

NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2008, and Council recommendations were not received until December 2008, so NMFS could not undertake review and development until January 2009. For all fisheries not currently closed because the TACs established under the 2008 and 2009 final harvest specifications (73 FR 10562, February 27, 2008) were not reached, the likely possibility exists that they will be closed prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. Certain fisheries, such as those for pollock and Pacific cod 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 these fisheries. Any delay in allocating the final TACs 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 21, 2009, which is the start of the 2009 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 result in the needless discard of sablefish that are caught along with Pacific halibut as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2009 and 2010 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).

#### 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 purpose is to announce the 2009 and 2010 final harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the GOA. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2009 and 2010 fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the GOA fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

**Authority:** 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f), 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105-277; Pub. L. 106-31; Pub. L. 106-554; Pub. L. 108-199; Pub. L. 108-447; Pub. L. 109-241; Pub. L. 109-479.

Dated: February 9, 2009.

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### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XL28

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2009 and 2010 Harvest Specifications for Groundfish

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

**ACTION:** Final rule; closures.

**SUMMARY:** NMFS announces final 2009 and 2010 harvest specifications and prohibited species catch 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 2009 and 2010 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.

**DATES:** Effective from 1200 hrs, Alaska local time (A.l.t.), February 17, 2009, through 2400 hrs, A.l.t., December 31, 2010.

**ADDRESSES:** Copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available on the Alaska Region Web site at <http://www.alaskafisheries.noaa.gov>. Printed copies can be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian. Copies of the 2008 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the Bering Sea and Aleutian Islands management area (BSAI) dated November 2008, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252, phone 907-271-2809, or from its Web site at <http://www.alaskafisheries.noaa.gov/npfmc>.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907-586-7269, or e-mail [steven.whitney@noaa.gov](mailto:steven.whitney@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 Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species and for the "other species" category, and 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)). NMFS also must specify apportionments of TACs, prohibited species catch (PSC)

allowances, and prohibited species quota (PSQ) reserves established by § 679.21, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC, Amendment 80 allocations, and Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii). The final harvest specifications set forth in Tables 1 through 16 of this action satisfy these requirements. The sum of TACs for 2009 is 1,681,586 mt and for 2010 is 2,000,000 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 proposed 2009 and 2010 harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 10, 2008 (73 FR 75059). Comments were invited and accepted through January 9, 2009. NMFS received three letters with 30 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 on the final 2009 and 2010 harvest specifications during the December 2008 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 final 2009 and 2010 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. The FMP specifies a series of six tiers based on the level of reliable information available to fishery scientists. Tier one represents the highest level of information quality available while tier six represents the lowest level of information quality available.

In December 2008, 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 2008 SAFE report for the BSAI groundfish fisheries, dated November 2008. 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 2008, the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for BSAI Pacific cod and Aleutian Islands pollock, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. For 2009 and 2010, the SSC recommended higher Pacific cod OFLs and ABCs than the OFLs and ABCs recommended by the Plan Team. The Plan Team chose values between the two best performing models. However, the SSC chose the best performing model, and did not see a need to adjust that model's estimates downward. For Aleutian Island pollock, the Plan Team adopted recommendations from the Center of Independent Experts to include survey data east of Adak. The SSC concluded that this data should be included. This was due to uncertainties in the spatial stock structure in the region, the variation of length compositions across the area, the concentration of survey data along the eastern edge of the region in the early survey years, and additional evidence that these pollock may be from the Bogoslof or EBS stocks, rather than the Aleutian Island stock. The elimination of this survey data resulted in higher OFL and ABC values. The Council adopted the ABCs recommended by the SSC.

The Plan Team, SSC, AP, and Council recommended that total removals of Pacific cod from the BSAI not exceed ABC recommendations. In 2007, 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 2009 and 2010 Pacific cod TACs be adjusted downward from the ABCs by amounts equal to the 2009 and 2010 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 2009 and 2010 TAC recommendations. None of the Council's recommended TACs for 2009 or 2010 exceeds the final 2009 or 2010 ABCs for any species category. The 2009 and 2010 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. NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2008 SAFE report that was approved by the Council.

#### **Other Actions Potentially Affecting the 2009 and 2010 Harvest Specifications**

The final rule implementing Amendment 73 to the FMP was published in the **Federal Register** on December 31, 2008 (73 FR 80307). Amendment 73 removes dark rockfish from the "other rockfish" category in the FMP in order to allow the State of Alaska (State) to assume management of dark rockfish. This action is necessary to allow the State to implement more responsive, regionally based management measures than are currently possible under the FMP. Based on the approval of Amendment 73, the Council recommended final 2009 and 2010 harvest specifications for BSAI groundfish.

The Council is considering a proposal that would allocate the Pacific cod TAC by Bering Sea subarea and Aleutian Islands (AI) subarea instead of a combined BSAI TAC, although associated fishery management implications would require more time to assess and resolve. As a result, a Pacific cod split between subareas has not been established for 2009 or 2010. Additional proposals being developed by the Plan Team for Council consideration would separate some species from the "other species" category so that individual OFLs, ABCs, and TACs may be established for these species. Another would allocate the ABC for rougheye rockfish by Bering Sea subarea and Aleutian Islands (AI) subarea instead of a combined BSAI ABC.

#### **Changes From the Proposed 2009 and 2010 Harvest Specifications in the BSAI**

In October 2008, the Council made its recommendations for the proposed 2009 and 2010 harvest specifications (73 FR 75059, December 10, 2008) based largely on information contained in the 2007 SAFE report for the BSAI groundfish fisheries. The 2008 SAFE report, which was not available when the Council

made its recommendations in October 2008, contains the best and most recent scientific information on the condition of the groundfish stocks. In December 2008, the Council considered the 2008 SAFE report in making its recommendations for the final 2009 and 2010 harvest specifications. Based on the 2008 SAFE report, the sum of the 2009 and 2010 recommended final TACs for the BSAI (1,681,586 mt for 2009 and 2,000,000 mt for 2010) is lower than the sum of the proposed 2009 TACs and higher than the sum of the proposed 2010 TACs (1,824,204 mt each year). Compared to the proposed 2009 TACs, the Council's final TAC recommendations increase for species when sufficient information supports a

larger TAC. This increases fishing opportunities for fishermen and adds economic benefits to the nation. These species include BSAI Atka mackerel, flathead sole, Pacific cod, rock sole, and Greenland turbot. The Council reduced TAC levels to provide greater protection for several species including Bering Sea subarea pollock, yellowfin sole, "other flatfish," and Pacific ocean perch.

The largest TAC reduction was for Bering Sea subarea pollock. The 2009 Bering Sea subarea pollock ABC and the corresponding TAC were reduced 185,000 mt below the proposed rule due to the addition of new survey and catch data incorporated into the pollock assessment models after the Council recommended the proposed harvest specifications. The reduction in the

2009 ABC and corresponding TAC is a consequence of low recruitment in the years 2002 through 2005. The assessment model remains unchanged and the stock still is in tier 1, as recommended by the SSC. Conversely, the new survey data increased the 2010 Bering Sea subarea pollock ABC and TAC by 230,000 mt. This increase is due to the recruitment of the 2006 year class, which has now appeared strong in two different surveys.

The changes in the final rule from the proposed rule are based on the most recent scientific information and implement the harvest strategy described in the proposed rule for the harvest specifications and are compared in the following table:

COMPARISON OF FINAL 2009 AND 2010 WITH PROPOSED 2009 AND 2010 TOTAL ALLOWABLE CATCH IN THE BSAI  
[Amounts are in metric tons]

Species	Area <sup>1</sup>	2009 final TAC	2009 proposed TAC	2009 difference from proposed	2010 final TAC	2010 proposed TAC	2010 difference from proposed
Pollock	BS	815,000	1,000,000	-185,000	1,230,000	1,000,000	230,000
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	50	10	40	10	10	0
Pacific cod	BSAI	176,540	170,720	5,820	193,030	170,720	22,310
	BS	2,720	2,610	110	2,520	2,610	-90
Sablefish	AI	2,200	2,230	-30	2,040	2,230	-190
	EAI/BS	27,000	15,300	11,700	22,900	15,300	7,600
Atka mackerel	CAI	32,500	19,000	13,500	28,500	19,000	9,500
	WAI	16,900	13,200	3,700	19,700	13,200	6,500
	BSAI	210,000	225,000	-15,000	180,000	225,000	-45,000
Yellowfin sole	BSAI	90,000	75,000	15,000	75,000	75,000	0
Rock sole	BS	5,090	1,750	3,340	4,920	1,750	3,170
	AI	2,290	790	1,500	2,210	790	1,420
Arrowtooth flounder	BSAI	75,000	75,000	0	60,000	75,000	-15,000
Flathead sole	BSAI	60,000	50,000	10,000	50,000	50,000	0
Other flatfish	BSAI	17,400	21,600	-4,200	17,400	21,600	-4,200
Alaska plaice	BSAI	50,000	50,000	0	30,000	50,000	-20,000
Pacific ocean perch	BS	3,820	4,100	-280	3,780	4,100	-320
	EAI	4,200	4,810	-610	4,160	4,810	-650
	CAI	4,260	4,900	-640	4,210	4,900	-690
	WAI	6,520	7,490	-970	6,450	7,490	-1,040
	BSAI	7,160	8,130	-970	6,000	8,130	-2,130
Northern rockfish	BSAI	387	424	-37	387	424	-37
Shortraker rockfish	BSAI	539	202	337	552	202	350
Rougheye rockfish	BS	485	414	71	485	414	71
Other rockfish	AI	555	554	1	555	554	1
	BSAI	1,970	1,970	0	1,970	1,970	0
Squid	BSAI	50,000	50,000	0	34,221	50,000	-15,779
Other species	BSAI	50,000	50,000	0	34,221	50,000	-15,779
Total	BSAI	1,681,586	1,824,204	-142,618	2,000,000	1,824,204	175,796

<sup>1</sup> Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands Management Area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

The final 2009 and 2010 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any single species or complex. Table 1 lists the final 2009 and 2010 OFL, ABC, TAC, initial TAC (ITAC), and CDQ

reserve amounts of the BSAI groundfish. The apportionment of TAC amounts among fisheries and seasons is discussed below.

As mentioned in the proposed 2009 and 2010 harvest specifications, NMFS is apportioning the amounts shown in

Table 2 from the non-specified reserve to increase the ITAC of several target species.

TABLE 1—FINAL 2009 AND 2010 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI<sup>1</sup>  
[Amounts are in metric tons]

Species	Area	2009						2010					
		OFL	ABC	TAC	ITAC <sup>2</sup>	CDQ <sup>3</sup>	OFL	ABC	TAC	ITAC <sup>2</sup>	CDQ <sup>3</sup>		
Pollock <sup>3</sup>	BS <sup>2</sup>	977,000	815,000	815,000	733,500	81,500	1,430,000	1,230,000	1,230,000	1,107,000	123,000		
	AI <sup>2</sup>	32,600	26,900	19,000	17,100	1,900	36,800	30,400	19,000	17,100	1,900		
	Bogoslof	58,400	7,970	50	50	0	58,400	7,970	10	10	0		
Pacific cod <sup>4</sup>	BSAI	212,000	182,000	176,540	157,650	18,890	235,000	199,000	193,030	172,376	20,654		
	BS	3,210	2,720	2,720	2,244	374	2,980	2,520	2,520	1,071	95		
Sablefish <sup>5</sup>	AI	2,600	2,200	2,200	1,788	371	2,410	2,040	2,040	429	38		
	BSAI	99,400	83,800	76,400	68,225	8,175	84,400	71,100	63,492	7,608	7,608		
Atka mackerel	EAI/BS	n/a	27,000	27,000	24,111	2,889	n/a	22,900	22,900	20,450	2,450		
	CAI	n/a	33,500	32,500	29,023	3,478	n/a	28,500	28,500	25,451	3,050		
Yellowfin sole	WAI	n/a	23,300	16,900	15,092	1,808	n/a	19,700	17,592	2,108	2,108		
	BSAI	224,000	210,000	210,000	187,530	22,470	210,000	198,000	180,000	160,740	19,260		
Rock sole	BSAI	301,000	296,000	90,000	80,370	9,630	314,000	310,000	75,000	66,975	8,025		
	BSAI	14,800	7,380	7,380	6,273	n/a	14,400	7,130	6,061	n/a	n/a		
Greenland turbot	BS	n/a	5,090	5,090	4,327	545	n/a	4,920	4,182	526	526		
	AI	n/a	2,290	2,290	1,947	0	n/a	2,210	1,879	0	0		
Arrowtooth flounder	BSAI	190,000	156,000	75,000	63,750	8,025	196,000	161,000	60,000	51,000	6,420		
	BSAI	83,800	71,400	60,000	53,580	6,420	81,800	69,800	50,000	44,650	5,350		
Flathead sole	BSAI	23,100	17,400	17,400	14,790	0	23,100	17,400	14,790	0	0		
	BSAI	298,000	232,000	50,000	42,500	0	354,000	275,000	30,000	25,500	0		
Alaska plaice	BSAI	22,300	18,800	18,800	16,624	n/a	22,100	18,600	16,447	n/a	n/a		
	BSAI	8,540	7,160	7,160	6,086	0	8,580	7,190	6,000	5,100	0		
Northern rockfish	BS	n/a	3,820	3,820	3,247	0	n/a	3,780	3,213	0	0		
	EAI	n/a	4,200	4,200	3,751	449	n/a	4,160	3,715	445	445		
Shortraker rockfish	CAI	n/a	4,260	4,260	3,804	456	n/a	4,210	3,760	450	450		
	WAI	n/a	6,520	6,520	5,822	698	n/a	6,450	5,760	690	690		
Other rockfish	BSAI	8,540	7,160	7,160	6,086	0	8,580	7,190	6,000	5,100	0		
	BSAI	516	387	387	329	0	516	387	329	0	0		
Rougheye rockfish	BSAI	660	539	539	458	0	640	552	469	0	0		
	BSAI	1,380	1,040	1,040	884	0	1,380	1,040	884	0	0		
Other rockfish <sup>7</sup>	BS	n/a	485	485	412	0	n/a	485	412	0	0		
	AI	n/a	555	555	472	0	n/a	555	472	0	0		
Squid	BSAI	2,620	1,970	1,970	1,675	0	2,620	1,970	1,675	0	0		
	BSAI	80,800	63,700	50,000	42,500	0	80,700	63,700	34,221	29,088	0		
Total		2,636,726	2,204,366	1,681,586	1,497,906	159,902	3,159,826	2,674,799	2,000,000	1,785,185	194,462		

<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, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves.

<sup>3</sup>Under §679.20(a)(5)(i)(A)-(F), the annual Bering Sea subarea pollock TAC after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (4.0 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)(ii)(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>4</sup>The Pacific cod TAC is reduced by three 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>5</sup>For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see §679.20(b)(1)(ii)(B) and (D)). 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" are not allocated to the CDQ program.

<sup>6</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>7</sup>"Other rockfish" includes all *Sebastes* and *Sebastes/obus* species except for Pacific ocean perch, northern dark, shortraker, and rougheye rockfish.

<sup>8</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, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch**

Section 679.20(b)(1)(i) requires the placement of 15 percent of the TAC for each target species or "other species" category, except for pollock, the hook-and-line and pot gear allocation of sablefish, and the Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires allocation of 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires allocation of 10.7 percent of the TACs for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod be allocated to the CDQ reserves. Sections 679.20(a)(5)(i)(A) 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 allocations by gear. Section 679.21(e)(3)(i)(A)

requires withholding 7.5 percent of the Chinook salmon PSC limit, 10.7 percent of the crab and non-Chinook salmon PSC limits, and 343 (mt) of halibut PSC as PSQ reserves for the CDQ fisheries. Sections 679.30 and 679.31 set forth regulations governing the management of the CDQ and PSQ reserves, respectively.

Pursuant to § 679.20(a)(5)(i)(A)(1), NMFS allocates a pollock ICA of 4 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 2008. During this 9-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 10-year average of 3 percent. Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), NMFS establishes a pollock ICA of 1,600 mt for the AI subarea 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 2008. During this 6-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 6-year average of 6 percent.

Pursuant to § 679.20(a)(8) and (10), NMFS allocates ICAs of 4,500 mt of flathead sole, 5,000 mt of rock sole,

2,000 mt of yellowfin sole, 10 mt of Western Aleutian District Pacific ocean perch, 10 mt of Central Aleutian District Pacific ocean perch, 100 mt of Eastern Aleutian District Pacific ocean perch, 20 mt of Western Aleutian District Atka mackerel, 20 mt of Central Aleutian District Atka mackerel, and 200 mt of Eastern Aleutian District and Bering Sea subarea Atka mackerel TAC after subtraction of the 10.7 percent CDQ reserve. These allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2008.

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 for northern rockfish, shortraker rockfish, rougheye rockfish, and Bering Sea "other rockfish" by 15 percent of the TAC in 2009 and 2010.

TABLE 2—FINAL 2009 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species—area or subarea	2009 ITAC	2009 reserve amount	2009 final ITAC	2010 ITAC	2010 reserve amount	2010 final ITAC
Shortraker rockfish—BSAI .....	329	58	387	329	58	387
Rougheye rockfish—BSAI .....	458	81	539	469	83	552
Northern rockfish—BSAI .....	6,086	1,074	7,160	5,100	900	6,000
Other rockfish—Bering Sea subarea .....	412	73	485	412	73	485
Total .....	7,285	1,286	8,571	6,310	1,114	7,424

**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 4 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). 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 DFA is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season. Table 3 lists these 2009 and 2010 amounts.

Section 679.20(a)(5)(i)(A)(4) also includes several specific requirements regarding Bering Sea 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 2009 and 2010 allocations of pollock TAC. Tables 11 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.alaskafisheries.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 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 2009 and 2010 amounts.

TABLE 3—FINAL 2009 AND 2010 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	2009 Allocations	2009 A season <sup>1</sup>		2009 B season <sup>1</sup>	2010 Allocations	2010 A season <sup>1</sup>		2010 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 .....	815,000	n/a	n/a	n/a	1,230,000	n/a	n/a	n/a
CDQ DFA .....	81,500	32,600	22,820	48,900	123,000	49,200	34,440	73,800
ICA <sup>1</sup> .....	29,340	n/a	n/a	n/a	44,280	n/a	n/a	n/a
AFA Inshore .....	352,080	140,832	98,582	211,248	531,360	212,544	148,781	318,816
AFA Catcher/Processors <sup>3</sup> .....	281,664	112,666	78,866	168,998	425,088	170,035	119,025	255,053
Catch by C/Ps .....	257,723	103,089	n/a	154,634	388,956	155,582	n/a	233,373
Catch by CVs <sup>3</sup> .....	23,941	9,577	n/a	14,365	36,132	14,453	n/a	21,679
Unlisted C/P Limit <sup>4</sup> .....	1,408	563	n/a	845	2,125	850	n/a	1,275
AFA Motherships .....	70,416	28,166	19,716	42,250	106,272	42,509	29,756	63,763
Excessive Harvesting Limit <sup>5</sup> .....	123,228	n/a	n/a	n/a	185,976	n/a	n/a	n/a
Excessive Processing Limit <sup>6</sup> .....	211,248	n/a	n/a	n/a	318,816	n/a	n/a	n/a
Total Bering Sea DFA .....	704,160	281,664	197,165	422,495	1,062,721	425,087	297,562	637,632
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> .....	50	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 (4 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—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 non-CDQ 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 non-CDQ 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 TACs**

Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited

access sectors is established in Table 33 to part 679 and § 679.91.

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 approves, a 0.5 percent allocation of the Atka mackerel ITAC in the Eastern Aleutian District and Bering Sea subarea to the jig gear in 2009 and 2010. Based on the 2009 TAC of 27,000 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 120 mt for 2009. Based on the 2010 TAC of 22,900 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 101 mt for 2010.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel ITAC into two equal seasonal allowances. 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). The jig gear allocation is not apportioned by season.

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.

NMFS will establish HLA limits for the CDQ reserve and each of the three non-CDQ trawl sectors: the BSAI trawl limited access sector, the Amendment 80 limited access fishery, and an aggregate HLA limit applicable to all Amendment 80 cooperatives. NMFS

will assign vessels in each of the three non-CDQ sectors that apply to fish for Atka mackerel in the HLA to an HLA fishery based on a random lottery of the vessels that apply (see § 679.20(a)(8)(iii)). There is no allocation of Atka mackerel to the BSAI trawl limited access sector in the Western Aleutian District. Therefore, no vessels in the BSAI trawl limited access sector will be assigned to the Western Aleutian District HLA fishery.

Each trawl sector will have a separate lottery. A maximum of two HLA fisheries will be established in Area 542 for the BSAI trawl limited access sector. A maximum of four HLA fisheries will be established for vessels assigned to Amendment 80 cooperatives: a first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. A maximum of four HLA fisheries

will be established for vessels assigned to the Amendment 80 limited access fishery: a first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. NMFS will initially open fishing in the HLA for the first HLA fishery in all three trawl sectors at the same time. The initial opening of fishing in the HLA will be based on the first directed fishing closure of Atka mackerel for the Eastern Aleutian District and Bering Sea subarea for any one of the three trawl sectors allocated Atka mackerel TAC.

Table 4 lists these 2009 and 2010 amounts. The 2010 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

TABLE 4—FINAL 2009 AND 2010 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector <sup>1</sup>	Season <sup>3,4</sup>	2009 allocation by area			2010 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
TAC	n/a	27,000	32,500	16,900	22,900	28,500	19,700
CDQ reserve	Total	2,889	3,478	1,808	2,450	3,050	2,108
	HLA <sup>5</sup>	n/a	2,087	1,085	n/a	1,830	1,265
ICA	Total	200	20	20	200	20	20
	Jig <sup>6</sup>	120	0	0	101	0	0
BSAI trawl limited access	Total	952	1,160	0	1,209	1,526	0
	A	476	580	0	604	763	0
	HLA <sup>4</sup>	n/a	348	0	n/a	458	0
	B	476	580	0	604	763	0
	HLA <sup>4</sup>	n/a	348	0	n/a	458	0
Amendment 80 sectors	Total	22,840	27,842	15,072	18,940	23,905	17,572
	A	11,420	13,921	7,536	9,470	11,952	8,786
	HLA <sup>4</sup>	n/a	8,353	4,522	n/a	7,171	5,272
	B	11,420	13,921	7,536	9,470	11,952	8,786
	HLA <sup>4</sup>	n/a	8,353	4,522	n/a	7,171	5,272
Amendment 80 limited access	Total	12,328	16,795	9,275	n/a	n/a	n/a
	A	6,164	8,398	4,638	n/a	n/a	n/a
	HLA <sup>4</sup>	n/a	5,039	2,783	n/a	n/a	n/a
	B	6,164	8,398	4,638	n/a	n/a	n/a
	HLA <sup>4</sup>	n/a	5,039	2,783	n/a	n/a	n/a
Amendment 80 cooperatives	Total	10,512	11,047	5,797	n/a	n/a	n/a
	A	5,256	5,524	2,899	n/a	n/a	n/a
	HLA <sup>4</sup>	n/a	3,314	1,739	n/a	n/a	n/a
	B	5,256	5,524	2,899	n/a	n/a	n/a
	HLA <sup>4</sup>	n/a	3,314	1,739	n/a	n/a	n/a

<sup>1</sup> Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

<sup>2</sup> Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

<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 2009 and 2010, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

<sup>6</sup> Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

**Allocation of the Pacific cod ITAC**

Section 679.20(a)(7)(i) and (ii) allocates the Pacific cod TAC in the BSAI, after subtraction of 10.7 percent for the CDQ reserve, as follows: 1.4 percent to vessels using jig gear, 2.0 percent to hook-and-line and pot catcher vessels less than 60 ft (18.3 m) length overall (LOA), 0.2 percent to hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 48.7 percent to hook-and-line catcher/processors, 8.4 percent to pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 1.5 percent to pot catcher/processors, 2.3 percent to American Fisheries Act (AFA) trawl catcher/processors, 13.4 percent to non-AFA trawl catcher/processors, and 22.1 percent to trawl catcher vessels. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2009 and 2010, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries. The allocation of the ITAC for Pacific cod to the Amendment 80 sector is established in Table 33 to part 679 and § 679.91. The 2010 allocations for Pacific cod between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

The Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7) and 679.23(e)(5)). In accordance with

§ 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

Pursuant to §§ 679.20(a)(7)(i)(B) and 679.23(e)(5), the CDQ season allowances by gear are as follows: For hook-and-line catcher/processors and hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA harvesting CDQ Pacific cod, the first seasonal allowance of 60 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 40 percent of the ITAC is available from June 10 to December 31. No seasonal harvest constraints are imposed on the CDQ Pacific cod fishery for pot gear or hook-and-line catcher vessels less than 60 ft (18.3 m) LOA. For vessels harvesting CDQ Pacific cod with trawl gear, the first seasonal allowance of 60 percent of the ITAC is available January 20 to April 1. The second seasonal allowance, April 1 to June 10, and the third seasonal allowance, June 10 to November 1, are each allocated 20 percent of the ITAC. The CDQ Pacific cod trawl catcher vessel allocation is further allocated as 70 percent of the first seasonal allowance, 10 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. The CDQ Pacific cod trawl catcher/processor allocation is 50 percent in the first seasonal allowance, 30 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. For jig gear, the first and third seasonal allowances are each allocated 40 percent of the ITAC and the second

seasonal allowance is allocated 20 percent of the ITAC.

Pursuant to §§ 679.20(a)(7)(iv)(A) and 679.23(e)(5), the non-CDQ season allowances by gear are as follows. For hook-and-line and pot catcher/processors and hook-and-line and pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, the first seasonal allowance of 51 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 49 percent of the ITAC is available from June 10 (September 1 for pot gear) to December 31. No seasonal harvest constraints are imposed on the Pacific cod fishery for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first seasonal allowance is January 20 to April 1, the second seasonal allowance is April 1 to June 10, and the third seasonal allowance is June 10 to November 1. The trawl catcher vessel allocation is further allocated as 74 percent in the first seasonal allowance, 11 percent in the second seasonal allowance, and 15 percent in the third seasonal allowance. The trawl catcher/processor allocation is allocated 75 percent in the first seasonal allowance, 25 percent in the second seasonal allowance, and zero percent in the third seasonal allowance. For jig gear, the first seasonal allowance is allocated 60 percent of the ITAC, and the second and third seasonal allowances are each allocated 20 percent of the ITAC. Table 5 lists the 2009 and 2010 allocations and seasonal apportionments of the Pacific cod TAC.

**TABLE 5A—FINAL 2009 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC**  
[Amounts are in metric tons]

Gear sector	Percent	2009 share of gear sector total	2009 share of sector total	2009 seasonal apportionment	
				Dates	Amount
Total TAC	100	176,540	n/a	n/a	n/a
CDQ	10.7	18,890	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	95,851	n/a	0	n/a
Hook-and-line/pot ICA <sup>1</sup>	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	95,351	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	76,375	Jan 1–Jun 10	38,951
				Jun 10–Dec 31	37,424
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	314	Jan 1–Jun 10	160
				Jun 10–Dec 31	154
Pot catcher/processor	1.5	n/a	2,352	Jan 1–Jun 10	1,200
				Sept 1–Dec 31	1,152
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	13,173	Jan 1–Jun 10	6,718
				Sept 1–Dec 31	6,455
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2.0	n/a	3,137	n/a	n/a
Trawl catcher vessel	22.1	34,841	n/a	Jan 20–Apr 1	25,782
				Apr 1–Jun 10	3,832
				Jun 10–Nov 1	5,226
AFA trawl catcher/processor	2.3	3,626	n/a	Jan 20–Apr 1	2,719
				Apr 1–Jun 10	906
				Jun 10–Nov 1	0
Amendment 80	13.4	21,125	n/a	Jan 20–Apr 1	15,844



TABLE 5A—FINAL 2009 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued  
[Amounts are in metric tons]

Gear sector	Percent	2009 share of gear sector total	2009 share of sector total	2009 seasonal apportionment	
				Dates	Amount
Amendment 80 limited access	n/a	n/a	3,471	Apr 1–Jun 10	5,281
				Jun 10–Nov 1	0
				Jan 20–Apr 1	2,603
Amendment 80 cooperatives	n/a	n/a	17,654	Apr 1–Jun 10	868
				Jun 10–Nov 1	0
				Jan 20–Apr 1	13,241
Jig	1.4	2,207	n/a	Apr 1–Jun 10	4,414
				Jun 10–Nov 1	0
				Jan 1–Apr 30	1,324
				Apr 30–Aug 31	441
				Aug 31–Dec 31	441

<sup>1</sup> The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2009 based on anticipated incidental catch in these fisheries.

TABLE 5B—FINAL 2010 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC  
[Amounts are in metric tons]

Gear sector	Percent	2010 share of gear sector total	2010 share of sector total	2010 seasonal apportionment <sup>2</sup>	
				Dates	Amount
Total TAC	100	193,030	n/a	n/a	n/a
CDQ	10.7	20,654	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	104,804	n/a	n/a	n/a
Hook-and-line/pot ICA <sup>1</sup>	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	104,304	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	83,547	Jan 1–Jun 10	42,609
				Jun 10–Dec 31	40,938
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	343	Jan 1–Jun 10	175
				Jun 10–Dec 31	168
Pot catcher/processor	1.5	n/a	2,573	Jan 1–Jun 10	1,312
				Sept 1–Dec 31	1,261
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	14,410	Jan 1–Jun 10	7,349
				Sept 1–Dec 31	7,061
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2.0	3,431	3,431	n/a	n/a
Trawl catcher vessel	22.1	38,095	n/a	Jan 20–Apr 1	28,190
				Apr 1–Jun 10	4,190
				Jun 10–Nov 1	5,714
AFA trawl catcher/processor	2.3	3,965	n/a	Jan 20–Apr 1	2,973
				Apr 1–Jun 10	991
				Jun 10–Nov 1	0
Amendment 80	13.4	23,098	n/a	Jan 20–Apr 1	17,324
				Apr 1–Jun 10	5,775
				Jun 10–Nov 1	0
Amendment 80 limited access <sup>2</sup>	n/a	n/a	see footnote 2	Jan 20–Apr 1	75%
				Apr 1–Jun 10	25%
				Jun 10–Nov 1	0
Amendment 80 cooperatives <sup>2</sup>	n/a	n/a	see footnote 2	Jan 20–Apr 1	75%
				Apr 1–Jun 10	25%
				Jun 10–Nov 1	0
Jig	1.4	2,413	n/a	Jan 1–Apr 30	1,448
				Apr 30–Aug 31	483
				Aug 31–Dec 31	483

<sup>1</sup> The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2010 based on anticipated incidental catch in these fisheries.

<sup>2</sup> The 2010 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

**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. Additionally, § 679.20(b)(1)(ii)(D) requires apportionment of 7.5 percent of the trawl 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 2009 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ

fishery. Concurrent sablefish and halibut IFQ fisheries reduces 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 2009 and 2010 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6—FINAL 2009 AND 2010 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS  
[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2009 Share of TAC	2009 ITAC	2009 CDQ reserve	2010 Share of TAC	2010 ITAC	2010 CDQ reserve
Bering Sea							
Trawl <sup>1</sup> .....	50	1,360	1,156	102	1,260	1,071	95
Hook-and-line/pot gear <sup>2</sup> .....	50	1,360	1,088	272	n/a	n/a	n/a
TOTAL .....	100	2,720	2,244	374	1,260	1,071	95
Aleutian Islands							
Trawl <sup>1</sup> .....	25	550	468	41	505	429	38
Hook-and-line/pot gear <sup>2</sup> .....	75	1,650	1,320	330	n/a	n/a	n/a
TOTAL .....	100	2,200	1,788	371	505	429	38

<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 the Aleutian Islands Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs**

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 sector and BSAI trawl limited access sector for Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin

sole TACs, after subtraction of 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in Tables 33 and 34 to part 679 and § 679.91. The 2010 allocations

for Amendment 80 species between Amendment 80 cooperatives and limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009. Table 7 lists the 2009 and 2010 allocations of the Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 7A—FINAL 2009 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			BSAI		
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	Flathead sole	Rock sole	Yellowfin sole
TAC .....	4,200	4,260	6,520	60,000	90,000	210,000
CDQ .....	449	456	698	6,420	9,630	22,470
ICA .....	100	10	10	4,500	5,000	2,000
BSAI trawl limited access .....	365	379	116	0	0	39,154
Amendment 80 .....	3,286	3,415	5,696	49,080	75,370	146,376
Amendment 80 limited access .....	1,742	1,811	3,020	5,729	18,559	58,389
Amendment 80 cooperatives .....	1,543	1,604	2,676	43,351	56,811	87,987

TABLE 7B—FINAL 2010 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			BSAI		
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	Flathead sole	Rock sole	Yellowfin sole
TAC .....	4,160	4,210	6,450	50,000	75,000	180,000

TABLE 7B—FINAL 2010 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS—Continued

[Amounts are in metric tons]

Sector	Pacific ocean perch			BSAI		
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	Flathead sole	Rock sole	Yellowfin sole
CDQ .....	445	450	690	5,350	8,025	19,260
ICA .....	100	10	10	4,500	5,000	2,000
BSAI trawl limited access .....	361	375	115	0	0	28,438
Amendment 80 .....	3,253	3,375	5,635	40,150	61,975	130,302
Amendment 80 limited access <sup>1</sup> .....	n/a	n/a	n/a	n/a	n/a	n/a
Amendment 80 cooperatives <sup>1</sup> .....	n/a	n/a	n/a	n/a	n/a	n/a

<sup>1</sup> The 2010 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

### 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)(iv) and (e)(2), the 2009 and 2010 BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Sections 679.21(e)(3)(i)(A)(2) and (e)(4)(i)(A) allocates 276 mt in 2009 and 326 mt in 2010 of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. Section 679.21(e)(1)(vii) specifies 29,000 fish as the 2009 and 2010 Chinook salmon PSC limit for the Bering Sea subarea pollock fishery. Section 679.21(e)(3)(i)(A)(3)(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 2009 and 2010 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(3)(i)(A)(3)(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 2009 and 2010 non-Chinook salmon PSC limit. Section 679.21(e)(3)(i)(A)(3)(ii) allocates 10.7 percent, or 4,494 non-Chinook salmon, as the PSQ for the CDQ program and allocates the remaining 37,506 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 2008 survey data at 35 million red king crabs, and the effective spawning biomass is

estimated at 75 million lb (34,020 mt). Based on the criteria set out at § 679.21(e)(1)(ii), the 2009 and 2010 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit derives from the mature female abundance of more than 8.4 million king crab and the effective spawning biomass estimate of more than 55 million lb (24,948 mt).

Section 679.21(e)(3)(ii)(B)(2) 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 25 percent of the red king crab PSC limit based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2008, the Council recommended, and NMFS approves, that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC limit within the RKCSS (Table 8b).

Based on 2008 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 435 million animals. Given the criteria set out at § 679.21(e)(1)(iii), the calculated 2009 and 2010 *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 are derived from the *C. bairdi* crab abundance estimate being in excess of the 400 million animal threshold specified in § 679.21(e)(1)(ii).

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 2008 survey estimate of 2.6 billion animals, the calculated limit is 4,350,000 animals.

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 2009 and 2010 herring biomass is 169,675 mt. This amount was derived using 2008 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 2009 and 2010 is 1,697 mt for all trawl gear as presented in Tables 8a and b.

Section 679.21(e)(3) requires, after subtraction of PSQ reserves, that crab and halibut trawl PSC be apportioned between the BSAI trawl limited access and Amendment 80 sectors as presented in Table 8a. The amount of 2009 PSC limits assigned to the Amendment 80 sector is specified in Table 35 to part 679. Pursuant to § 679.21(e)(1)(iv) and § 679.91(d) through (f), crab and halibut trawl PSC assigned to the Amendment 80 sector is then sub-allocated to Amendment 80 cooperatives as PSC cooperative quota (CQ) and to the Amendment 80 limited access fishery as presented in Tables 8d and 8e. PSC CQ assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. The 2010 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009. Section 679.21(e)(3)(i)(B) requires the apportionment of each trawl PSC limit not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories.

Section 679.21(e)(4)(i) authorizes the apportionment of the non-trawl halibut PSC limit into PSC bycatch allowances among six fishery categories. Table 8c 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 after consultation with the Council, NMFS 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 requires legal-size 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 (subpart D of 50 CFR part 679). In 2008, total groundfish catch for the pot gear fishery in the BSAI was approximately 22,160 mt, with an

associated halibut bycatch mortality of about 6 mt. The 2008 jig gear fishery harvested about 228 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 for the BSAI trawl limited access and Amendment 80 limited access sectors 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 Tables 8c and 8e to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 8A—FINAL 2009 AND 2010 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ <sup>1</sup>	Total trawl PSC	Trawl PSC remaining after CDQ PSQ <sup>1</sup>	CDQ PSQ reserve <sup>1</sup>	Amendment 80 sector		BSAI trawl limited access fishery
						2009	2010	
Halibut mortality (mt) BSAI.	900	832	3,675	3,400 in 2009, and 3,282 in 2010.	343 in 2009, and 393 in 2010.	2,475	2,425	875
Herring (mt) BSAI .....	n/a	n/a	1,697	n/a .....	n/a .....	n/a	n/a	n/a
Red king crab (animals) Zone 1 <sup>2</sup> .	n/a	n/a	197,000	175,921 .....	21,079 .....	104,427	98,920	53,797
<i>C. opilio</i> (animals) COBLZ <sup>2</sup> .	n/a	n/a	4,350,000	3,884,550 ...	465,450 .....	2,267,412	2,148,156	1,248,494
<i>C. bairdi</i> crab (animals) Zone 1 <sup>2</sup> .	n/a	n/a	980,000	875,140 .....	104,860 .....	437,658	414,641	411,228
<i>C. bairdi</i> crab (animals) Zone 2 <sup>2</sup> .	n/a	n/a	2,970,000	2,652,210 ...	317,790 .....	745,536	706,284	1,241,500

<sup>1</sup> Sections 679.21(e)(3)(i)(A)(2) and (e)(4)(i)(A) allocate 276 mt in 2009 and 326 mt in 2010 of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

<sup>2</sup> Refer to 50 CFR 679.2 for definitions of areas.

TABLE 8B—FINAL 2009 AND 2010 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole .....	146	n/a
Rock sole/flathead sole/other flatfish <sup>1</sup> .....	25	n/a
Turbot/arrowtooth/sablefish <sup>2</sup> .....	12	n/a
Rockfish .....	9	n/a
Pacific cod .....	25	n/a
Midwater trawl pollock .....	1,296	n/a
Pollock/Atka mackerel/other species <sup>3</sup> .....	184	n/a
Red king crab savings subarea Non-pelagic trawl gear <sup>4</sup> .....	n/a	49,250
<b>Total trawl PSC .....</b>	<b>1,697</b>	<b>197,000</b>

<sup>1</sup> "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

<sup>2</sup> Greenland turbot, arrowtooth flounder, and sablefish fishery category.

<sup>3</sup> Non-pelagic pollock, Atka mackerel, and "other species" fishery category.

<sup>4</sup> In December 2008 the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC limit (see § 679.21(e)(3)(ii)(B)(2)).

TABLE 8C—FINAL 2009 AND 2010 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

BSAI trawl limited access fisheries	Prohibited species and area <sup>1</sup>				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole .....	187	47,397	1,176,494	346,228	1,185,500
Rock sole/flathead sole/other flatfish <sup>2</sup> .....	0	0	0	0	0
Turbot/arrowtooth/sablefish <sup>3</sup> .....	0	0	0	0	0
Rockfish .....	5	0	2,000	60,000	1,000
Pacific cod .....	508	6,000	50,000	60,000	50,000
Pollock/Atka mackerel/other species <sup>4</sup> .....	175	400	20,000	5,000	5,000
<b>Total BSAI trawl limited access PSC .....</b>	<b>875</b>	<b>53,797</b>	<b>1,248,494</b>	<b>411,228</b>	<b>1,241,500</b>

Non-trawl fisheries .....	Catcher processor	Catcher vessel
Pacific cod—Total .....	760	15
January 1–June 10 .....	314	10
June 10–August 15 .....	0	3
August 15–December 31 .....	446	2
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>

<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), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

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

<sup>4</sup> “Other species” for PSC monitoring includes sculpins, sharks, skates, and octopus.

TABLE 8D—FINAL 2009 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 COOPERATIVES

Year	Prohibited species and area <sup>1</sup>				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
2009 .....	1,793	74,351	1,544,825	321,922	548,443

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

TABLE 8E—FINAL 2009 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 LIMITED ACCESS FISHERIES

Amendment 80 limited access fisheries	Prohibited species and area <sup>1</sup>				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole .....	370	6,286	634,639	61,785	151,133
Jan 20–Jul 1 .....	223	6,096	618,505	55,778	119,056
Jul 1–Dec 31 .....	147	190	16,134	6,007	32,077
Rock sole/other flat/flathead sole <sup>2</sup> .....	217	23,750	87,848	53,851	45,860
Jan 20–Apr 1 .....	177	23,400	84,877	47,510	40,060
Apr 1–Jul 1 .....	20	175	1,561	3,320	2,900
July 1–Dec 31 .....	20	175	1,410	3,021	2,900
Turbot/arrowtooth/sablefish <sup>3</sup> .....	5	50	100	100	100
Rockfish .....	45	n/a	n/a	n/a	n/a
Pacific cod .....	0	0	0	0	0
Pollock/Atka mackerel/other species <sup>4</sup> .....	45	0	0	0	0
<b>Total Amendment 80 trawl limited access PSC .....</b>	<b>682</b>	<b>30,086</b>	<b>722,587</b>	<b>115,736</b>	<b>197,093</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), flathead sole, 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. "Other species" for PSC monitoring includes sculpins, sharks, skates, and octopus.

**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.

NMFS approves the halibut DMRs developed and recommended by the International Pacific Halibut Commission (IPHC) and the Council for the 2009 and 2010 BSAI groundfish fisheries for use in monitoring the 2009 and 2010 halibut bycatch allowances (see Tables 8a–e). The IPHC developed these DMRs for the 2009 and 2010 BSAI non-CDQ fisheries using the 10-year mean DMRs for those fisheries. The

IPHC changed the DMRs for the 2009 and 2010 BSAI CDQ fisheries using the 1998 to 2007 DMRs for those fisheries. The IPHC will analyze observer data annually and recommend changes to the DMRs when a fishery DMR shows large variation from the mean. A copy of the document justifying these DMRs is available from the Council (see ADDRESSES), and the DMRs are discussed in the final 2008 SAFE report dated November 2008. Table 9 lists the 2009 and 2010 DMRs.

TABLE 9—FINAL 2009 AND 2010 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut discard mortality rate (percent)	
		2009	2010
Non-CDQ hook-and-line .....	Greenland turbot .....	13	13
	Other species .....	11	11
	Pacific cod .....	11	11
	Rockfish .....	17	17
Non-CDQ trawl .....	Arrowtooth flounder .....	75	75
	Atka mackerel .....	76	76
	Flathead sole .....	70	70
	Greenland turbot .....	70	70
	Non-pelagic pollock .....	74	74
	Pelagic pollock .....	88	88
	Other flatfish .....	74	74
	Other species .....	70	70
	Pacific cod .....	70	70
	Rockfish .....	76	76
	Rock sole .....	80	80
	Sablefish .....	75	75
	Yellowfin sole .....	80	80
Non-CDQ pot .....	Other species .....	7	7
	Pacific cod .....	7	7
CDQ trawl .....	Atka mackerel .....	85	85
	Flathead sole .....	87	84
	Non-pelagic pollock .....	86	85
	Pelagic pollock .....	90	90
	Rockfish .....	82	82
	Rock sole .....	86	88
CDQ hook-and-line .....	Yellowfin sole .....	84	84
	Greenland turbot .....	4	4
	Pacific cod .....	10	10
CDQ pot .....	Pacific cod .....	7	7
	Sablefish .....	35	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 groundfish allocation amounts in Table 10 will be

necessary as incidental catch to support other anticipated groundfish fisheries for the 2009 and 2010 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 10 as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species in the specified areas effective at 1200 hrs, A.l.t., February 17, 2009, through 2400 hrs, A.l.t., December 31, 2010. Also, the

BSAI trawl limited access and Amendment 80 limited access sectors bycatch allowances of halibut in Table 10 are zero mt and the bycatch allowances of red king crab, *C. bairdi*

crab, and *C. opilio* crab in Table 10 are 0 animals. Therefore, in accordance with § 679.21(e)(7), NMFS is prohibiting directed fishing for these sectors and fishery categories in the specified areas

effective at 1200 hrs, A.l.t., February 17, 2009, through 2400 hrs, A.l.t., December 31, 2010.

TABLE 10—2009 AND 2010 DIRECTED FISHING CLOSURES <sup>1</sup>  
[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2009 Incidental catch allowance	2010 Incidental catch allowance
Bogoslof District .....	All .....	Pollock .....	50	10
Aleutian Islands subarea .....	All .....	ICA pollock .....	1,600	1,600
		“Other rockfish” .....	472	472
Eastern Aleutian District/Bering Sea.	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel .....	200	200
		ICA Pacific ocean perch .....	100	100
Central Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel .....	20	20
		ICA Pacific ocean perch .....	10	10
Western Aleutian District/Bering Sea.	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel .....	20	20
		ICA Pacific ocean perch .....	10	10
Bering Sea subarea .....	All .....	Pacific ocean perch .....	3,247	3,213
		“Other rockfish” .....	485	485
		ICA pollock .....	29,340	44,280
Bering Sea and Aleutian Islands ...	All .....	Northern rockfish .....	7,160	6,000
		Shorthead rockfish .....	387	387
		Rougheye rockfish .....	539	552
		“Other species” .....	42,500	29,088
	Hook-and-line and pot gear .....	ICA Pacific cod .....	500	500
	Non-amendment 80 .....	ICA flathead sole .....	4,500	4,500
		ICA rock sole .....	5,000	5,000
		ICA yellowfin sole .....	2,000	2,000
	BSAI trawl limited access .....	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	0
		Rockfish—red king crab zone 1 ...	0	0
	Amendment 80 limited access .....	Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, <i>C. bairdi</i> Zone 1 and 2.	0	n/a
		Rockfish—red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	n/a
		Pollock/Atka mackerel/other species—red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	n/a

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

Closures implemented under the 2008 and 2009 Bering Sea and Aleutian Islands harvest specifications for groundfish (73 FR 10160, February 26, 2008) remain effective under authority of these final 2009 and 2010 harvest specifications, and are posted at the following Web sites: <http://www.alaskafisheries.noaa.gov/index/infobulletins/infobulletins.asp?Yr=2009>, and <http://www.alaskafisheries.noaa.gov/2009/status.htm>. 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.

**Central Gulf of Alaska Rockfish Pilot Program (Rockfish Program)**

On June 6, 2005, the Council adopted the Rockfish Program to meet the requirements of Section 802 of the Consolidated Appropriations Act of 2004 (Pub. L. 108–199). The basis for the BSAI fishing prohibitions and the catcher vessel BSAI Pacific cod sideboard limits of the Rockfish Program are discussed in detail in the

final rule to Amendment 68 to the Fishery Management Plan for groundfish of the Gulf of Alaska (71 FR 67210, November 20, 2006). Pursuant to § 679.82(d)(6)(i), the catcher vessel BSAI Pacific cod sideboard limit is 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**

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting 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 rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 11 lists the 2009 and 2010 catcher/processor sideboard limits. All catch of groundfish sideboard species by listed AFA catcher/

processors, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 11. However, groundfish sideboard species that are delivered to listed catcher/processors by catcher vessels will not be deducted from the 2009 and 2010 sideboard limits for the listed AFA catcher/processors.

**TABLE 11—FINAL 2009 AND 2010 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUND FISH SIDEBOARD LIMITS**  
[Amounts are in metric tons]

Target species	Area	1995–1997			2009 ITAC available to trawl C/Ps <sup>1</sup>	2009 AFA C/P side board limit	2010 ITAC available to trawl C/Ps <sup>1</sup>	2010 AFA C/P side board limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Sablefish trawl .....	BS .....	8	497	0.016	1,156	18	1,071	17
	AI .....	0	145	0.000	468	0	429	0
Atka mackerel .....	Central AI A season <sup>2</sup> .....	n/a	n/a	0.115	14,512	1,669	12,726	1,463
	HLA limit <sup>3</sup> .....	n/a	n/a	n/a	8,707	1,001	7,636	878
	B season <sup>2</sup> .....	n/a	n/a	0.115	14,512	1,669	12,726	1,463
	HLA limit <sup>3</sup> .....	n/a	n/a	n/a	8,707	1,001	7,636	878
	Western AI A season <sup>2</sup> .....	n/a	n/a	0.200	7,546	1,509	8,796	1,759
	HLA limit <sup>3</sup> .....	n/a	n/a	n/a	4,528	906	5,278	1,056
	B season <sup>2</sup> .....	n/a	n/a	0.200	7,546	1,509	8,796	1,759
Yellowfin sole <sup>4</sup> .....	BSAI .....	100,192	435,788	0.230	187,530	n/a	160,740	n/a
	Rock sole .....	6,317	169,362	0.037	80,370	2,974	66,975	2,478
	Greenland turbot .....	BS .....	121	17,305	0.007	4,327	30	4,182
AI .....		23	4,987	0.005	1,947	10	1,879	9
Arrowtooth flounder .....	BSAI .....	76	33,987	0.002	63,750	128	51,000	102
Flathead sole .....	BSAI .....	1,925	52,755	0.036	53,580	1,929	44,650	1,607
Alaska plaice .....	BSAI .....	14	9,438	0.001	42,500	43	25,500	26
Other flatfish .....	BSAI .....	3,058	52,298	0.058	14,790	858	14,790	858
Pacific ocean perch.	BS .....	12	4,879	0.002	3,247	6	3,213	6
	Eastern AI .....	125	6,179	0.020	3,751	75	3,715	74
	Central AI .....	3	5,698	0.001	3,804	4	3,760	4
	Western AI .....	54	13,598	0.004	5,822	23	5,760	23
Northern rockfish ..	BSAI .....	91	13,040	0.007	7,160	50	6,000	42
Shortraker rockfish ..	BSAI .....	50	2,811	0.018	387	7	387	7
Rougheye rockfish ..	BSAI .....	50	2,811	0.018	539	10	552	10
Other rockfish .....	BS .....	18	621	0.029	485	14	485	14
	AI .....	22	806	0.027	472	13	472	13
Squid .....	BSAI .....	73	3,328	0.022	1,675	37	1,675	37
Other species .....	BSAI .....	553	68,672	0.008	42,500	340	29,088	233

<sup>1</sup> Aleutian Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, yellowfin sole are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

<sup>2</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>3</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 2009 and 2010, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

<sup>4</sup> Section 679.64(a)(1)(v) exempts AFA catcher/processors from a yellowfin sole sideboard limit because the 2009 and 2010 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (187,530 mt in 2009 and 160,740 mt in 2010) is greater than 125,000 mt.

Section 679.64(a)(2) and Tables 40 and 41 of part 679 establish a formula for calculating PSC sideboard limits for listed AFA catcher/processors. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of

the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 12 that are caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock will accrue against

the 2009 and 2010 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 2009 or 2010



PSC sideboard limit listed in Table 12 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 12—FINAL 2009 AND 2010 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area <sup>2</sup>	Ratio of PSC catch to total PSC	2009 and 2010 PSC available to trawl vessels after subtraction of PSQ <sup>1</sup>	2009 and 2010 C/P sideboard limit <sup>1</sup>
Halibut mortality BSAI .....	n/a	n/a	286
Red king crab zone 1 .....	0.007	175,921	1,231
<i>C. opilio</i> (COBLZ) .....	0.153	3,884,550	594,336
<i>C. bairdi</i> :			
Zone 1 .....	0.140	875,140	122,520
Zone 2 .....	0.050	2,652,210	132,611

<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 is responsible for restricting 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 rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80

(72 FR 52668, September 14, 2007). Tables 13 and 14 list the 2009 and 2010 AFA catcher vessel sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the 2009 and 2010 sideboard limits listed in Table 13.

TABLE 13—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUND FISH SIDEBOARD LIMITS [Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2009 initial TAC <sup>1</sup>	2009 AFA catcher vessel sideboard limits	2010 initial TAC <sup>1</sup>	2010 AFA catcher vessel sideboard limits
Pacific cod .....	BSAI.					
	Jig gear .....	0.0000	2,207	0	2,413	0
	Hook-and-line CV .....	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10 .....	0.0006	160	0	175	0
	Jun 10–Dec 31 .....	0.0006	154	0	168	0
	Pot gear CV .....	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10 .....	0.0006	6,719	4	7,349	4
	Sept 1–Dec 31 .....	0.0006	6,455	4	7,061	4
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	3,137	2	3,431	2
	Trawl gear CV.					
	Jan 20–Apr 1 .....	0.8609	25,782	22,196	28,190	24,269
Apr 1–Jun 10 .....	0.8609	3,832	3,299	4,190	3,607	
Jun 10–Nov 1 .....	0.8609	5,226	4,499	5,714	4,919	
Sablefish .....	BS trawl gear .....	0.0906	1,156	105	1,071	97
	AI trawl gear .....	0.0645	468	30	429	28
Atka mackerel .....	Eastern AI/BS.					
	Jan 1–Apr 15 .....	0.0032	12,056	39	10,225	33
	Sept 1–Nov 1 .....	0.0032	12,056	39	10,225	33
	Central AI.					
	Jan–Apr 15 .....	0.0001	14,512	1	12,726	1
	HLA limit .....	0.0001	8,707	1	7,636	1
	Sept 1–Nov 1 .....	0.0001	14,512	1	12,726	1
	HLA limit .....	0.0001	8,707	1	7,636	1
	Western AI.					
	Jan–Apr 15 .....	0.0000	7,546	0	8,796	0
HLA limit .....	n/a	4,528	0	5,278	0	
Sept 1–Nov 1 .....	0.0000	7,546	0	8,796	0	
HLA limit .....	n/a	4,528	0	5,278	0	
Yellowfin sole <sup>2</sup> .....	BSAI .....	0.0647	187,530	n/a	160,740	n/a
Rock sole .....	BSAI .....	0.0341	80,370	2,741	66,975	2,284

TABLE 13—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUND FISH SIDEBOARD LIMITS—Continued

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2009 initial TAC <sup>1</sup>	2009 AFA catcher vessel sideboard limits	2010 initial TAC <sup>1</sup>	2010 AFA catcher vessel sideboard limits
Greenland turbot	BS	0.0645	4,327	279	4,182	270
	AI	0.0205	1,947	40	1,879	39
Arrowtooth flounder	BSAI	0.0690	63,750	4,399	51,000	3,519
Alaska plaice	BSAI	0.0441	42,500	1,874	25,500	1,125
Other flatfish	BSAI	0.0441	14,790	652	14,790	652
Pacific ocean perch	BS	0.1000	3,247	325	3,213	321
	Eastern AI	0.0077	3,751	29	3,715	29
	Central AI	0.0025	3,804	10	3,760	9
	Western AI	0.0000	5,822	0	5,760	0
Northern rockfish	BSAI	0.0084	7,160	60	6,000	50
Shortraker rockfish	BSAI	0.0037	387	1	387	1
Rougheye rockfish	BSAI	0.0037	539	2	552	2
Other rockfish	BS	0.0048	485	2	485	2
	AI	0.0095	472	4	472	4
Squid	BSAI	0.3827	1,675	641	1,675	641
Other species	BSAI	0.0541	42,500	2,299	29,088	1,574
Flathead sole	BS trawl gear	0.0505	53,580	2,706	44,650	2,255

<sup>1</sup> Aleutians Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, yellowfin sole, are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

<sup>2</sup> Section 679.64(b)(6) exempts AFA catcher vessels from a yellowfin sole sideboard limit because the 2009 and 2010 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (187,530 mt in 2009 and 160,740 mt in 2010) is greater than 125,000 mt.

Halibut and crab PSC limits listed in Table 14 that are caught by AFA catcher vessels participating in any groundfish fishery for groundfish other than pollock will accrue against the 2009 and 2010 PSC sideboard limits for the AFA catcher vessels. Sections 679.21(d)(8)

and (e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA catcher vessels once a 2009 or 2010 PSC sideboard limit listed in Table 14 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 14—FINAL 2009 AND 2010 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>	AFA catcher vessel PSC sideboard limit ratio	2009 and 2010 PSC limit after subtraction of PSQ reserves	2009 and 2010 AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish total <sup>4</sup>	n/a	n/a	228
	Turbot/arrowtooth/sablefish	n/a	n/a	0
	Rockfish (June 1–December 31)	n/a	n/a	2
	Pollock/Atka mackerel/other species	n/a	n/a	5
Red king crab Zone 1 <sup>3</sup>	n/a	0.299	175,921	52,600
<i>C. opilio</i> COBLZ <sup>3</sup>	n/a	0.168	3,884,550	652,604
<i>C. bairdi</i> Zone 1 <sup>3</sup>	n/a	0.330	875,140	288,796
<i>C. bairdi</i> Zone 2 <sup>3</sup>	n/a	0.186	2,652,210	493,311

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

**AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures**

The Regional Administrator has determined that many of the AFA catcher/processor and catcher vessel sideboard limits listed in Tables 15 and 16 are necessary as incidental catch to

support other anticipated groundfish fisheries for the 2009 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 15 and 16 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 15 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 16.

**TABLE 15—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES <sup>1</sup>**

[Amounts are in metric tons]

Species	Area	Gear types	2009 sideboard limit	2010 sideboard limit
Sablefish trawl	BS	trawl	18	17
	AI	trawl	0	0
Rock sole	BSAI	all	2,974	2,478
Greenland turbot	BS	all	30	29
	AI	all	10	9
Arrowtooth flounder	BSAI	all	128	102
Flathead sole	BSAI	all	1,929	1,607
Pacific ocean perch	BS	all	6	6
	Eastern AI	all	75	74
	Central AI	all	4	4
	Western AI	all	23	23
Northern rockfish	BSAI	all	50	42
Shortraker rockfish	BSAI	all	7	7
Rougheye rockfish	BSAI	all	10	10
Other rockfish	BS	all	14	14
	AI	all	13	13
Squid	BSAI	all	37	37
“Other species”	BSAI	all	340	233

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

**TABLE 16—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES <sup>1</sup>**

[Amounts are in metric tons]

Species	Area	Gear types	2009 sideboard limit	2010 sideboard limit
Pacific cod	BSAI	hook-and-line	0	0
	BSAI	pot	10	10
	BSAI	jig	0	0
Sablefish	BS	trawl	105	97
	AI	trawl	30	28
Atka mackerel	all	all	78	66
	Central AI	all	2	2
	Western AI	all	0	0
Greenland turbot	BS	all	279	270
	AI	all	40	39
Arrowtooth flounder	BSAI	all	4,399	3,519
Flathead sole	BSAI	all	2,706	2,255
Rock sole	BSAI	all	2,741	2,284
Pacific ocean perch	BS	all	325	321
	Eastern AI	all	29	29
	Central AI	all	10	9
	Western AI	all	0	0
Northern rockfish	BSAI	all	60	50
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BSAI	all	2	2
Other rockfish	BS	all	2	2
	AI	all	4	4
Squid	BSAI	all	641	641
“Other species”	BSAI	all	2,299	1,574

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

## Response to Comments

NMFS received two letters of comment in support and one letter of comment opposed to the proposed 2009 and 2010 harvest specifications. NMFS has organized these letters into 30 comments. These comments are summarized and responded to below.

*Comment 1:* Adopt tier 3 designation for Eastern Bering Sea pollock.

*Response:* Groundfish fisheries are managed at tiers 1 through 6 based on the level of information available for determining maximum sustainable yield and biomass. Fisheries with more reliable information are managed at lower tier numbers. In November 2008, the Council's BSAI Plan Team reviewed the information available for the Bering Sea pollock fishery and recommended that the fishery should be managed at the tier 1b level. At the December 2008, Council meeting, the SSC concurred with the BSAI Plan Team and the stock assessment authors that the appropriate designation is tier 1b. The SSC further noted that there is sufficient information to determine  $B_{msy}$  and the probability density function for  $F_{msy}$ . Because of this, NMFS believes that it is appropriate for the Council to adopt an OFL and TAC based on tier 1b status for Eastern Bering Sea pollock.

*Comment 2:* Suspend fishing on spawning aggregations and restore Winter Halibut Savings Area closure.

*Response:* The Winter Halibut Savings Area (located to the north of the eastern Aleutian Islands) was established to protect juvenile halibut from the effects of trawling during the winter months. It was one of the earliest measures to implement fishing restrictions in the Alaska groundfish fisheries following passage of the Magnuson-Stevens Fishery Conservation and Management Act in 1976. This savings area was in effect as the Alaska groundfish fishery transitioned from a foreign fishery to a domestic fishery, but was superseded by more applicable management protection areas and fisheries closures as the domestic groundfish fisheries matured, including PSC limits for halibut. Current stock assessment models account for fishing mortality. Whether the fish is harvested in or out of the spawning season yields the same mortality upon the stock.

*Comment 3:* Develop proposals for creation of no-take marine reserves in order to serve as experimental control areas which will increase the understanding of climate impacts and fulfill the Council's obligations under the Steller sea lion (SSL) Recovery Plan.

*Response:* This comment is beyond the scope of the annual harvest

specifications for groundfish in the Bering Sea and Aleutian Islands. No-take reserves are not warranted absent specific research projects. NMFS has and continues to fund, conduct, and coordinate numerous scientific studies and research projects in the Bering Sea, including ones associated with climate and ecosystem changes. We believe the SSL recovery plan has been appropriately implemented, and NMFS continues to assess the recovery status of the western SSL population.

Ongoing research efforts such as that undertaken by the Alaska Fisheries Science Center and the Bering Sea Integrated Ecosystem Research Program (<http://bsierp.nprb.org>) are studying many focal areas of this ecosystem, including a range of oceanographic, climate, and atmospheric studies. As additional data about the effects of climate or other ecosystem changes on fish becomes available, it will be integrated into NMFS' stock assessment efforts.

*Comment 4:* A council member dismissed the significance of a letter from the public. This indicates a greater need for NMFS oversight.

*Response:* NMFS is not responsible for, and does not have the authority to regulate the opinions of individual Council members who are not NMFS employees. However, the Secretary of Commerce does have the responsibility to review Council actions to ensure compliance with the Magnuson-Stevens Act (MSA) and other applicable public laws. NMFS carries out these reviews on behalf of the Secretary of Commerce. The opinion of an individual Council member will not influence the Secretary of Commerce in conducting the required and appropriate oversight of Council actions.

*Comment 5:* Pollock catch limits may have effects upon other species (including pinnipeds) and the ecosystem as a whole.

*Response:* NMFS agrees that the removal of pollock from the marine ecosystem may have impacts on parts of the ecosystem dependent on pollock (e.g., marine mammals), and includes ecosystem considerations in the annual stock assessments used for determining catch limits. NMFS analyzed the impacts of the federal groundfish fisheries on the North Pacific ecosystem in the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (January 2007). NMFS is also involved in comprehensive Bering Sea ecosystem studies (see comment 3). Furthermore, in the 2008 SAFE, a large section is devoted to ecosystem considerations. As these endeavors produce scientifically valid

information, it is applied to catch limits, and other applicable management measures.

*Comment 6:* Eastern Bering Sea pollock stocks declined about 20 percent per year between 2003 and 2007.

*Response:* NMFS concurs that this is true between 2004 and 2007 for estimates of biomass for age 3+ fish. This has resulted in a reduction of OFL and ABC levels in recent years. It should be noted that when the 2006 recruitment year of pollock reaches the age of 3, the age 3+ biomass estimate is expected to rapidly increase.

*Comment 7:* The 2008 hydroacoustic survey showed a roughly 50 percent drop in Eastern Bering Sea pollock from 2007.

*Response:* NMFS agrees with this statement. This is one factor in the models that produced lower OFL and ABC levels in 2009 compared to previous years. However, as the 2006 year class matures, the biomass, OFLs, and ABCs are expected to increase (see comment 6).

*Comment 8:* The 2008 bottom trawl survey has the second lowest catch of Eastern Bering Sea pollock on record.

*Response:* NMFS agrees with this statement (see comments 6 and 7).

*Comment 9:* The 2009 spawning stock biomass for Eastern Bering Sea pollock is predicted to be 26 percent below  $B_{msy}$ .

*Response:* NMFS agrees with this statement. Despite the current low Eastern Bering Sea pollock spawning stock biomass, models suggest that the spawning stock will exceed  $B_{msy}$  in 2010. This is because the 2006 year class will begin to enter the spawning stock biomass at that time.

*Comment 10:* Recruitment of Eastern Bering Sea pollock was below average for most recent years.

*Response:* Recruitment in the Eastern Bering Sea pollock stock is characterized by periodic individual high recruitment years. Because of this, most aggregations of consecutive years throughout the available time series will result in below average recruitment for most years. Therefore, this is not an appropriate measure of the health of the stock. It should be noted that 2006 was a year of high pollock recruitment, and that this year class should recruit into the fishery in 2010.

*Comment 11:* The most recent Biological Opinions concluded that groundfish fisheries jeopardize the survival and recovery of Steller sea lions when pollock abundance was higher than current levels.

*Response:* The most recent biological opinion was completed in 2001 and analyzed the effects of the Alaska

groundfish fisheries on Steller sea lions and their designated critical habitat. This opinion concluded that the groundfish fisheries conducted within the Steller sea lion protection measures would not likely jeopardize the Steller sea lion's existence or result in adverse modification or destruction of critical habitat. NMFS implemented numerous measures to protect SSL in 2003. This includes the establishment of large fishery closures areas, harvest limits, and seasonal distribution of harvest for the pollock, Pacific cod, and Atka mackerel fisheries. Because the protection measures include a harvest control rule that reduces fishing effort with falling pollock abundance, the current measures take into account the potential for falling biomass and the need to reduce fishing as pollock abundance drops.

*Comment 12:* Northern fur seal populations have dropped from 2 million to about 0.6 million during the course of the pollock fishery.

*Response:* While there are not specific protection measures in place for northern fur seals with respect to the Bering Sea groundfish fisheries, NMFS has implemented several protection measures associated with the Pribilof Islands and surrounding waters. This includes, the Pribilof Island Habitat Conservation Zone, which is closed to trawling, a three nautical mile no groundfish fishing site around Walrus Island (east of St. Paul Island) and five pollock fishing closure areas in and around the Pribilof Islands.

*Comment 13:* Other pollock fisheries are at low levels and the Bogoslof fishery is closed.

*Response:* The Bogoslof pollock fishery remains closed resulting from an international agreement to prohibit fishing in the international waters of the Bering Sea until stocks reach 1 million mt. The Aleutian Island pollock fishery is open to directed fishing. However, fishing remains light due to the fact that most of the productive fishing areas remain closed to fishing in order to protect Steller sea lions. Despite this lack of fishing pressure, NMFS acknowledges that these stocks remain at levels lower than historic highs, and that the OFLs and ABCs for these stocks have been set accordingly.

*Comment 14:* Climate change has been proposed as a cause of declining stocks through a mechanism of pollock migrating to Russian waters, but recent years have been cold.

*Response:* The current models used to calculate OFL and ABC are largely based upon survey data, and do not incorporate migration of stocks to Russian waters. However, NMFS does

believe that it is important to explore alternative hypotheses, and to incorporate climate change and ecosystem factors into fisheries management whenever it is appropriate and scientifically sound. These considerations are included in the ecosystems chapter to the SAFE reports and are considered in the development of the stock assessments.

*Comment 15:* Climate driven change will increase the margin of error, thus more conservative estimates should be adopted.

*Response:* NMFS believes that the harvest specification process has been developed using precautionary principles. While NMFS believes that climate change may in fact reduce the certainty of stock assessments, NMFS also believes that this uncertainty will be apparent in the surveys and models used to estimate the health of fish stocks. Thus, this uncertainty will be included in models and the OFLs and ABCs will be set accordingly.

*Comment 16:* From 1998 to 2007, 49 percent of the A season pollock catch was concentrated in the Steller Sea Lion conservation area, which puts fishing pressure on the spawning stock.

*Response:* NMFS agrees with this statement. Any harvest of mature fish will apply fishing pressure to the spawning stock. This is true in both the A and B fishing seasons (see comment 2). Fishing mortality is an integral part of the Eastern Bering Sea pollock stock assessment and is a major factor considered when setting OFL and ABC limits. NMFS believes that the recommendations produced by the SAFE report authors and the BSAI Plan Team minimize danger to the stocks from excessive fishing pressure. This process is reviewed by the SSC and the Center for Independent Experts.

*Comment 17:* Incidental catch of juvenile pollock should be considered.

*Response:* NMFS fisheries observers during 2008 recorded that the incidental catch of small, i.e., juvenile pollock was low. However, the fishing mortality of juvenile pollock is incorporated into models used to project OFL, ABC, and the future health of pollock stocks.

*Comment 18:* Bycatch of other species such as Chinook and non-chinook salmon should be considered.

*Response:* NMFS and the Council have taken and are taking action to reduce salmon bycatch in the pollock trawl fishery because of the potential for negative impacts on salmon stocks, and bycatch in general for all fisheries. Existing measures have reduced salmon bycatch rates in the pollock fishery compared with what they would have been without the measures. NMFS and

the Council are engaged in a comprehensive process to evaluate these existing measures and develop alternative measures that may be necessary to further reduce salmon bycatch. Applicable Federal law requires that bycatch be minimized to the extent practicable and establishes processes for assessment and responsive implementation of appropriate management measures if and when warranted.

*Comment 19:* The rigorous scientific process used to develop the Council recommendations should be acknowledged.

*Response:* NMFS agrees. NMFS also believes that this has been acknowledged, and that the practices used by the Council have been codified in the MSA to require regional fishery management councils to not exceed recommendations of their SSCs.

*Comment 20:* The process is open, transparent, and the related information is widely available to the public.

*Response:* NMFS agrees with this statement.

*Comment 21:* The Council recommendation of Eastern Bering Sea pollock ABC and TAC of 815,000 mt is consistent with the recommendations of the SSC, the BSAI Plan Team, and the stock assessment author.

*Response:* NMFS agrees with this statement (see comment 1).

*Comment 22:* The 2009 Eastern Bering Sea pollock assessment is supported by three consecutive years of benthic trawl and hydroacoustic trawl survey data.

*Response:* NMFS agrees with this statement.

*Comment 23:* The assessment concludes that the probability of the Eastern Bering Sea pollock stock falling below B<sub>20</sub> percent is very low.

*Response:* NMFS agrees that this is consistent with the findings of the stock assessment authors and the review of the SSC, and that as the 2006 year class enters the fishery, the stocks are likely to return to B<sub>msy</sub> (see comment 9).

*Comment 24:* The SSC concluded that the Eastern Bering Sea pollock stock should be considered tier 1b because there is sufficient data to determine the B<sub>msy</sub>, and the probability density function for F<sub>msy</sub>.

*Response:* NMFS agrees that this is consistent with the findings of the SSC.

*Comment 25:* The Eastern Bering Sea pollock stock assessment authors, the SAFE, and the SSC cite strong scientific evidence that the 2006 year class appears to be strong, and that there is a strong likelihood that the Eastern Bering Sea pollock stock will approach B<sub>msy</sub> by 2010.

*Response:* NMFS agrees with this statement (see comment 9).

*Comment 26:* The Eastern Aleutian Island subarea is the only region with consistently increasing Steller sea lion counts.

*Response:* NMFS agrees with this statement. However, NMFS also believes that one sub-area is an insufficient indicator of the western Steller sea lion stock abundance trend overall, as other subarea counts have consistently declined or remained unchanged over time.

*Comment 27:* The precautionary approach used to determine the 2009 harvest specifications provide protection for Steller sea lions consistent with existing mitigation requirements.

*Response:* NMFS agrees with this statement.

*Comment 28:* The Bogoslof pollock stocks are large enough to allow a directed fishery. However by international agreement, this stock will remain closed until there is enough fish to also support a fishery in the international waters of the Bering Sea.

*Response:* NMFS agrees (see comment 13).

*Comment 29:* The Aleutian Island pollock fishery is large enough to support a directed fishery, but that this fishery is effectively limited through closure areas intended to protect Steller sea lions.

*Response:* NMFS agrees that very little of the Aleutian Island pollock TAC is likely to be harvested due to Steller sea lion protection measures and the location of pollock.

*Comment 30:* New large Marine Protection Areas are not needed to protect Bering Sea pollock stocks.

*Response:* NMFS agrees that these new areas are not currently warranted (see comment 3).

### Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

NMFS prepared a Final EIS for this action 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. In January 2009, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the Final EIS, ROD, and SIR for this action are available from NMFS (see ADDRESSES). The Final EIS analyzes the environmental consequences of the

groundfish harvest specifications and alternative harvest strategies on resources in the action area. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2009 and 2010 groundfish harvest specifications.

A SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Administrator, Alaska Region, has determined that (1) approval of the 2009 and 2010 harvest specifications, which were set according to the preferred harvest strategy in the Final EIS, do not constitute a change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2009 and 2010 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the Final EIS. Therefore, supplemental National Environmental Protection Act (NEPA) documentation is not necessary to implement the 2009 and 2010 harvest specifications.

The proposed harvest specifications were published in the **Federal Register** on December 10, 2008 (73 FR 75059). An Initial Regulatory Flexibility Analysis (IRFA) was prepared to evaluate the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the Exclusive Economic Zone (EEZ) off Alaska on small entities. The public comment period ended on January 9, 2009. No comments were received regarding the IRFA or the economic impacts of this action. A Final Regulatory Flexibility Analysis (FRFA) was prepared that meets the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601–612). Copies of the IRFA and FRFA prepared for this action are available from NMFS, Alaska Region (see ADDRESSES).

Each year, NMFS promulgates a rule establishing the harvest specifications pursuant to the adopted harvest strategy. While the harvest specification numbers may change from year to year, the harvest strategy for establishing those numbers does not change. Therefore, the impacts discussed in the IRFA are essentially the same. NMFS considers the annual rulemakings

establishing the harvest specification numbers to be a series of closely related rules stemming from the harvest strategy and representing one rule for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(c)). A summary of the FRFA follows.

The action analyzed in the IRFA is the adoption of a harvest strategy to govern the catch of groundfish in the BSAI. The preferred alternative is the status quo harvest strategy in which TACs fall within the range of ABCs recommended by the Council's harvest specification process and TACs recommended by the Council. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens. Significant issues raised by public comment are addressed in the preamble and not repeated here.

The directly regulated small entities include approximately 810 small catcher vessels, fewer than 20 small catcher/processors, and six CDQ groups. The entities directly regulated by this action are those that harvest groundfish in the exclusive economic zone 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 their annual gross receipts from all economic activities, including the revenue of their affiliated operations, totaled \$4 million per year or less. Data from 2006 were the most recent available to determine the number of small entities.

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 economically key groundfish species.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the BSAI optimum yield, in which case TACs would have been limited to the optimum yield. Alternative 3 would have set TACs to produce fishing rates equal to the most recent five-year average fishing rates. Alternative 4 would have set TACs to equal the lower limit of the BSAI optimum yield range. Alternative 5 would have set TACs equal to zero.

Alternative 5 is the “no action” alternative.

Alternatives 3, 4, and 5 produced smaller first wholesale revenue indices for both non-CDQ and CDQ sectors than Alternative 2. Alternative 1 revenues were the same as Alternative 2 revenues in the BSAI for both sectors. Moreover, higher Alternative 1 TACs are associated with maximum permissible ABCs, while Alternative 2 TACs are associated with the ABCs that have been recommended to the Council by the Plan Team and the SSC, and more fully consider other potential biological issues. For these reasons, Alternative 2 is the preferred alternative.

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Adverse impacts on marine mammals resulting from fishing activities conducted under these harvest specifications are discussed in the Final EIS (*see ADDRESSES*).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2008, and Council consideration and recommendations occurred in December 2008. Accordingly, NMFS review could not begin until January 2009. For all fisheries not currently closed because the TACs established under the 2008 and 2009 final harvest specifications (73 FR 10160, February 26, 2008) were not reached, the likely possibility exists that they will be closed prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. Certain fisheries, such as those for pollock and Pacific cod 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 these fisheries. Any delay in allocating the final TACs 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 21, 2009, which is the start of the 2009 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 result in the needless discard of sablefish that are caught along with Pacific halibut as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2009 and 2010 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).

#### 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 purpose is to announce the final 2009 and 2010 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2009 and 2010 fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the BSAI fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

**Authority:** 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: February 9, 2009.

**Samuel D. Rauch III,**  
*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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