	68,672	0.008	31,752	254	49,313	395

<sup>1</sup> 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.

<sup>2</sup> 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 2007 and 2008, 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. 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).

PSC species listed in Table 11 that are caught by listed AFA catcher/processors participating in any groundfish fishery

other than pollock will accrue against the 2007 and 2008 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 2007 or 2008 PSC sideboard limit listed in Table 11 is reached.

Crab or halibut PSC 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 11.—2007 AND 2008 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS <sup>1</sup>

PSC species	1995–1997			2007 and 2008 PSC available to trawl vessels	2007 and 2008 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
<i>C. opilio</i> <sup>2</sup> .....	2,323,731	15,139,178	0.153	4,023,750	615,634
<i>C. bairdi</i> .....	n/a	n/a	n/a	n/a	n/a

TABLE 11.—2007 AND 2008 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS <sup>1</sup>—Continued

PSC species	1995–1997			2007 and 2008 PSC available to trawl vessels	2007 and 2008 C/P sideboard limit
	PSC catch	Total PSC	Ratio of PSC catch to total PSC		
Zone 1 <sup>2</sup> .....	385,978	2,750,000	0.140	906,500	126,910
Zone 2 <sup>2</sup> .....	406,860	8,100,000	0.050	2,747,250	137,363

<sup>1</sup> Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.  
<sup>2</sup> Refer to § 679.2 for definitions of areas.

**AFA Catcher Vessel Sideboard Limits**

Pursuant to § 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 12 and 13 list the 2007 and 2008 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 12.

TABLE 12.—2007 AND 2008 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	2007 initial TAC	2007 Catcher vessel sideboard limits	2008 initial TAC	2008 Catcher vessel sideboard limits
Pacific cod .....	BSAI .....	n/a	n/a	n/a	n/a	n/a
	Jig gear .....	0.0000	3,158	0	2,269	0
	Hook-and-line CV .....	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10 .....	0.0006	144	0	103	0
	Jun 10–Dec 31 .....	0.0006	96	0	69	0
	Pot gear CV .....	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10 .....	0.0006	7,203	4	5,163	3
	Sept 1–Dec 31 .....	0.0006	4,803	3	3,443	2
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	1,121	1	803	0
	Trawl gear CV .....	n/a	n/a	n/a	n/a	n/a
Sablefish .....	Jan 20–Apr 1 .....	0.8609	25,977	22,364	18,666	16,070
	Apr 1–Jun 10 .....	0.8609	3,711	3,195	2,667	2,296
	Jun 10–Nov 1 .....	0.8609	7,422	6,390	5,333	4,591
	BS trawl gear .....	0.0906	1,266	115	1,263	114
Atka mackerel .....	AI trawl gear .....	0.0645	597	39	596	38
	Eastern AI/BS .....	n/a	n/a	n/a	n/a	n/a
Pacific cod .....	Jig gear .....	0.0031	220	1	157	0
	Other gear .....	n/a	n/a	n/a	n/a	n/a
	Jan 1–Apr 15 .....	0.0032	10,897	35	7,780	25
	Sept 1–Nov 1 .....	0.0032	10,897	35	7,780	25
	Central AI .....	n/a	n/a	n/a	n/a	n/a
	Jan–Apr 15 .....	0.0001	13,690	1	9,823	1
	HLA limit .....	0.0001	8,214	1	5,894	1
	Sept 1–Nov 1 .....	0.0001	13,690	1	9,823	1
	HLA limit .....	0.0001	8,214	1	5,894	1
	Western AI .....	n/a	n/a	n/a	n/a	n/a
	Jan–Apr 15 .....	0.0000	4,440	0	6,831	0
	HLA limit .....	n/a	2,664	0	4,099	0
	Sept 1–Nov 1 .....	0.0000	4,440	0	6,831	0
HLA limit .....	n/a	2,664	0	4,099	0	
Yellowfin sole .....	BSAI .....	0.0647	115,600	7,479	127,500	8,249
	Rock sole .....	0.0341	46,750	1,594	63,750	2,174
Greenland Turbot .....	BS .....	0.0645	1,428	92	1,462	94
	AI .....	0.0205	646	13	655	13
Arrowtooth flounder .....	BSAI .....	0.0690	17,000	1,173	25,500	1,760
	Alaska plaice .....	0.0441	21,250	937	51,000	2,249
Other flatfish .....	BSAI .....	0.0441	8,500	375	18,190	802
	Pacific ocean perch .....	0.1000	1,836	184	3,468	347
Pacific ocean perch .....	BS .....	0.1000	1,836	184	3,468	347
	Eastern AI .....	0.0077	4,598	35	4,376	34

TABLE 12.—2007 AND 2008 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	2007 initial TAC	2007 Catcher vessel sideboard limits	2008 initial TAC	2008 Catcher vessel sideboard limits
	Central AI .....	0.0025	4,672	12	4,465	11
	Western AI .....	0.0000	7,141	0	6,805	0
Northern rockfish .....	BSAI .....	0.0084	7,576	64	7,539	63
Shorthead rockfish .....	BSAI .....	0.0037	392	1	392	1
Rougheye rockfish .....	BSAI .....	0.0037	187	1	187	1
Other rockfish .....	BS .....	0.0048	383	2	383	2
	AI .....	0.0095	497	5	497	5
Squid .....	BSAI .....	0.3827	1,675	641	1,675	641
Other species .....	BSAI .....	0.0541	31,752	1,718	49,313	2,668
Flathead Sole .....	BS trawl gear .....	0.0505	25,500	1,288	38,250	1,932

Halibut and crab PSC listed in Table 13 that are caught by AFA catcher vessels participating in any groundfish fishery for groundfish other than pollock will accrue against the 2007 and 2008 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 2007 or 2008 PSC sideboard limit listed in Table 13 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 13.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI <sup>1</sup>  
[Amounts are in metric tons]

PSC species	Target fishery category <sup>2</sup>	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2007 and 2008 PSC limit	2007 and 2008 AFA catcher vessel PSC sideboard limit
Halibut .....	Pacific cod trawl .....	0.6183	1,334	825
	Pacific cod hook-and-line or pot .....	0.0022	775	2
	Yellowfin sole .....	n/a	n/a	n/a
	January 20–April 1 .....	0.1144	312	36
	April 1–May 21 .....	0.1144	195	22
	May 21–July 1 .....	0.1144	49	6
	July 1–December 31 .....	0.1144	380	43
	Rock sole/flathead sole/other flatfish <sup>5</sup> .....	n/a	n/a	n/a
	January 20–April 1 .....	0.2841	498	141
	April 1–July 1 .....	0.2841	164	47
	July 1–December 31 .....	0.2841	167	47
	Turbot/Arrowtooth/Sablefish .....	0.2327	0	0
	Rockfish (July 1–December 31) .....	0.0245	69	2
Red King Crab Zone 1 <sup>3,4</sup> .....	Pollock/Atka mackerel/other species .....	0.0227	232	5
	Pacific cod .....	0.6183	26,563	16,424
	Yellowfin sole .....	0.1144	33,843	3,872
	Rock sole/flathead sole/other flatfish <sup>5</sup> .....	0.2841	121,413	34,493
<i>C. opilio</i> COBLZ <sup>3</sup> .....	Pollock/Atka mackerel/other species .....	0.0227	406	9
	Pacific cod .....	0.6183	120,712	74,636
	Yellowfin sole .....	0.1144	3,098,288	354,444
	Rock sole/flathead sole/other flatfish <sup>5</sup> .....	0.2841	643,800	182,904
	Pollock/Atka mackerel/other species .....	0.0227	120,712	2,740
<i>C. bairdi</i> Zone 1 <sup>3</sup> .....	Rockfish .....	0.0245	40,237	986
	Turbot/Arrowtooth/Sablefish .....	0.2327	40,238	9,363
	Pacific cod .....	0.6183	183,112	113,218
	Yellowfin sole .....	0.1144	340,844	38,993
	Rock sole/flathead sole/other flatfish <sup>5</sup> .....	0.2841	365,320	103,787
<i>C. bairdi</i> Zone 2 <sup>3</sup> .....	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 <sup>5</sup> .....	0.2841	596,154	169,367
	Pollock/Atka mackerel/other species .....	0.0227	27,473	624

TABLE 13.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI<sup>1</sup>—Continued

[Amounts are in metric tons]

PSC species	Target fishery category <sup>2</sup>	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2007 and 2008 PSC limit	2007 and 2008 AFA catcher vessel PSC sideboard limit
	Rockfish .....	0.0245	10,988	269

<sup>1</sup> Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

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

<sup>3</sup> Refer to § 679.2 for definitions of areas.

<sup>4</sup> In December 2006, 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)).

<sup>5</sup> “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 14 and 15 are necessary as incidental catch to

support other anticipated groundfish fisheries for the 2007 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 14 and 15 as DFAs. The Regional Administrator finds that many of these DFAs 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 14 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 15.

TABLE 14.—2007 AND 2008 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES<sup>1</sup>

[Amounts are in metric tons]

Species	Area	Gear types	2007 Sideboard limit	2008 Sideboard limit
Sablefish trawl .....	BS .....	Trawl .....	20	20
	AI .....	Trawl .....	0	0
Rock sole .....	BSAI .....	all .....	1,730	2,359
Greenland turbot .....	BS .....	all .....	10	10
	AI .....	all .....	3	3
Arrowtooth flounder .....	BSAI .....	all .....	34	51
Pacific ocean perch .....	BS .....	all .....	4	7
	Eastern AI .....	all .....	92	88
	Central AI .....	all .....	5	4
	Western AI .....	all .....	29	27
Northern rockfish .....	BSAI .....	all .....	53	53
Shortraker rockfish .....	BSAI .....	all .....	7	7
Rougheye rockfish .....	BSAI .....	all .....	3	3
Other rockfish .....	BS .....	all .....	11	11
	AI .....	all .....	13	13
Squid .....	BSAI .....	all .....	37	37
“Other species” .....	BSAI .....	all .....	254	395

<sup>1</sup> Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

TABLE 15.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES<sup>1</sup>

[Amounts are in metric tons]

Species	Area	Gear types	2007 Sideboard limit	2008 Sideboard limit
Pacific cod .....	BSAI .....	hook-and-line .....	0	0
	BSAI .....	pot .....	8	5
	BSAI .....	jig .....	0	0
Sablefish .....	BS .....	trawl .....	115	114
	AI .....	trawl .....	39	38
Atka mackerel .....	Eastern AI/BS .....	jig .....	1	0
	Eastern AI/BS .....	other .....	70	50
	Central AI .....	all .....	2	2
	Western AI .....	all .....	0	0



TABLE 15.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES <sup>1</sup>—  
Continued

[Amounts are in metric tons]

Species	Area	Gear types	2007 Sideboard limit	2008 Sideboard limit
Greenland turbot .....	BS .....	all .....	92	94
	AI .....	all .....	13	13
Arrowtooth flounder .....	BSAI .....	all .....	1,173	1,760
Pacific ocean perch .....	BS .....	all .....	184	347
	Eastern AI .....	all .....	35	34
	Central AI .....	all .....	12	11
	Western AI .....	all .....	0	0
Northern rockfish .....	BSAI .....	all .....	64	63
Shortraker rockfish .....	BSAI .....	all .....	1	1
Rougheye rockfish .....	BSAI .....	all .....	1	1
Other rockfish .....	BS .....	all .....	2	2
	AI .....	all .....	5	5
Squid .....	BSAI .....	all .....	641	641
“Other species” .....	BSAI .....	all .....	1,718	2,668

<sup>1</sup> Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.**Response to Comments**

NMFS received 4 letters of comment (19 comments) in response to proposed the 2007 and 2008 harvest specifications. These comments are summarized and responded to below.

*Comment 1:* All quotas should be cut in half this year and cut by 10 percent each year thereafter until we stop starving the marine life that depends on eating this fish too.

*Response:* 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 2006 SAFE report and approved by the Council.

*Comment 2:* The Council, SSC and Advisory Panel recommended that the Alaska Fisheries Science Center convene a Pacific cod model workshop to consider recommendations from an industry sponsored review for changes to the stock assessment model. We are advised that preparations are underway for such a workshop to be held during the second quarter of 2007. We appreciate this effort and look forward to the results and to the next TAC-setting process.

*Response:* NMFS supports an Alaska Fisheries Science Center workshop in 2007 to evaluate the Pacific cod model.

*Comment 3:* NMFS should define “directed fishery” for purposes of CDQ allocations as the target species list in the Council’s December 2005 final action on management of CDQ reserves.

*Response:* This comment was submitted by the Western Alaska Community Development Association, which is the CDQ Program administrative panel (“CDQ Panel”)

created under the MSA. The CDQ Panel proposed an alternative interpretation of the term “directed fishery” in section 305(i)(1) of the MSA. The interpretation of this term determines which species or species groups are allocated to the CDQ Program in the annual harvest specifications.

As described in the 2007 and 2008 proposed harvest specifications for the BSAI, section 305(i)(1) of the MSA was amended on July 11, 2006, by the Coast Guard and Maritime Transportation Act of 2006. Section 305(i)(1)(B)(i) of the MSA now requires that “the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program.”

Prior to this amendment, the MSA stated that “a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.” Since 1998, NMFS has allocated to the CDQ Program a percentage of each groundfish TAC category, except squid.

Section 305(i)(1) was amended again on January 12, 2007, by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109–479). This legislation amended section 305(i)(1)(B)(ii)(I) of the MSA. This section now requires that “the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008.”

As a result of these two MSA amendments, allocations of groundfish species or species groups to the CDQ Program in 2007 will be made under section 305(i)(1)(B)(i). Starting on January 1, 2008, allocations of groundfish other than pollock or sablefish will be made under section 305(i)(1)(B)(ii)(I). Allocations of pollock and sablefish in 2008 and thereafter will continue to be made under section 305(i)(1)(B)(i).

The MSA requires allocation to the CDQ Program of a percentage of “each directed fishery of the Bering Sea and Aleutian Islands.” However, Congress did not define the term “directed fishery” in section 305(i)(1) or in other provisions of the MSA. NMFS proposed that the term be interpreted to mean each species or species group with a TAC that was open for directed fishing in the BSAI in 2006. While this interpretation initially appeared consistent with the language of section 305(i)(1), it did not take into consideration whether the species or species group open for directed fishing was economically valuable or whether participants in the BSAI groundfish fishery actually conducted directed fishing for the species or species group during the open period.

The CDQ Panel submitted a comment to NMFS that disagreed with this interpretation and requested that NMFS define “directed fishery” as the list of target species the Council identified for the CDQ Program in December 2005. The CDQ Panel suggested that the term “directed fishery” means the same thing as a target fishery and referenced the analysis NMFS prepared for the Council’s 2005 action as support for this recommendation. In that analysis,

NMFS wrote that target species are those species of economic importance that are caught as the primary focus of a directed fishery.

After consideration of the CDQ Panel's comments, and upon re-examination of NMFS's proposed interpretation, the statutory language, and the legislative history, NMFS has determined that the term "directed fishery" for purposes of section 305(i)(1) of the MSA means a fishery for which sufficient quota exists to open a directed fishery for that species or species group, and the species or species group is economically valuable enough for vessel operators to conduct directed fishing for that species or species group. NMFS determined that this interpretation of the term "directed fishery" for purposes of section 305(i)(1) is a more reasonable interpretation because it is more consistent with Congressional intent.

Legislative history for section 305(i)(1)(B)(i) indicates that Congress did not intend "directed fishery" to include minor species that are not economically valuable or to include species or species groups that lack sufficient quota to open them to directed fishing. NMFS notes that because the definition of "directed fishery" is based on legislative history for section 305(i)(1), the definition is only applicable for purposes of section 305(i)(1). While NMFS does not find adequate support for the definition of "directed fishery" proposed by the CDQ Panel, as explained in greater detail below, the application of NMFS's revised definition of "directed fishery" results in the allocation of the same species and species groups as was recommended by the CDQ Panel with only one exception for Bogoslof pollock.

Under NMFS's definition of "directed fishery," most of the species and species groups NMFS proposed to allocate to the CDQ Program in 2007 and 2008 will remain the same. NMFS proposed that Bering Sea pollock, AI pollock, Pacific cod, sablefish from the fixed gear allocation, Atka mackerel, yellowfin sole, rock sole, Bering Sea Greenland turbot, arrowtooth flounder, flathead sole, and AI Pacific ocean perch be allocated to the CDQ Program in 2007 and 2008 and has determined that these species continue to meet the definition of "directed fishery" for purposes of section 305(i)(1) of the MSA because sufficient quota exists to open a directed fishery for these species and the species are economically valuable. The CDQ groups reported directed fisheries for all of these species in 2006. The Council and the CDQ Panel also recommended that these species be allocated to the CDQ Program.

Additionally, most of the species and species groups NMFS proposed not to allocate to the CDQ Program in 2007 and 2008 will remain the same. NMFS proposed that Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish," squid, and "other species" not be allocated to the CDQ Program in 2007 and 2008 and has determined that these species and species groups still do not meet the definition of "directed fishery" for purposes of section 305(i)(1). Sufficient quota does not exist to open directed fisheries for any of these species or species groups, except squid. Although sufficient quota exists to open squid to directed fishing, it is not economically valuable enough for the CDQ groups to target. The CDQ groups did not report directed fishing for squid in 2006, although they could have done so. The Council and the CDQ Panel also recommended that these species and species groups not be allocated to the CDQ Program.

Under NMFS's proposed definition of "directed fishery," AI Greenland turbot, "other flatfish," and Alaska plaice would have been allocated to the CDQ Program in 2007 and 2008 because directed fishing was open for these species in the BSAI in 2006. However, AI Greenland turbot, "other flatfish," and Alaska plaice are not directed fisheries of the BSAI for purposes of section 305(i)(1) of the MSA under the revised definition of "directed fishery." Although sufficient quota exists to open these quota categories to directed fishing, these species are not economically valuable enough for the CDQ groups to target them. The CDQ groups could have conducted directed fisheries for all of these species in 2006, but they did not report doing so. It is reasonable to assume that the CDQ groups did not conduct directed fisheries for these species because they are not economically valuable enough to justify doing so. Therefore, these species do not meet the second part of the definition of "directed fishery" for purposes of section 305(i)(1) and are not allocated to the CDQ Program for 2007 and 2008. Both the Council and the CDQ Panel recommended that these species and species groups not be allocated to the CDQ Program. If, at some point in the future, these species become economically valuable and sufficient quota exists to support directed fisheries, these species would be allocated to the CDQ Program.

Under NMFS's proposed definition of "directed fishery," allocations of Bogoslof pollock and the trawl allocations of sablefish in the Bering Sea subarea and the AI subarea would not

have been made to the CDQ Program in 2007 and 2008 because directed fishing was not allowed for these quota categories in 2006. Both the Council and the CDQ Panel recommended that these species be allocated to the CDQ Program.

Section 679.20(a)(5)(ii) allows the allocation of a portion of the Bogoslof pollock TAC to the CDQ Program if directed fishing for pollock is allowed by regulation in this district. However, directed fishing for pollock currently is not allowed in the Bogoslof District. The pollock TAC is set at a low level and all of it is allocated as an ICA for both the CDQ and non-CDQ sectors. NMFS has determined that Bogoslof pollock does not meet the first part of the definition of a "directed fishery" for purposes of section 305(i)(1) of the MSA because insufficient TAC exists to support a directed fishery. Therefore, NMFS will not allocate Bogoslof pollock to the CDQ Program for 2007 and 2008. In the future, if sufficient TAC exists to allow directed fishing for pollock in the Bogoslof District, current regulations would provide for a DFA of 10 percent of this TAC to the CDQ Program.

The sablefish TACs in the Bering Sea subarea and the AI subarea are first allocated between hook-and-line or pot gear (fixed gear) and trawl gear. After those gear allocations are made, 20 percent of the fixed gear allocation and 7.5 percent of the trawl allocation is allocated to the CDQ Program as two separate sablefish CDQ reserves in each subarea. Under current regulations, only catch of sablefish with fixed gear may accrue against the fixed gear sablefish CDQ reserve. However, any gear type may be used to harvest sablefish that accrues against the sablefish CDQ reserve that originated from the trawl allocation of sablefish. In addition, although directed fishing for sablefish using trawl gear is prohibited for the non-CDQ sectors, this prohibition was not applied to the CDQ fisheries. Instead, the CDQ groups are prohibited from exceeding either of their sablefish allocations and they must decide how to allocate sablefish among gear types and directed fisheries to stay within their allocations. The indirect result of these allocations is that NMFS has allowed directed fishing for sablefish on the sablefish CDQ reserve that originates from the trawl allocation of sablefish. Therefore, NMFS has determined that both trawl allocations of sablefish to the CDQ Program meet the definition of a "directed fishery" for purposes of section 305(i)(1) of the MSA. Sufficient quota exists to allow directed fishing for sablefish and sablefish is an economically valuable species that for

which directed fisheries are conducted in both the CDQ and non-CDQ sectors. Based on this finding, NMFS will continue to allocate 7.5 percent of the trawl allocation of sablefish to the CDQ Program.

*Comment 4:* The proposed harvest specifications and accompanying Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS) do not represent a substantial implementation of the Alaska Groundfish Fisheries Final Programmatic Supplemental Environmental Impact Statement (PSEIS) policy statement, but rather a transparent attempt to indemnify the agency against the inadequacies of the status quo harvest strategy. The proposed harvest specifications lack the perspective of the ecosystem-based policy framework outlined in the PSEIS because there are no explicit procedures in the TAC-setting process to address the impacts of single-species fishing strategies on dependent and related species and their habitats in an ecosystem context. Therefore, the policy framework outlined in the PSEIS has not been implemented in the regulations governing the operation of the groundfish fisheries. Under the proposed harvest specifications, ecosystem concerns would remain at best ancillary to the process of allocating fish and maximizing short-term economic benefits.

*Response:* The preferred harvest strategy alternative described in the EIS is derived from the policy adopted as the preferred alternative in the PSEIS (see **ADDRESSES**) and is one of the actions necessary to implement that policy statement. Ecosystem concerns are integral to the EIS analysis. The purpose of the EIS is to describe the potential environmental impacts of the alternative harvest strategies, including an analysis of the potential impacts of these alternatives on ecosystem components and the ecosystem as a whole.

In addition to the EIS analysis, all available scientific information on the ecosystem is analyzed and presented to decision-makers and the public on an annual basis during the harvest specifications process. The annual SAFE reports, which provide the scientific information to support the harvest specifications for each species, include ecosystem considerations sections that describe the role of each target species in the ecosystem. The SAFE report also contains a separate "Ecosystem Considerations" chapter.

Groundfish fisheries management, including the harvest specification process, takes account of ecosystem

requirements related to predation, competition, and habitat to provide protection for ecosystem components. Under the harvest strategy, the determination of annual harvest specifications incorporates ecosystem considerations, in the face of uncertainty in the quantitative links between species. The most significant ecosystem considerations are (1) The upper end of the OY range in the BSAI, which imposes a constraint on total biomass removal, and (2) OFLs that prevent overfishing of each stock. A species' OFL is a harvest limit rather than a target and ABCs are set below OFLs. The tier system sets maximum ABCs and managers can set actual ABCs lower for ecosystem considerations. TACs never exceed ABCs and are frequently set at lower levels. TACs can also be adjusted downward for ecosystem considerations. Additionally, managers have established harvest control rules for pollock, Pacific cod, and Atka mackerel that prohibit directed fishing at low biomass levels, to account for Steller sea lion prey needs. TACs and actual catches are often lower than ABCs to protect other species, especially halibut, that may be taken as bycatch. Managers frequently restrict directed fishing for many species before TACs are reached to comply with PSC limits. Inseason management closes directed fisheries when TACs are reached, and restricts fishing in other fisheries taking the species as bycatch when OFLs are approached.

As noted below in the response to Comment 5, the groundfish management framework includes many measures, in addition to the harvest strategy, to mitigate the ecosystem impacts of the groundfish fisheries.

*Comment 5:* Existing management measures may be construed as consistent with an ecosystem-based approach, but they do not address major ecosystem impacts of the fisheries as promulgated in the annual catch specifications.

*Response:* Existing management measures address major ecosystem impacts of the fisheries, and the Council and NMFS are engaged in an ongoing effort to improve the ways this is done.

The existing regulatory framework imposes many constraints on fishing activity, including time, area, and gear restrictions, in order to mitigate or control ecosystem impacts created by fishing activity. Regulations impose maximum retainable amounts on the volume of bycatch a vessel may deliver or have onboard. Prohibited species catch (PSC) regulations impose limits on harvests of crab, salmon, herring, and

halibut, and restrict fishing activity once those limits are reached. Important restrictions have been imposed on key fisheries to limit competition for Steller sea lion prey and to protect Steller sea lion critical habitat. The Pribilof Islands Habitat Conservation Area protects ecosystem components in the vicinity of those islands. The Council and NMFS have adopted numerous measures to limit bycatch and control the discards of low value fish by-products. Seabirds attracted to longlines are protected by mandatory gear requirements, such as streamers, meant to reduce incidental takes. Essential fish habitat (EFH) and Habitat Areas of Particular Concern (HAPC) in the AI subarea are protected by an extensive system of closed areas (see response to Comment 15).

NMFS and the Council are continuing to develop ecosystem management measures for the groundfish fisheries. The Council has created a committee to inform them of ecosystem developments and to assist in formulating positions with respect to ecosystem-based management. The Council has initiated work on a fisheries ecosystem plan for the AI subarea. The Council and the State have created a staff-level interagency AI Ecosystem Team to support this effort. It has taken the lead in the establishment of the interagency Alaska Marine Ecosystem Forum to improve inter-agency coordination and communication on marine ecosystem issues. The SSC has begun to hold annual ecosystem scientific meetings at the February Council meetings. In addition to exploring how to develop ecosystem management efforts, the Council and NMFS continue to take account of ecosystem impacts of fishing activity as available information allows. For example, the Council has initiated an analysis of potential Bering Sea subarea habitat conservation measures, an analysis to address the potential impacts of shifts in fishing activity to the north including into the Beaufort Sea, and is currently consulting under the Endangered Species Act (ESA) for Steller sea lions, sperm and humpback whales. Ecosystem protection is supported by an extensive research program by the Alaska Fisheries Science Center (AFSC) into ecosystem components and integrated ecosystem functioning. Exempted fishing permits (EFPs) are issued to investigate new management approaches for the control of salmon bycatch in the BSAI, and research into salmon and halibut excluder devices.

Additionally, the EIS considers other actions taken to manage the fisheries, including reasonable future fisheries management actions, as these are

relevant to the environmental consequences of the harvest strategy alternatives. The Council and NMFS have processes consistent with National Environmental Policy Act (NEPA) to evaluate each action to regulate other aspects of the fisheries. The overall fishery management policy within which the harvest strategies fall has been evaluated in the PSEIS. Moreover, NMFS and the Council evaluated each management measure at the time it was adopted in the relevant NEPA document. Considering different management measures in separate actions allows for more careful analysis of alternatives and the implications of each, and is often less confusing to the public. The Council and NMFS are actively evaluating a wide range of new management measures through these processes and will continue to do so.

*Comment 6:* Levels of exploitation on single stocks are set with no explicit consideration of the impacts of dependent, competing species in the food web or other impacts on associated species that flow from the exploitation of a relative few commercially desirable species. The single species  $F_{40\%}$  policy ignores effects on the ecosystem and simply assumes that individual target species can be fished to the maximum sustainable yield (MSY) without significant consequences to other species in the food web.

*Response:* The harvest strategy incorporates a key principle of ecosystem-based fisheries management by preserving individual stocks and preventing overfishing of those stocks. This is important for protecting ecosystem components that depend on these individual stocks. The effects of the groundfish fisheries and fishing rates are analyzed in the EIS and the annual SAFE reports.

The tier system in the FMP and the harvest specifications process lead to TACs associated with fishing rates that are less than  $F_{MSY}$ .  $F_{OFL}$  is never greater than  $F_{MSY}$ , or an appropriate  $F_{MSY}$  proxy. Average multi-year fishery harvest rates fall below  $F_{MSY}$  because the tier system treats  $F_{OFL}$  as a limit rather than a target. The fishing rates associated with maximum permissible ABC, actual ABC, and the TAC, all fall below the  $F_{OFL}$ , providing a margin between the actual  $F$  and the  $F_{MSY}$ . Moreover, as discussed in response to Comment 5, other management measures often constrain actual catches and fishing rates below the TACs or the fishing rates associated with the TACs.

With current levels of information, we cannot precisely specify the margin or threshold between  $F_{OFL}$  and actual harvest rate that provides the

appropriate level of protection for various ecosystem properties. The AFSC continues to develop and improve scientific information in the Ecosystems Considerations section of the SAFE report. New information added in 2006 included the relationship with Bering Sea subarea pelagic forage species, the relationship between predation/production and fishing/production, a metric proposed to evaluate the management implications of potential exploitation of forage species, and a metric proposed to evaluate the "footprint" of individual fisheries.

The AFSC also continues to develop and improve several multispecies and ecosystem models to predict the possible effects of fishing and/or climate on ecosystem processes. Ecosystem modeling is extremely complex, and the incorporation of ecosystem considerations into the harvest specifications process is an evolving process. The AFSC is advancing this process through the development of multispecies fish stock assessment models that include predation, ecosystem mass-balance and simulation models, and single-species stock assessment models that include predation. The AFSC briefed the Groundfish Plan Teams on the results of these analyses to help them in their deliberations in the harvest specifications process.

*Comment 7:* Selective removals of species and large differences in catch rates for managed stocks may be responsible for significant and lasting changes in the structure of groundfish assemblages and food webs in the North Pacific, as seen in other ecosystems. Selective extraction of a relatively few high-value species may provide a competitive opportunity for "under-utilized" species such as arrowtooth flounder, which appear to have increased dramatically since the 1970s. NMFS consistently attributes regional stock declines and broader system changes to the weather ("regime shifts"), a transparent stratagem that serves to justify the status quo and absolve the agency of responsibility for fishery-related systemic changes.

*Response:* NMFS analyzes and considers the interactions among fish species in its evaluations of the impacts of groundfish fishing. The nature of competitive interactions among species is an area of ongoing research by the AFSC. These issues are discussed in the ecosystem sections of individual species SAFE reports and by the Plan Teams as they formulate their ABC recommendations.

Species interactions are complex and imperfectly understood in the North

Pacific. The AFSC is collaborating to develop a detailed, age-structured, multispecies statistical model to study this complex interaction of pollock and arrowtooth flounder. This "cultivation/depensation" model is expected to be completed in the near future. In December 2006, the BSAI Groundfish Plan Team leader briefed the Council and its SSC and AP on the complex interactions between pollock and arrowtooth flounder and on the potential application of this model whereby a species such as pollock "cultivates" its young by preying on species that would eat its young.

Regime shifts remain an important consideration. Regime shifts are well documented; these changes in climate are believed to have affected relative abundance of species in the past, and are expected to do so in the future.

*Comment 8:* NMFS fails to analyze the cumulative and synergistic effects of selective exploitation, benthic habitat modification, and serial depletion of targeted stocks in the North Pacific. The "Ecosystem Considerations" chapter in the annual SAFE reports does not consider the effects of large-scale fisheries off Alaska on long-term restructuring of food web dynamics and on composition of species assemblages. An evaluation of this phenomenon, and consideration of alternatives to address it, is also missing from the EIS and the harvest specification process. Additionally, the proposed harvest specifications do not mitigate the effects of selective exploitation and disproportionate exploitation rates.

*Response:* NMFS takes a conservative approach to management in response to uncertainties. Conservative elements in the harvest strategies and groundfish fisheries management are listed in the responses to Comments 4, 5, 15, and 16. The EIS analyzed alternative harvest strategies that met the scope of this action, as determined by the statement of purpose and need.

The EIS analyzes the effects of the alternative harvest strategies on target stocks and habitat in a comprehensive way that looks at both the individual species impacts and the overall ecosystem function impacts. NMFS agrees that uncertainty exists in assessing the ecosystem effects of alternative harvest strategies. One of the functions of an EIS is to identify these uncertainties. The EIS and the Ecosystem Considerations chapter of the SAFE reports examine trends in the trophic level of catch and species diversity. As noted in the response to Comment 10, competitive interactions between fisheries are an active area of AFSC research, and are discussed, as

appropriate, in the ecosystem discussions in the species-specific sections of the SAFE reports.

*Comment 9:* Neither the EIS nor its alternatives address the issues of setting exploitation levels on single stocks with no explicit consideration of the impacts of dependent, competing species in the food web or other impacts on associated species that flow from the exploitation of a relative few commercially desirable species.

*Response:* The EIS directly examines the impacts of the alternative harvest strategies on non-target species, including food web interactions. The EIS examines the impacts of groundfish fishing on forage fish availability in Chapter 6, and the trophic level of catches in Chapter 11. The EIS includes detailed analyses of the impacts on prey and habitat for key species and species groupings of marine mammals and seabirds in Chapters 8 and 9.

*Comment 10:* The uncertainties of ecosystem mechanics underscore the need for a much more precautionary approach to fisheries management in the context of food web and habitat conservation, and illustrate why the agency's determinations of non-significance for fishery impacts on prey availability and spatial/temporal concentration of fisheries are arbitrary and capricious. NMFS cannot demonstrate that the current and proposed levels of fishing permitted in protected species' habitats are "safe" or "insignificant." Rather, NMFS assumes that the impact is insignificant in the absence of conclusive evidence to the contrary. The burden of proof is on the environment to show harm. This is opposite of precautionary and the opposite of an ecosystem-based approach.

*Response:* NMFS did not make a determination of non-significance in the EIS. The EIS fully discloses known impacts, areas of uncertainty, and presents the information in comparative form to aid in decision-making. NMFS agrees that uncertainty exists in assessing the ecosystem effects of alternative harvest strategies. Identifying these uncertainties is one of the functions of an EIS. The EIS identifies potential adverse impacts of the alternatives on the ecosystem and the uncertainty of those impacts. NMFS is actively taking steps to reduce uncertainty and better understand the environment through ongoing scientific research. Many elements built into the harvest specifications process, and into the groundfish fisheries management regime, described in the responses to Comments 4, 5, 15, and 16, contribute to conservative management.

*Comment 11:* Major habitat impacts of fishing on the EFH of FMP-managed species and foraging habitats of ESA and Marine Mammal Protection Act (MMPA)-protected species are not addressed in the EIS or mitigated in the proposed harvest specifications.

*Response:* NMFS has examined in the EIS the impacts of fishing on EFH of FMP-managed species, and on the foraging habitats of ESA- and MMPA-protected species. Chapter 8 examines the impacts of alternative groundfish harvest strategies on ESA- and MMPA-listed marine mammals. Chapter 9 provides a similar examination for ESA-listed seabirds. Chapter 10 examines the impacts of the harvest strategies on EFH and incorporates by reference the analysis in the Essential Fish Habitat Environmental Impact Statement (EFH EIS, see **ADDRESSES**) that examines the impact of fishing on benthic habitat.

Habitat impacts of fishing on the EFH of FMP-managed species and foraging habitats of ESA- and MMPA-protected species are mitigated by the extensive habitat protection measures enacted in the BSAL. These are described in the response to Comment 15.

*Comment 12:* The EIS fails to evaluate the impacts of pelagic trawl gear on habitat and the impact of the spatial concentration of pollock and Pacific cod catches on stock size, in a meaningful fashion, and fails to consider an alternative to address these impacts. There is little scientific evidence that fishing on spawning stocks of Alaskan groundfish has had adverse impacts on recruitment success. The status quo practice of targeting groundfish on spawning grounds, when the fish are most vulnerable to fishing gear, is a habitat impact of particular significance that must be addressed. The dismal abundance trends of several regional pollock stocks and large uncertainties in stock structure among many groundfish populations cry out for explicit protection of spawning grounds.

*Response:* The impacts of pelagic trawling on habitat are evaluated in the EFH EIS. Chapter 10 of the EIS provides an EFH Assessment that incorporates by reference the EFH EIS analysis of the impacts of the groundfish fisheries on EFH. Fisheries management measures, other than harvest strategies, are outside the scope of the action analyzed in the EIS. Pollock and Pacific cod catches are apportioned seasonally under existing measures adopted to protect Steller sea lions. Further seasonal apportionments of catch would require regulatory changes that were outside the scope of this action, as defined by the purpose and need.

*Comment 13:* The MSA's EFH provisions should require the adoption of marine reserves to protect vulnerable reproductive habitats that are targeted by the fisheries.

*Response:* This is not a comment on the content of the groundfish harvest specifications or on the accompanying EIS, and deals with issues that are beyond the scope of both.

*Comment 14:* The proposed harvest specifications and accompanying EIS fail to address major groundfish fishery impacts on king crab EFH in the most heavily trawled area of the Bering Sea, the Unimak-Port Moller area.

*Response:* These impacts were fully analyzed in the EFH EIS. The analysis in the EFH EIS has been incorporated into the EIS by reference to eliminate repetitive discussion in Chapter 10.

*Comment 15:* NMFS' assertions that the status quo EFH measures provide adequate protection or that the spatial/temporal concentration of the fisheries has insignificant impacts on EFH are not supported by evidence. The EIS fails to evaluate this information and consider alternatives that would address these impacts on fish habitat, and the proposed harvest specifications provide no adequate mitigation measures to address these impacts. NMFS cannot demonstrate that the current and proposed levels of fishing permitted in managed species' habitats are insignificant or compliant with the spirit and letter of the MSA's EFH provisions. Rather, NMFS assumes that the impact is insignificant in the absence of conclusive evidence to the contrary. The burden of proof is on the environment and the managed species to show harm. This is opposite of a precautionary approach to EFH conservation.

*Response:* In this EIS NMFS fully discloses known impacts, identifies uncertainties, and presents information in comparative form to aid in decision-making. Detailed information of the effects of fishing on EFH contained in the 2005 EFH EIS was incorporated by reference in this EIS. As discussed in Chapter 2 of the EIS, fisheries management measures, other than harvest strategies, are outside the scope of this action, as defined by the statement of purpose and need.

The discussion of habitat impacts in the EIS incorporated by reference the science and analysis in the EFH EIS. The analyses in Section 4.3 and Appendix B of the EFH EIS indicated that groundfish fishing has long-term effects on benthic habitat features off Alaska and acknowledged that considerable scientific uncertainty remains regarding the consequences of

such habitat changes for the sustained productivity of managed species. Nevertheless, the EFH EIS concluded that the effects on EFH are minimal because the analysis found no indication that continued fishing activities at the current rate and intensity would alter the capacity of EFH to support healthy populations of managed species over the long term. Therefore, the EFH EIS determined that new protection measures for the fisheries to reduce the adverse effects on EFH were not required. Nevertheless, the Council recommended a suite of new conservative measures to reduce potential adverse effects to EFH and HAPCs from fishing activities. These actions continue the Council's policy of implementing conservative conservation measures for the Alaska fisheries, as described in the management policies and objectives added to the groundfish FMPs from the PSEIS policy statement. NMFS implemented the Council's recommendations in 2006 (71 FR 36694; June 28, 2006).

The Council and NMFS have taken a conservative approach to habitat protection by enacting substantial restrictions on fishing that minimize potential adverse effects on EFH. In the Bering Sea subarea, bottom trawl closures encompass about 30,000 square nautical miles to reduce bycatch and protect seafloor habitats. Measures to protect Steller sea lions have fully or partially closed about 58,000 square nautical miles to fishing in the AI subarea and GOA. More recently, the Council and NMFS adopted a suite of new measures to reduce the effects of fishing on EFH in the AI subarea and GOA, protecting nearly 300,000 square nautical miles of habitat. The largest of these areas, the Aleutian Islands Habitat Conservation Area, prohibits bottom trawling over 279,000 square nautical miles to protect corals and other sensitive habitat features. The Bowers Ridge Habitat Conservation Zone north of Adak is closed to all mobile bottom-contact gear. The Aleutian Islands Coral Habitat Protection Areas are closed to all bottom-contact fishing gear and anchoring, protecting six especially sensitive "coral gardens." The Council is presently undertaking an analysis of additional habitat conservation measures for the Bering Sea subarea, which considers both area closures and gear restrictions to further limit the potential adverse effects of fishing on EFH.

The Council and NMFS have taken many other measures to protect habitat. These include the trawl standards for pelagic trawl gear in the BSAI to reduce bottom contact, and a wide range of

protection measures, including the nearshore Bristol Bay trawl closure area, the Red King crab savings area, the Statistical area 516 seasonal closure, and the Pribilof Islands Habitat Conservation area. These actions reflect a conservative management strategy.

*Comment 16:* The lack of spatial-temporal management of groundfish stocks has potentially profound adverse consequences for ESA-listed Steller sea lions and MMPA-listed northern fur seals. The apportionment of ABCs according to broad management subareas does not address the impacts of fishing at local scales relevant to foraging sea lions, fur seals, and other species. NMFS fails to address localized effects adequately in any alternative considered in the EIS or the proposed harvest specifications. NMFS cannot demonstrate that the current and proposed levels of fishing permitted in protected marine mammal species' habitats are insignificant. Existing uncertainties underscore the need for a highly precautionary approach to habitat conservation, and illustrate why the agency's claims that spatial/temporal concentration of the fisheries under the status quo have insignificant impacts on marine mammal foraging habitats and prey are not supported by evidence. As in other instances, the burden of proof is on the environment to show harm. This is opposite of a precautionary approach.

*Response:* NMFS did not make a determination of non-significance in the EIS. The EIS fully discloses known impacts, areas of uncertainty, and presents the information in comparative form to aid in decision-making. The EIS describes localized impacts of fishing activity on marine mammals. Chapter 8 in the EIS evaluates the impacts of this action on marine mammals, with particular attention to impacts on Steller sea lions and northern fur seals. The chapter describes what is known about the spatial and temporal overlap between groundfish fishing activity and marine mammal foraging habitat. The EIS summarizes the available information on the impacts of fishing activity on marine mammals and their habitat. While information on the spatial and temporal impact of groundfish fishing on other species is relatively limited, the EIS provides a review of the information available and indicates where information is lacking.

Endangered Steller sea lions have been protected by a suite of measures. Groundfish fisheries conducted in accordance with the Steller sea lion protection measures adopted in 2002 have been determined not to jeopardize Steller sea lions or adversely modify

their critical habitat. The protection measures involve seasonal apportionments of annual TACs, limits on the proportion of catch within habitat important for Steller sea lion foraging, limits on fishing activity within areas adjacent to haulouts and rookeries, and closure of directed fishing when biomass falls to low levels. The protection measures and the conclusions of no jeopardy or adverse modification of habitat were arrived at after careful evaluation in 2001. Since that time, NMFS has continued to investigate the determinants of Steller sea lion declines. These measures are currently being reevaluated in a new biological opinion and revised recovery plan.

*Comment 17:* The proposed harvest specifications and the accompanying EIS fail in substantive ways to comply with the intent of the MSA, NEPA, the ESA, and the MMPA.

*Response:* Prior to approval, the Secretary ensures that this action and all actions it takes are in compliance with the MSA, NEPA, the ESA, and the MMPA.

*Comment 18:* Given the current uncertainties and lack of scientific information, it is essential to adopt a highly precautionary approach to exploitation of these ecosystems, in order to avoid the wholesale system reorganization and impoverishment that has been linked to fishing in other marine ecosystems.

*Response:* The Council recommended and NMFS approves the use of a cautionary approach.

*Comment 19:* There is no "balance" between the interests of fisheries and other public interests in the North Pacific region: the scales are tilted entirely to the advantage of the industrial fisheries whose interests are placed above all other public interests. The tradeoffs between often contrary FMP objectives are made by a decision-making body that is not representative of the broader public interest and that is biased heavily in favor of commercial utilization of the public resource for its own benefit. This state of affairs cries out for basic reforms of the kind outlined by the Pew Oceans Commission (2003) and the U.S. Oceans Policy Commission (2004) so that other public interests and societal goals are fairly represented, in order to achieve a real "balance between competing uses" of the ocean commons.

*Response:* This is not a comment on the content of the groundfish harvest specifications or on the accompanying EIS, and deals with issues that are beyond the scope of both.

### 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 2007 and 2008 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 2007 and 2008 fishing years and to accomplish the goals and objectives of the FMP. 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

NMFS determined that the FMP is necessary for the conservation and management of the BSAI groundfish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

NMFS prepared a Draft EIS for this action and made it available to the public for comment (71 FR 53093, September 8, 2006). NMFS prepared the Final EIS and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. Copies of the Final EIS and ROD for this action are available from NMFS (see **ADDRESSES**).

A Final Regulatory Flexibility Analysis (FRFA) was prepared to evaluate the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the Exclusive Economic Zone (EEZ) off of Alaska on small entities. This FRFA meets the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 601–612). A summary of the FRFA follows.

The action under consideration is adoption of a harvest strategy to govern the harvest of groundfish in the BSAI. The preferred alternative is the status

quo harvest strategy in which TACs fall within the range of ABCs recommended through the Council's harvest specification process and TACs recommended by the Council. This action is taken in accordance with the FMP and adopted by the Council pursuant to the MSA.

The proposed harvest specifications were published in the **Federal Register** on December 15, 2006 (71 FR 75460). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed harvest specifications and was described in the classification section of that preamble. Copies of the IRFA prepared for this action are available from NMFS, Alaska Region (see **ADDRESSES**). The public comment period ended on January 16, 2007. No comments were received regarding the economic impacts of this action.

The need for and objectives of this rule are described in the preamble and not repeated here.

Significant issues raised by public comment are addressed in the preamble and not repeated here.

The directly regulated small entities include approximately 747 small catcher vessels, less than 17 small catcher-processors, and six Community Development Quota (CDQ) Groups. The entities directly regulated by this action are those that harvest groundfish in the EEZ of the BSAI, and in parallel fisheries within State of Alaska waters. These include entities operating catcher vessels and catcher-processor vessels within the action area, and entities receiving direct allocations of groundfish. Catcher vessels and catcher processors were considered to be small entities if they had annual gross receipts, from all of their economic activities, and including the revenue of their affiliated operations, less than or equal to \$4 million per year. Data from 2005 was used because it was the most recent available. CDQ groups receive direct allocations of groundfish, and these were considered to be small entities because they are non-profit entities. The Aleut Corporation is not a small entity because it is a holding company which does not meet the SBA \$6 million threshold for holding companies (13 CFR 121.201).

Estimates of first wholesale gross revenues for the BSAI non-CDQ and CDQ sectors were used as indices of the potential impacts of the alternative harvest strategies on small entities. Revenues were projected to decline from 2006 levels in 2007 and 2008 under the preferred alternative due to declines in ABCs for key species.

The preferred alternative (Alternative 2) was compared to four other

alternatives. These included Alternative 1, which would set TACs so as to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs would exceed the regional OY, in which case harvests would be limited to the OY. Alternative 3 would set TACs to produce fishing rates equal to the most recent five year average of fishing rates. Alternative 4 would set TACs to equal the lower bound of the regional OY range. Alternative 5 would set TACs equal to zero.

Alternatives 3, 4, and 5 produced smaller first wholesale revenues for each of the three groupings, than Alternative 2. Thus, Alternatives 3, 4 and 5 had greater adverse impacts on small entities. Alternative 1 sets the TACs equal to the maximum permissible ABC unless the sum of these TACs exceed the OY. In 2007 and 2008 the sum of the maximum permissible ABCs exceeded the OY. Therefore, the TACs under Alternative 1 were set equal to the OY. Also, Alternative 2 TACs are constrained by the ABCs the Plan Team and SSC recommend to the Council on the basis of a full consideration of biological issues. These ABCs are often less than Alternative 1 maximum permissible ABCs. Therefore higher TACs under Alternative 1 may not be consistent with prudent biological management of the resource. For these reasons, Alternative 2 is the preferred alternative. In the BSAI (for both non-CDQ and CDQ groups). For these reasons, Alternative 2 is the preferred alternative.

This action does not modify any recordkeeping or reporting requirements.

Under 5 U.S.C. 553(d)(3), an agency can waive the 30 day delay in effectiveness of a rule for good cause. These final harvest specifications were developed as quickly as possible, Plan Team review in November 2006, Council consideration and recommendations in December 2006, and NOAA Fisheries review and development in January–February 2007. For all fisheries not currently closed because the TACs established under the 2006 and 2007 final harvest specifications (71 FR 10894, March 3, 2006) were reached, the likely possibility exists for their closures prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. Certain fisheries, such as those for pollock, Pacific cod, and Atka mackerel are intensive fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish and "other species," are critical as directed fisheries and as incidental catch in other

fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in all these fisheries. Any delay in allocating the final TAC in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. 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.

If the final harvest specifications are not effective by March 10, 2007, which is the start of the Pacific halibut season as specified by the IPHC, the hook-and-

line sablefish fishery will not begin concurrently with the Pacific halibut season. This would cause sablefish that is caught with Pacific halibut to be needlessly discarded, as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the 2007 and 2008 final harvest specifications will allow the sablefish fishery to begin concurrently with the Pacific halibut season. Also, the immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information, and to give the fishing industry the earliest possible opportunity to plan its fishing operations. Therefore NMFS finds good cause to waive the 30 day delay in effectiveness under 5 U.S.C. 553(d)(3).

Furthermore, the 2007 and 2008 final harvest specifications implement the groundfish sideboards and sideboard

closures that restrict the owners of vessels with a history of participation in the Rockfish Program from using the increased flexibility provided by the Rockfish Program to expand their level of participation the catcher vessel Pacific cod fishery in BSAI groundfish fisheries. Until the 2007 and 2008 final harvest specifications are effective no sideboard restrictions or closures apply to these vessels. Accordingly, NMFS finds that there is good cause to waive the 30 day delayed effectiveness period under 5 U.S.C. 553(d)(3).

**Authority:** 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; and 3631 *et seq.*

Dated: February 22, 2007.

**Samuel D. Rauch III,**

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

[FR Doc. E7-3692 Filed 3-1-07; 8:45 am]

**BILLING CODE 3510-22-P**