

of this section. BFT quotas are specified in whole weight.

(1) \* \* \*

(i) Catches from vessels for which General category Atlantic Tunas permits have been issued and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). The amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold under the General category quota is 47.1 percent (448.6 mt) of the baseline annual U.S. BFT quota, and is apportioned as follows:

(A) January 1 through January 31° - 5.3 percent (23.8 mt);

(B) June 1 through August 31° - 50 percent (224.3 mt);

(C) September 1 through September 30 - 26.5 percent (118.9 mt);

(D) October 1 through November 30 - 13 percent (58.3 mt); and

(E) December 1 through December 31° - 5.2 percent (23.3 mt).

\* \* \* \* \*

(2) *Angling category quota.* In accordance with the framework procedures of the Consolidated HMS FMP, prior to each fishing year, or as early as feasible, NMFS will establish the Angling category daily retention limits. The total amount of BFT that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling permit or an HMS Charter/Headboat permit has been issued is 19.7 percent (187.6 mt) of the baseline annual U.S. BFT quota. No more than 2.3 percent (4.3 mt) of the annual Angling category quota may be large medium or giant BFT. In addition, over each 2 consecutive-year period (starting in 2009, inclusive), no more than 10 percent of the annual U.S. BFT quota, inclusive of the allocation specified in paragraph (a)(3) of this section, may be school BFT. The Angling category quota includes the amount of school BFT held in reserve under paragraph (a)(7)(ii) of this section. The size class subquotas for BFT are further subdivided as follows:

(i) After adjustment for the school BFT quota held in reserve (under paragraph (a)(7)(ii) of this section), 52.8 percent (42.1 mt) of the school BFT Angling category quota may be caught, retained, possessed, or landed south of 39° 18' N. lat. The remaining school BFT Angling category quota (37.6 mt) may be caught, retained, possessed or landed north of 39° 18' N. lat.

(ii) An amount equal to 52.8 percent (45.2 mt) of the large school/small medium BFT Angling category quota

may be caught, retained, possessed, or landed south of 39° 18' N. lat. The remaining large school/small medium BFT Angling category quota (40.4 mt) may be caught, retained, possessed or landed north of 39° 18' N. lat.

(iii) An amount equal to 66.7 percent (2.9 mt) of the large medium and giant BFT Angling category quota may be caught, retained, possessed, or landed south of 39° 18' N. lat. The remaining large medium and giant BFT Angling category quota (1.4 mt) may be caught, retained, possessed or landed north of 39° 18' N. lat.

(3) *Longline category quota.* The total amount of large medium and giant BFT that may be caught incidentally and retained, possessed, or landed by vessels that possess Longline category Atlantic Tunas permits is 8.1 percent (77.1 mt) of the baseline annual U.S. BFT quota. No more than 60.0 percent (46.3 mt) of the Longline category quota may be allocated for landing in the area south of 31° 00' N. lat. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels fishing in the Northeast Distant gear restricted area as specified at § 635.23(f)(3).

(4) \* \* \*

(i) The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels that possess Purse Seine category Atlantic Tunas permits is 18.6 percent (177.2 mt) of the baseline annual U.S. BFT quota. The directed purse seine fishery for BFT commences on July 15 of each year unless NMFS takes action to delay the season start date. Based on cumulative and projected landings in other commercial fishing categories, and the potential for gear conflicts on the fishing grounds or market impacts due to oversupply, NMFS may delay the BFT purse seine season start date from July 15 to no later than August 15 by filing an adjustment with the Office of the Federal Register prior to July 1.

\* \* \* \* \*

(5) *Harpoon category quota.* The total amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold by vessels that possess Harpoon category Atlantic Tunas permits is 3.9 percent (37.1 mt) of the baseline annual U.S. BFT quota. The Harpoon category fishery closes on November 15 each year.

\* \* \* \* \*

(7) \* \* \*

(i) The total amount of BFT that is held in reserve for inseason or annual adjustments and fishery-independent research using quotas or subquotas is 2.5 percent (23.8 mt) of the baseline

annual U.S. BFT quota. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion of this reserve for inseason or annual adjustments to any category quota in the fishery.

(ii) The total amount of school BFT that is held in reserve for inseason or annual adjustments and fishery-independent research is 18.5 percent (18.1 mt) of the total school BFT Angling category quota as described under paragraph (a)(2) of this section. This amount is in addition to the amounts specified in paragraph (a)(7)(i) of this section. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion of the school BFT Angling category quota held in reserve for inseason or annual adjustments to the Angling category.

\* \* \* \* \*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131363-91412-01]

RIN 0648-XS44

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Proposed 2010 and 2011 Harvest Specifications for Groundfish

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes 2010 and 2011 harvest specifications and prohibited species catch allowances for the groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) management area. This action is necessary to establish harvest limits for groundfish during the 2010 and 2011 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. 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: Comments must be received by January 4, 2010.

**ADDRESSES:** Send comment to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–XS44, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- *Mail:* P.O. Box 21668, Juneau, AK 99802.

- *Fax:* (907) 586–7557.

- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS) and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>. Copies of the final 2008 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the Bering Sea and Aleutian Islands, dated November 2008, are available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, phone 907–271–2809, or from the Council's Web site at <http://alaskafisheries.noaa.gov/npfmc>.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907–586–7269.

**SUPPLEMENTARY INFORMATION:** Federal regulations at 50 CFR part 679 implement the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and govern the groundfish fisheries in the BSAI. The Council prepared the FMP and NMFS approved

it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and the “other species” category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). Section 679.20(c)(1) further requires NMFS to publish proposed harvest specifications in the **Federal Register** and solicit public comments on proposed annual TACs and apportionments thereof, 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, American Fisheries Act allocations, Amendment 80 allocations, and Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii). The proposed harvest specifications set forth in Tables 1 through 12 of this action satisfy these requirements.

Under § 679.20(c)(3), NMFS will publish the final harvest specifications for 2010 and 2011 after (1) considering comments received within the comment period (see **DATES**), (2) consulting with the Council at its December 2009 meeting, and (3) considering new information presented in the final 2009 SAFE reports prepared for the 2010 and 2011 groundfish fisheries.

#### **Other Actions Potentially Affecting the 2010 and 2011 Harvest Specifications**

The Council is developing an amendment to the FMP to comply with Magnuson-Stevens Act requirements associated with annual catch limits and accountability measures. That amendment may result in revisions to how total annual groundfish mortality is estimated and accounted for in the annual SAFE reports, which in turn may affect the OFL, ABC, and TAC for certain groundfish species. NMFS will attempt to identify additional sources of mortality to groundfish stocks not currently reported or considered by the groundfish stock assessments in recommending OFL, ABC, and TAC for certain groundfish species. These additional sources of mortality may include recreational fishing, subsistence fishing, catch of groundfish during the NMFS trawl and hook-and-line surveys, catch taken under experimental fishing permits issued by NMFS, discarded

catch of groundfish in the commercial halibut fisheries, use of groundfish as bait in the crab fisheries, or other sources of mortality not yet identified.

At its October 2009 meeting the Council approved Amendment 95 to the FMP. This amendment would separate skates from the “other species” category so that individual OFLs, ABCs, and TACs may be established for skates. If the Secretary of Commerce approves the amendment, the change would be in effect for the 2011 fishing year.

At its April 2009 meeting the Council adopted Amendment 91 to the FMP. This amendment would establish new measures to minimize Chinook salmon bycatch in the Bering Sea pollock fisheries, including new Chinook salmon PSC limits that when reached would prohibit directed fishing for pollock. If approved, Amendment 91 could be effective by 2011.

#### *Proposed ABC and TAC Harvest Specifications*

The proposed ABC levels are based on the best available biological 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 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.

Appendix A to the final 2008 SAFE report dated November 2008 (see **ADDRESSES**) sets forth the best information currently available. Information on the status of stocks, including the 2009 survey results, will be updated and considered by the Council's Groundfish Plan Team (Plan Team) in November 2009 for the 2009 SAFE report. The final 2010 and 2011 harvest specifications will be based on the 2009 SAFE report.

In October 2009, the Scientific and Statistical Committee (SSC), Advisory Panel, and the Council reviewed the Plan Team's recommended proposed 2010 and 2011 OFL and ABC amounts. The SSC concurred with the Plan Team's recommendations. The recommendations are based on rollovers of the current 2010 amounts, except for Bering Sea pollock. The Bering Sea pollock OFL and ABC amounts are based on 2009 amounts that are lower than the 2010 amounts. This recommendation uses the best

information available from the 2008 stock assessments.

The Council adopted the OFL and ABC amounts recommended by the SSC (Table 1). The Council recommended that all the proposed 2010 and 2011 TAC amounts be set equal to the 2010 TAC amounts except for Bering Sea pollock that was set equal to the 2009 TAC amount. The Plan Team recommended and the SSC, AP, and Council approved the use of the lower amount used in 2009 as a notice to the public that the 2010 Bering Sea pollock spawning biomass is not expected to be as high as projected in 2008.

As in previous years, the Plan Team, Advisory Panel, SSC, and Council recommended that total removals of Pacific cod from the BSAI not exceed ABC recommendations. Accordingly,

the Council recommended that the proposed 2010 and 2011 Pacific cod TACs be adjusted downward from the ABCs by amounts equal to 3 percent of the ABC. This adjustment is necessary to account for the guideline harvest level established for Pacific cod by the State of Alaska (State) for a State-managed fishery that occurs in State waters in the AI subarea.

Finally, the Council recommended using the 2010 PSC allowances for the proposed 2010 and 2011 PSC allowances. The Council will reconsider the OFL, ABC, TAC, and PSC amounts in December 2009 after the Plan Team incorporates new status of groundfish stocks information into a final 2009 SAFE report for the 2010 and 2011 BSAI groundfish fisheries. None of the Council's recommended proposed TACs

for 2010 or 2011 exceeds the recommended 2010 or 2011 proposed ABCs for any species category. NMFS finds the Council's recommended proposed 2010 and 2011 OFL, ABC, and TAC amounts consistent with the best available information on the biological condition of the groundfish stocks.

The proposed amounts are subject to change pending the completion of the 2009 SAFE report and the Council's recommendations for final 2010 and 2011 harvest specifications during its December 2009 meeting. Table 1 lists the proposed 2010 and 2011 OFL, ABC, TAC, initial TAC (ITAC), and CDQ amounts for groundfish for the BSAI. The proposed apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1—PROPOSED 2010 AND 2011 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUND FISH IN THE BSAI<sup>1</sup>  
(Amounts are in metric tons)

Species	Area	Proposed 2010 and 2011				
		OFL	ABC	TAC	ITAC <sup>2</sup>	CDQ <sup>3,4,5</sup>
Pollock	BS	977,000	815,000	815,000	733,500	81,500
	AI	36,800	30,400	19,000	17,100	1,900
	Bogoslof	58,400	7,970	10	10	.....
Pacific cod <sup>4</sup>	BSAI	235,000	199,000	193,030	172,376	20,654
Sablefish <sup>5</sup>	BS	2,980	2,520	2,520	1,109	98
	AI	2,410	2,040	2,040	474	41
Atka mackerel	BSAI	84,400	71,100	71,100	63,492	7,608
	EAI/BS	.....	22,900	22,900	20,450	2,450
	CAI	.....	28,500	28,500	25,451	3,050
	WAI	.....	19,700	19,700	17,592	2,108
Yellowfin sole	BSAI	210,000	198,000	180,000	160,740	19,260
Rock sole	BSAI	314,000	310,000	75,000	66,975	8,025
Greenland tubot	BSAI	14,400	7,130	7,130	6,061	n/a
	BS	.....	4,920	4,920	4,182	526
	AI	.....	2,210	2,210	1,879	.....
Arrowtooth flounder	BSAI	196,000	161,000	60,000	51,000	6,420
Flathead sole	BSAI	81,800	69,800	50,000	44,650	5,350
Other flatfish <sup>6</sup>	BSAI	23,100	17,400	17,400	14,790	.....
Alaska plaice	BSAI	354,000	275,000	30,000	25,500	.....
Pacific ocean perch	BSAI	22,100	18,600	18,600	16,447	n/a
	BS	.....	3,780	3,780	3,213	.....
	EAI	.....	4,160	4,160	3,715	445
	CAI	.....	4,210	4,210	3,760	450
	WAI	.....	6,450	6,450	5,760	690
Northern rockfish	BSAI	8,580	7,190	6,000	5,100	.....
Shortraker rockfish	BSAI	516	387	387	329	.....
Rougheye rockfish	BSAI	640	552	552	469	.....
Other rockfish <sup>7</sup>	BSAI	1,380	1,040	1,040	884	.....
	BS	.....	485	485	412	.....
	AI	.....	555	555	472	.....
Squid	BSAI	2,620	1,970	1,970	1,675	.....
Other species <sup>8</sup>	BSAI	80,700	63,680	34,221	29,088	.....
Total	.....	2,706,826	2,259,779	1,585,000	1,411,768	152,968

<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)(1), 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 percent), is further allocated by sector for a directed pollock fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(2)(i) and (ii), 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, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod), 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, roughey 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 Sebastolobus species except for Pacific ocean perch, northern, shortraker, and roughey 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. Pending approval of amendment 95 from the Secretary, skates will be broken out from the "other species" category in the 2011 fishing year. The OFL, ABC, and TAC for "other species" will be 42,507, 31,680, and 31,680 mt, respectively. The OFL, ABC, and TAC for skates will be 38,200, 32,000, and 30,000 mt, respectively.

#### *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 that 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of Bering Sea Greenland turbot and arrowtooth flounder be allocated to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires that 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 reserves 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.

Pursuant to § 679.20(a)(5)(i)(A)(1), NMFS proposes 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's examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in

target fisheries other than pollock from 1999 through 2009. During this 11-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 an 11-year average of 3.2 percent. Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), NMFS proposes 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's examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2009. During this 7-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 7-year average of 7 percent.

Pursuant to § 679.20(a)(8) and (10), NMFS proposes ICAs of 5,500 mt of flathead sole, 10,000 mt of rock sole, 2,000 mt of yellowfin sole, 50 mt each of Western and Central Aleutian District Pacific ocean perch, 100 mt of Eastern Aleutian District Pacific ocean perch, 50 mt for Western Aleutian District Atka mackerel, 75 mt for Central Aleutian District Atka mackerel, and 75 mt of Eastern Aleutian District and Bering Sea subarea Atka mackerel after subtraction of the 10.7 percent CDQ reserve. These allowances are based on NMFS's examination of the incidental catch in other target fisheries from 2003 through 2009.

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 that contributed to the non-specified reserve and the "other species" category during the year, provided that such apportionments do not result in overfishing (see § 679.20(b)(1)(i)).

#### *Allocations 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 10 percent for the CDQ program and 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 to June 10) and 60 percent of the DFA is allocated to the B season (June 10 to November 1) § 679.20(a)(5)(i)(B). 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 § 679.20(a)(5)(iii)(B)(2)(ii). In the AI subarea, 40 percent of the ABC is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season. Table 2 lists these proposed 2010 and 2011 amounts.

Section 679.20(a)(5)(i)(A)(4) also includes several specific requirements regarding Bering Sea subarea 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 2 lists the proposed 2010 and 2011 allocations of pollock TAC. Tables 9 through 12 list the AFA catcher/processor and catcher vessel harvesting sideboard limits. In past years, the proposed harvest specifications included text and tables describing pollock allocations to the Bering Sea subarea inshore pollock cooperatives and open access sector. These allocations are based on the submission of AFA inshore cooperative applications due to NMFS on December 1 of each calendar year. Because AFA inshore cooperative applications for 2010 have not been submitted to NMFS, thereby

preventing NMFS from calculating 2010 allocations, NMFS has not included inshore cooperative text and tables in these proposed harvest specifications. NMFS will post 2010 AFA inshore cooperative allocations on the Alaska Region Web site at <http://www.alaskafisheries.noaa.gov> when they become available in December 2009.

Table 2 also lists proposed seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest of pollock within the SCA, as defined at § 679.22(a)(7)(vii), is limited to 28 percent of the DFA until April 1 § 679.20(a)(5)(i)(C). 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 2 lists by sector these proposed 2010 and 2011 amounts.

TABLE 2—PROPOSED 2010 AND 2011 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	2010 and 2011 allocations	2010 and 2011 A season		2010 and 2011 B season <sup>1</sup>
		A season DFA	SCA harvest limit <sup>2</sup>	B season DFA
Bering Sea subarea TAC	815,000	n/a	n/a	n/a
CDQ DFA	81,500	32,600	22,820	48,900
ICA <sup>1</sup>	29,340	n/a	n/a	n/a
AFA Inshore	352,080	140,832	98,582	211,248
AFA Catcher/Processors <sup>3</sup>	281,664	112,666	78,866	168,998
Catch by C/Ps	257,723	103,089	n/a	154,634
Catch by C/Vs <sup>3</sup>	23,941	9,577	n/a	14,365
Unlisted C/P Limit <sup>4</sup>	1,408	563	n/a	845
AFA Motherships	70,416	28,166	19,716	42,250
Excessive Harvesting Limit <sup>5</sup>	123,228	n/a	n/a	n/a
Excessive Processing Limit <sup>6</sup>	211,248	n/a	n/a	n/a
Total Bering Sea DFA (non-CDQ)	704,160	281,664	197,165	422,496
Aleutian Islands subarea <sup>1</sup>	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	1,600	800	n/a	800
Aleut Corporation	15,500	10,600	n/a	4,900
Bogoslof District ICA <sup>7</sup>	10	n/a	n/a	n/a

<sup>1</sup> Pursuant to § 679.20(a)(5)(i)(A), the annual Bering Sea subarea pollock TAC, 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 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 to June 10) and 60 percent of the DFA is allocated to the B season (June 10 to 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 DFA (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 the SCA before April 1 or inside the SCA after April 1. If 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

<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/processers (C/Ps) shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed catcher/processers.

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

<sup>5</sup> Pursuant to § 679.20(a)(5)(i)(A)(6) NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the pollock DFAs not including CDQ.

<sup>6</sup> Pursuant to § 679.20(a)(5)(i)(A)(7) NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the pollock DFAs not including CDQ.

<sup>7</sup> The Regional Administrator proposes closing the Bogoslof pollock fishery for directed fishing under the final 2010 and 2011 harvest specifications for the BSAI. The amounts specified are for incidental catch 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 to the Amendment 80 and BSAI trawl limited access sectors, after subtraction of the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear (Table 3). 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

2011 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until November 1, 2010, when eligible participants apply for participation in the program.

Pursuant to § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and 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 proposes a 0.5 percent allocation of the Atka mackerel ITAC in the Eastern Aleutian District and Bering Sea subarea to jig gear in 2010 and 2011. Based on the proposed 2010 and 2011 TAC of 20,250 mt after subtractions of the CDQ reserve and ICA, the jig gear

allocation would be 102 mt for 2010 and 2011.

Section 679.20(a)(8)(iv) 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), 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 fishery categories: 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 fishery categories 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 for the first HLA fishery in all three fishery categories 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 allocation for any one of the three non-CDQ fishery categories allocated Atka mackerel TAC.

TABLE 3—PROPOSED 2010 AND 2011 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>2</sup>	Season <sup>1 3 4</sup>	2010 allocation by area			2011 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 .....	22,900	28,500	19,700	22,900	28,500	19,700
CDQ reserve .....	Total .....	2,450	3,050	2,108	2,450	3,050	2,108
	HLA <sup>5</sup> .....	n/a	1,830	1,265	n/a	1,830	1,265
	Total .....	75	75	50	75	75	50
ICA .....	Total .....	102	0	0	102	0	0
	Jig <sup>6</sup> .....	102	0	0	102	0	0
BSAI trawl limited access .....	Total .....	1,216	1,523	0	1,622	2,030	0
	A .....	608	761	0	811	1,015	0
	HLA .....	n/a	457	0	n/a	609	0
	B .....	608	761	0	811	1,015	0
	HLA .....	n/a	457	0	n/a	609	0
	Total .....	10,129	14,358	10,814	n/a	n/a	n/a
Amendment 80 limited access .....	A .....	5,065	7,179	5,407	n/a	n/a	n/a
	HLA .....	n/a	4,308	3,244	n/a	n/a	n/a
	B .....	5,065	7,179	5,407	n/a	n/a	n/a
	HLA .....	n/a	4,308	3,244	n/a	n/a	n/a
	Total .....	8,927	9,495	6,728	n/a	n/a	n/a
Amendment 80 cooperatives .....	A .....	4,464	4,747	3,364	n/a	n/a	n/a
	HLA .....	n/a	2,848	2,018	n/a	n/a	n/a
	B .....	4,464	4,747	3,364	n/a	n/a	n/a
	HLA .....	n/a	2,848	2,018	n/a	n/a	n/a
	Total .....	n/a	2,848	2,018	n/a	n/a	n/a

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

<sup>2</sup> Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, ICAs, and the jig gear allocation, 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>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 2010 and 2011, 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 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 TAC

Sections 679.20(a)(7)(i) and (ii) require that the Pacific cod TAC in the BSAI, after subtraction of 10.7 percent for the CDQ program, be allocated 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 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 2010 and 2011 the Regional Administrator proposes an ICA of 500 mt based on anticipated incidental catch in these 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 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.

The CDQ and non-CDQ season allowances by gear based on the proposed 2010 and 2011 Pacific cod TACs are listed in Table 4 based on the sector allocation percentages of Pacific cod set forth at §§ 679.20(a)(7)(i)(B) and 679.20(a)(7)(iv)(A); and the seasonal allowances of Pacific cod set forth at § 679.23(e)(5).

TABLE 4—PROPOSED 2010 AND 2011 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC  
[Amounts are in metric tons]

Gear sector	Percent	2010 and 2011 share of gear sector total	2010 and 2011 share of sector total	2010 and 2011 seasonal apportionment	
				Season	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	n/a	500	n/a	n/a
Hook-and-line/pot sub-total	n/a	104,304	n/a	n/a	n/a
Hook-and-line catcher/processors	48.7	n/a	83,547	Jan 1–Jun 10	42,609
				Jun 10–Dec 31	40,938
Hook-and-line catcher vessels ≥ 60 ft LOA	0.2	n/a	343	Jan 1–Jun 10	175
				Jun 10–Dec 31	168
Pot catcher/processors	1.5	n/a	2,573	Jan 1–Jun 10	1,312
				Sept 1–Dec 31	1,261
Pot catcher vessels ≥ 60 ft LOA	8.4	n/a	14,410	Jan 1–Jun 10	7,349
				Sept 1–Dec 31	7,061
Catcher vessels < 60 ft LOA using hook-and-line or pot gear.	2	n/a	3,431	n/a	n/a
Trawl catcher vessels	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 processors	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 for 2010 only <sup>2</sup>	n/a	3,795	n/a	Jan 20–Apr 1	2,847
				Apr 1–Jun 10	949
				Jun 10–Nov 1	0
Amendment 80 cooperative for 2010 only <sup>2</sup>	n/a	19,303	n/a	Jan 20–Apr 1	14,477
				Apr 1–Jun 10	4,826
				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 proposes an ICA of 500 mt for 2010 and 2011 based on anticipated incidental catch in these fisheries.

<sup>2</sup> The 2011 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, 2010.

*Sablefish Gear Allocation*

Section 679.20(a)(4)(iii) and (iv) requires the allocation of sablefish TACs for the Bering Sea and AI subareas between trawl gear 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)(ii)(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 2010 fishing year to ensure those fisheries are conducted

concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries would reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries would remain closed at the beginning of each fishing year until the final harvest specifications for the sablefish IFQ fisheries are in effect. Table 5 lists the proposed 2010 and 2011 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 5—PROPOSED 2010 AND 2011 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2010 Share of TAC	2010 ITAC <sup>1</sup>	2010 CDQ reserve	2011 Share of TAC	2011 ITAC	2011 CDQ reserve
Bering Sea:							
Trawl .....	50	1,260	1,071	95	1,260	1,071	95
Hook-and-line gear <sup>2</sup> .....	50	1,260	n/a	252	n/a	n/a	n/a
Total .....	100	2,520	1,071	347	2,520	1,071	95
Aleutian Islands:							
Trawl .....	25	510	434	38	510	434	38
Hook-and-line gear <sup>2</sup> .....	75	1,530	n/a	306	n/a	n/a	n/a
Total .....	100	2,040	434	344	2,040	434	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. Section 679.20(b)(1) does not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

*Allocation of the Aleutian Islands Pacific Ocean Perch, Flathead Sole, Rock Sole, and Yellowfin Sole TACs*

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 and BSAI trawl limited access sectors for Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole TACs in the BSAI, 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, 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 2011 allocations for Amendment 80 species between

Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until November 1, 2010, when eligible participants apply for participation in the program. Table 6 lists the proposed 2010 and 2011 allocations and seasonal apportionments of the Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole TACs.

TABLE 6—PROPOSED 2010 AND 2011 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAs), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	2010 and 2011 allocations					
	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District			
	BSAI	BSAI	BSAI	BSAI	BSAI	BSAI
TAC .....	4,160	4,210	6,450	50,000	75,000	180,000
CDQ .....	445	450	690	5,350	8,025	19,260
ICA .....	100	50	50	5,000	10,000	2,000
BSAI trawl limited access .....	361	371	114	0	0	28,438
Amendment 80 .....	3,253	3,339	5,596	39,650	56,975	130,302
Amendment 80 limited access for 2010 only <sup>1</sup> .....	1,725	1,770	2,967	4,658	14,174	52,109
Amendment 80 cooperatives for 2010 only <sup>1</sup> .....	1,528	1,568	2,629	34,992	42,801	78,193

<sup>1</sup> The 2011 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, 2010.



*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 2010 and 2011 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) allocate 326 mt of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the prohibited species quota (PSQ) reserve for use by the groundfish CDQ program. Section 679.21(e)(1)(vi) specifies 29,000 fish as the 2010 and 2011 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)(viii) specifies 700 fish as the 2010 and 2011 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)(vii) specifies 42,000 fish as the 2010 and 2011 non-Chinook salmon PSC limit. Section 679.21(e)(3)(i)(A)(3)(i) 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. The regulations and allocations of Chinook salmon are subject to change in 2011 pending approval of amendment 91 to the FMP.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Due to the lack of new information as of October 2009 regarding PSC limits and apportionments, the Council recommended and NMFS proposes using the crab and herring 2010 and 2011 PSC limits and apportionments for the proposed 2010 and 2011 limits and apportionments. The Council will reconsider these amounts in December 2009. Pursuant to § 679.21(e)(3)(i)(A)(1), 10.7 percent of each PSC limit specified for crab is allocated as a PSQ reserve for use by the groundfish CDQ program.

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)(i), the proposed 2010 and 2011 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit derives from the mature female abundance estimate of more than 8.4 million king crab and the effective spawning biomass estimate of more than 55 million lbs (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 allowance based on the need to optimize the groundfish harvest relative to red king crab bycatch. NMFS proposes the Council's recommendation that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC allowance within the RKCSS (Table 7b).

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)(ii), the calculated 2010 and 2011 *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 derive 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)(iii), 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)(v), 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 2010 and 2011 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 proposed for 2010 and 2011 is 1,697 mt for all trawl gear as presented in Tables 7a and 7b.

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 7a. The amount of the 2010 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 and to the Amendment 80 limited access fishery as presented in Tables 7d and e. PSC cooperative quota assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. The 2011 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until November 1, 2010, when eligible participants apply to participate in the program. Section 679.21(e)(3)(i)(B) requires 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 limits into PSC bycatch allowances among six fishery categories. Table 7c 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 proposes to exempt 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 2009, total groundfish catch for the pot gear fishery in the BSAI was approximately 15,000 mt, with an associated halibut bycatch mortality of about 1 mt. The 2009 jig gear fishery harvested about 33 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

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. NMFS proposes the Council's recommendation of the seasonal PSC apportionments in Tables 7c and 7e to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 7a—PROPOSED 2010 AND 2011 APPORTIONMENT OF PROHIBITED SPECIES CATCH (PSC) ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species and area	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
						2010	2011	
Halibut mortality (mt)								
BSAI .....	900	832	3,675	3,349	393	2,425	2,375	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>1</sup> .....	n/a	n/a	197,000	175,921	21,079	98,920	93,432	53,797
<i>C. opilio</i> (animals)								
COBLZ <sup>2</sup> .....	n/a	n/a	4,350,000	3,884,550	465,450	2,148,156	2,028,512	1,248,494
<i>C. bairdi</i> crab (animals)								
Zone 1 <sup>2</sup> .....	n/a	n/a	980,000	875,140	104,860	414,641	391,538	411,228
<i>C. bairdi</i> crab (animals)								
Zone 2 .....	n/a	n/a	2,970,000	2,652,210	317,790	706,284	667,031	1,241,500

<sup>1</sup> Section 679.21(e)(3)(i)(A)(2) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(A) allocates 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 § 679.2 for definitions of zones.

TABLE 7b—PROPOSED 2010 AND 2011 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH (PSC) 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
Greenland turbot/arrowtooth flounder/sablefish .....	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>2</sup> .....	184	n/a
Red king crab savings subarea non-pelagic trawl gear <sup>3</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> Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.

<sup>3</sup> In October 2009 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 allowance (see § 679.21(e)(3)(ii)(B)(2)).

TABLE 7c—PROPOSED 2010 AND 2011 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 .....	162	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, April 15 .....	3	0	2,000	0	1,000
Pacific cod .....	585	6,000	50,000	60,000	50,000
Pollock/Atka mackerel/other species .....	125	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.

TABLE 7d—PROPOSED 2010 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

Year	Prohibited species and zones <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
2010 .....	1754	70,237	1,461,309	304,290	518,898

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

TABLE 7e—PROPOSED 2010 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 LIMITED ACCESS FISHERIES

Amendment 80 trawl limited access fisheries	Prohibited species and zone <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 .....	353	5,594	601,032	58,002	142,335
Jan 20–Jul 1 .....	208	5,410	591,926	53,727	114,843
Jul 1–Dec 31 .....	146	184	9,106	4,274	27,492
Rock sole/other flat/flathead sole <sup>2</sup> .....	218	22,921	85,051	52,053	44,231
Jan 20–Apr 1 .....	174	22,585	82,173	45,921	38,635
Apr 1–Jul 1 .....	20	168	1,511	3,214	2,798
Jul 1–Dec 31 .....	24	168	1,366	2,918	2,798
Turbot/arrowtooth/ sablefish <sup>3</sup> .....	n/a	n/a	n/a	n/a	n/a
Rockfish .....	49	n/a	n/a	n/a	n/a
Pacific cod .....	1	168	765	297	819
Pollock/Atka mackerel/other species <sup>4</sup> .....	49	0	0	0	0
<b>Total Amendment 80 trawl limited access PSC .....</b>	<b>671</b>	<b>28,683</b>	<b>686,848</b>	<b>110,351</b>	<b>187,385</b>

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

<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.

*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 included in the annual SAFE report. NMFS proposes the Council’s recommendation that the

halibut DMRs developed and recommended by the International Pacific Halibut Commission (IPHC) for the 2009 BSAI groundfish fisheries be used for monitoring the proposed 2010 and 2011 halibut bycatch allowances (see Tables 7a–e). The IPHC developed the DMRs for the 2009 BSAI non-CDQ groundfish fisheries using the 10-year mean DMRs for those fisheries. The IPHC developed the DMRs for the 2009 BSAI CDQ groundfish fisheries using the 1998 to 2006 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 Economic Status Report of the final 2008 SAFE report dated November 2008. Table 8 lists the proposed 2010 and 2011 DMRs.

The proposed DMRs listed in Table 8 are subject to change pending the results of an updated analysis on halibut DMRs in the groundfish fisheries that IPHC staff is scheduled to present to the Council at its December 2009 meeting.

TABLE 8—PROPOSED 2010 AND 2011 ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut discard mortality rate (percent)
Non-CDQ hook-and-line .....	Greenland turbot .....	13
	Other species .....	11
	Pacific cod .....	11
	Rockfish .....	17
Non-CDQ trawl .....	Arrowtooth flounder .....	75
	Atka mackerel .....	76
	Flathead sole .....	70
	Greenland turbot .....	70
	Non-pelagic pollock .....	74
	Pelagic pollock .....	88
	Other flatfish .....	74
	Other species .....	70
	Pacific cod .....	70
	Rockfish .....	76
	Rock sole .....	80
	Sablefish .....	75
	Yellowfin sole .....	80
Non-CDQ pot .....	Other species .....	7
	Pacific cod .....	7
CDQ trawl .....	Atka mackerel .....	85
	Flathead sole .....	84
	Non-pelagic pollock .....	85
	Pelagic pollock .....	90
	Rockfish .....	82
	Rock sole .....	88
CDQ hook-and-line .....	Greenland turbot .....	4
	Pacific cod .....	10
CDQ pot .....	Pacific cod .....	7
	Sablefish .....	34

*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 for Amendment 68 to the FMP

for Groundfish of the GOA (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 and in the final 2010 and 2011 harvest specifications this would effectively close 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. Table 9 lists the proposed 2010

and 2011 catcher/processor sideboard limits. The basis for these proposed 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).

All harvests of groundfish sideboard species by listed AFA catcher/processors, whether as targeted catch or incidental catch, will be deducted from the proposed sideboard limits in Table 9. However, groundfish sideboard species that are delivered to listed AFA

catcher/processors by catcher vessels will not be deducted from the proposed 2010 and 2011 sideboard limits for the listed AFA catcher/processors.

TABLE 9—PROPOSED 2010 AND 2011 BSAI GROUND FISH SIDEBOARD LIMITS FOR LISTED AMERICAN FISHERIES ACT CATCHER/PROCESSORS (C/PS)  
[Amounts are in metric tons]

Target species	Area	1995–1997			2010 and 2011 ITAC available to all trawl C/Ps <sup>1</sup>	2010 and 2011 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch of total catch		
Sablefish trawl	BS	8	497	0.016	1,071	17
	AI	0	145	0	474	0
Atka mackerel	Central AI					
	A season <sup>2</sup>	n/a	n/a	0.115	12,688	1,459
	HLA limit	n/a	n/a	n/a	7,613	875
	B season <sup>2</sup>	n/a	n/a	0.115	12,688	1,459
	HLA limit <sup>3</sup>	n/a	n/a	n/a	7,613	875
	Western AI					
	A season <sup>2</sup>	n/a	n/a	0.2	8,771	1,754
	HLA limit	n/a	n/a	n/a	5,263	1,053
	B season <sup>2</sup>	n/a	n/a	0.2	8,771	1,754
	HLA limit <sup>3</sup>	n/a	n/a	n/a	5,263	1,053
Yellowfin sole <sup>4</sup>	BSAI	100,192	435,788	0.23	160,740	36,970
Rock sole	BSAI	6,317	169,362	0.037	66,975	2,478
Greenland turbot	BS	121	17,305	0.007	4,182	29
	AI	23	4,987	0.005	1,879	9
Arrowtooth flounder	BSAI	76	33,987	0.002	51,000	102
Flathead sole	BSAI	1,925	52,755	0.036	44,650	1,607
Alaska plaice	BSAI	14	9,438	0.001	25,500	26
Other flatfish	BSAI	3,058	52,298	0.058	14,790	858
Pacific ocean perch	BS	12	4,879	0.002	3,213	6
	Eastern AI	125	6,179	0.02	3,715	74
	Central AI	3	5,698	0.001	3,760	4
	Western AI	54	13,598	0.004	5,760	23
Northern rockfish	BSAI	91	13,040	0.007	5,100	36
Shortraker rockfish	BSAI	50	2,811	0.018	329	6
Rougeye rockfish	BSAI	50	2,811	0.018	469	8
Other rockfish	BS	18	621	0.029	412	12
	AI	22	806	0.027	472	13
Squid	BSAI	73	3,328	0.022	1,675	37
Other species	BSAI	553	68,672	0.008	29,088	233

<sup>1</sup> Aleutians Islands Pacific ocean perch, Atka mackerel, flathead sole, rock sole, and 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> 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 2010 and 2011, 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 2010 and 2011 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (158,740 mt) is greater than 125,000 mt.

Section 679.64(a)(2) and Tables 40 and 41 to part 679 establish a formula for 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 10 that are caught by listed AFA catcher/processors

participating in any groundfish fishery other than pollock will accrue against the proposed 2010 and 2011 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 proposed 2010 or 2011 PSC sideboard limit listed in Table 10 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 according to regulations at § 679.21(e)(3)(iv).

TABLE 10—PROPOSED 2010 AND 2011 BSAI PROHIBITED SPECIES SIDEBOARD LIMITS FOR AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSORS

PSC species and area	Ratio of PSC catch to total PSC	Proposed 2010 and 2011 PSC available to trawl vessels after subtraction of PSQ <sup>1</sup>	Proposed 2010 and 2011 C/P sideboard limit <sup>1</sup>
Halibut mortality .....	n/a	n/a	286
Red king crab Zone 1 <sup>2</sup> .....	0.007	175,921	1,231
<i>C. opilio</i> (COBLZ) <sup>2</sup> .....	0.153	3,884,550	594,336
<i>C. bairdi</i> .....	n/a	n/a	n/a
Zone 1 <sup>2</sup> .....	0.14	875,140	122,520
Zone 2 <sup>2</sup> .....	0.05	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(b), 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 formulas 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 11 and 12 list the proposed 2010 and 2011 AFA catcher vessel sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or as incidental catch, will be deducted from the proposed 2010 and 2011 sideboard limits listed in Table 11.

TABLE 11—PROPOSED 2010 AND 2011 BSAI GROUND FISH SIDEBOARD LIMITS FOR AMERICAN FISHERIES ACT CATCHER VESSELS (CVs)

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2010–2011 initial TAC <sup>1</sup>	2010 and 2011 AFA catcher vessel sideboard limits
Pacific cod .....	BSAI			
	Jig gear .....	0	2,413	0
	Hook-and-line CV			
	Jan 1–Jun 10 .....	0.0006	175	0
	Jun 10–Dec 31 .....	0.0006	168	0
	Pot gear CV			
	Jan 1–Jun 10 .....	0.0006	7,349	4
	Sept 1–Dec 31 .....	0.0006	7,061	4
	CV < 60 ft LOA using hook-and-line or pot gear	0.0006	3,431	2
	Trawl gear CV			
Jan 20–Apr 1 .....	0.8609	28,190	24,269	
Apr 1–Jun 10 .....	0.8609	4,190	3,608	
Jun 10–Nov 1 .....	0.8609	5,714	4,919	
Sablefish .....	BS trawl gear .....	0.0906	1,071	97
	AI trawl gear .....	0.0645	474	31
Atka mackerel .....	Eastern AI/BS			
	Jan 1–Apr 15 .....	0.0032	10,187	33
	Sept 1–Nov 1 .....	0.0032	10,187	33
	Central AI			
	Jan–Apr 15 .....	0.0001	12,688	1
	HLA limit .....	0.0001	7,613	1
	Sept 1–Nov 1 .....	0.0001	12,688	1
	HLA limit .....	0.0001	7,613	1
	Western AI			
	Jan–Apr 15 .....	0	8,771	0
HLA limit .....	n/a	5,263	0	
Sept 1–Nov 1 .....	0	8,771	0	
HLA limit .....	n/a	5,263	0	
Yellowfin sole <sup>2</sup> .....	BSAI .....	0.0647	160,740	n/a
Rock sole .....	BSAI .....	0.0341	66,975	2,284
Greenland turbot .....	BS .....	0.0645	4,182	270

TABLE 11—PROPOSED 2010 AND 2011 BSAI GROUND FISH SIDEBOARD LIMITS FOR AMERICAN FISHERIES ACT CATCHER VESSELS (CVS)—Continued

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2010–2011 initial TAC <sup>1</sup>	2010 and 2011 AFA catcher vessel sideboard limits	
Arrowtooth flounder	AI	0.0205	1,879	39	
	BSAI	0.069	51,000	3,519	
	Alaska plaice	BSAI	0.0441	25,500	1,125
		BSAI	0.0441	14,790	652
	Pacific ocean perch	BS	0.1	3,213	321
		Eastern AI	0.0077	3,715	29
		Central AI	0.0025	3,760	9
		Western AI	0	5,760	0
	Northern rockfish	BSAI	0.0084	5,100	43
BSAI		0.0037	329	1	
Rougheye rockfish	BSAI	0.0037	469	2	
Other rockfish	BS	0.0048	412	2	
	AI	0.0095	472	4	
Squid	BSAI	0.3827	1,675	641	
Other species	BSAI	0.0541	29,880	1,617	
Flathead sole	BS trawl gear	0.0505	44,650	2,255	

<sup>1</sup> Aleutians Islands Pacific ocean perch, Atka mackerel, flathead sole, rock sole, and 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 2010 and 2011 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (158,740 mt) is greater than 125,000 mt.

Halibut and crab PSC limits listed in Table 12 that are caught by AFA catcher vessels participating in any groundfish fishery other than pollock will accrue against the proposed 2010 and 2011 PSC sideboard limits for the AFA catcher vessels. Section 679.21(d)(8) and

(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for AFA catcher vessels once a proposed 2010 and 2011 PSC sideboard limit listed in Table 12 is reached. The PSC 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 12—PROPOSED 2010 AND 2011 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD (PSC) LIMITS FOR THE BSAI

[Amounts are in metric tons]

PSC species	Target fishery category <sup>1</sup>	AFA catcher vessel PSC sideboard limit ratio	Proposed 2010 and 2011 PSC limit after subtraction of PSQ reserves <sup>2</sup>	Proposed 2010 and 2011 AFA catcher vessel PSC sideboard limit <sup>2</sup>
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 <sup>3</sup>	n/a	n/a	228
	Turbot/arrowtooth/sablefish	n/a	n/a	0
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species	n/a	n/a	5
Red king crab Zone 1	n/a	0.299	175,921	52,600
<i>C. opilio</i> COBLZ <sup>4</sup>	n/a	0.168	3,884,550	652,604
<i>C. bairdi</i> Zone 1 <sup>4</sup>	n/a	0.33	875,140	288,796
<i>C. bairdi</i> Zone 2 <sup>4</sup>	n/a	0.186	2,652,210	493,311

<sup>1</sup> Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).

<sup>2</sup> Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

<sup>3</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>4</sup> Refer to § 679.2 for definitions of areas.

### Classification

NMFS has determined that the proposed specifications are consistent with the FMP and preliminarily determined that the proposed specifications are consistent 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 for the Final EIS. Copies of the Final EIS and Record of Decision for this action are available from NMFS (see **ADDRESSES**). The Final EIS analyzes the environmental consequences of the proposed groundfish harvest specifications and its alternatives on resources in the action area. The Final EIS found no significant environmental consequences from the proposed action or its alternatives.

NMFS also prepared an Initial Regulatory Flexibility Analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act. The IRFA evaluates the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the exclusive economic zone off of Alaska. While the specification numbers may change from year to year, the harvest strategy for establishing those numbers remains the same. NMFS therefore is using the same IRFA prepared in connection with the Final EIS. NMFS published notice of the availability of the IRFA and its summary in the classification section of the proposed harvest specifications for the groundfish fisheries in the BSAI in the **Federal Register** on December 15, 2006 (71 FR 75460). The comment period on the BSAI proposed harvest specifications and IRFA ended on January 16, 2007. NMFS did not receive any comments on the IRFA or the economic impacts of the rule generally.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble above. This IRFA 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). A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The action under consideration is 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 Act.

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 2005 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 equal to 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**).

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; Public Law 108–447.

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**James W. Balsiger,**

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

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