

objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 11, 2011, until the effective date of the final 2011 and 2012 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 26, 2011.

ADDRESSES: Send comments to James W. Balsiger, Administrator, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XA129, 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. Comment 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.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2011 Atka mackerel TAC in the BSAI was set at 20,900 metric tons (mt) in the Eastern Aleutian District and the Bering Sea subarea, 26,000 mt in the Central Aleutian District, and 18,100 mt in the Western Aleutian District by the final 2010 and 2011 harvest specification for groundfish in the BSAI (75 FR 11778, March 12, 2010).

In December 2010, the Council recommended a 2011 Atka mackerel TACs of 40,300 metric tons (mt) in the Eastern Aleutian District and the Bering Sea subarea, 12,800 mt in the Central Aleutian District, and 1,500 mt in the Western Aleutian District. These amounts are more in the Eastern Aleutian District and Bering Sea subarea, and less in the Central Aleutian District and Western Aleutian District than established by the final 2010 and 2011 harvest specification for groundfish in the BSAI (75 FR 11778, March 12, 2010). The TACs recommended by the Council are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2010, which NMFS has

determined is the best available scientific information for this fishery.

Regulations at § 679.20(a)(8)(ii)(A) apportion the Atka mackerel TAC allocated to the BSAI Atka mackerel trawl fisheries seasonally to distribute catch over time because Atka mackerel is a principal prey species for Steller sea lions listed as endangered under the Endangered Species Act. The first seasonal apportionment can be harvested quickly, and must reflect the TAC based on the best available scientific information to provide the opportunity to harvest available TAC in a manner consistent with the established Steller sea lion protection measures.

In accordance with § 679.25(a)(1)(iii) & (a)(2)(i)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2010 SAFE report for this fishery, the current BSAI Atka mackerel TAC is incorrectly specified. Consequently, the Regional Administrator is adjusting the 2011 Atka mackerel TACs to 40,300 mt in the Eastern Aleutian District and Bering Sea subarea, 11,280 mt in the Central Aleutian District, and 1,500 mt in the Western Aleutian District.

Pursuant to § 679.20(a)(8), Table 4 of the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010) is revised for the 2011 Atka mackerel TAC consistent with this adjustment. Table 4 includes the Steller sea lion protection measures effective January 1, 2011 (75 FR 77535, December 13, 2010), to insure that the BSAI groundfish fisheries off Alaska are not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or adversely modify its designated critical habitat.

TABLE 4—FINAL 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 ¹	Season ^{2,3,4}	2011 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District
TAC	n/a	40,300	11,280	1,500
CDQ reserve	Total	4,312	1,207	161
	A	2,156	603	80
	Critical habitat ⁵	n/a	60	n/a
	B	2,156	603	80
	Critical habitat ⁵	n/a	60	n/a
ICA	Total	75	75	40
Jig ⁶	Total	180	0	0
BSAI trawl limited access	Total	2,859	800	0
	A	1,429	400	0
	B	1,429	400	0

TABLE 4—FINAL 2011 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector ¹	Season ^{2,3,4}	2011 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District
Amendment 80 sectors	Total	32,875	9,198	1,300
	A	16,437	4,599	650
	B	16,437	4,599	650
Alaska Groundfish Cooperative	Total	19,181	5,389	755
	A	9,591	2,695	377
	Critical habitat ⁵	n/a	269	n/a
	B	9,591	2,695	377
	Critical habitat ⁵	n/a	269	n/a
Alaska Seafood Cooperative	Total	13,694	3,809	545
	A	6,847	1,904	272
	Critical habitat ⁵	n/a	190	n/a
	B	6,847	1,904	272
	Critical habitat ⁵	n/a	190	n/a

¹ 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).

² Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

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

⁴ Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to November 1.

⁵ Section 679.20(a)(8)(ii)(C) requires the TAC in area 542 shall be no more than 47% of ABC, and Amendment 80 cooperatives and CDQ groups are allowed limited to no more than 10% of an allocation may be harvested within waters 10 nm to 20 nm of Gramp Rock and Tag Island, as described on Table 12 to this part.

⁶ 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.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would

require harvests other than the appropriate allocations for Atka mackerel, based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 25, 2010, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

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

prior notice and opportunity for public comment. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 26, 2011.

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

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

Dated: January 6, 2011.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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