

Federal Register on December 30, 1998, and provide the opportunity for public comment. The interim specifications will be effective January 1, 1999.

Because these interim specifications are not required to be issued with prior notice and opportunity for public comment, the analytical requirements of the Regulatory Flexibility Act do not apply. Consequently, no regulatory flexibility analysis has been prepared.

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

Dated: December 28, 1998.

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981222313-8320-02; I.D. 122198A]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Area; Interim 1999 Harvest Specifications for Groundfish

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

ACTION: Interim 1999 harvest specifications for groundfish.

SUMMARY: NMFS issues interim 1999 total allowable catch (TAC) amounts for each category of groundfish, Community Development Quota (CDQ) amounts, and prohibited species catch (PSC) amounts for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to conserve and manage the groundfish resources in the BSAI and is intended to implement the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: The Interim Specifications are effective from 0001 hours, Alaska local time (A.L.T.), January 1, 1999, until the effective date of the final 1999 harvest specifications for BSAI groundfish, which will be published in the **Federal Register**.

ADDRESSES: The preliminary 1999 Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1998, is available from the North Pacific

Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, telephone 907-271-2809. The Final Supplemental Environmental Impact Statement as well as the Environmental Assessment (EA) for the 1999 Groundfish Harvest Specifications is available from the Alaska Region NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Shane Capron, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Federal regulations at 50 CFR part 679 that govern the groundfish fisheries in the BSAI implement the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it, under the Magnuson-Stevens Fishery Conservation and Management Act. General regulations that also pertain to the U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council met in October 1998 to review scientific information concerning groundfish stocks. The Council adopted for public review the preliminary SAFE Report for the 1999 BSAI groundfish fisheries. The preliminary SAFE Report, dated September 1998, provides an update on the status of stocks. Copies of the SAFE Report are available from the Council (see **ADDRESSEES**). The preliminary TAC amounts for each species are based on the best available biological and socioeconomic information. The Council recommended a preliminary total acceptable biological catch (ABC) of 2,379,976 metric tons (mt) and a preliminary total TAC of 1,925,000 mt for the 1999 fishing year.

Under § 679.20(c)(1), NMFS published in the December 30, 1998 **Federal Register**, proposed harvest specifications for BSAI groundfish for the 1999 fishing year. That document contains a detailed discussion of the 1999 groundfish harvest specifications and of the proposed 1999 TACs, initial TACs (ITACs) and related apportionments, ABC amounts, overfishing levels, PSC amounts, and associated management measures of the BSAI groundfish fishery including detailed information on the implementation of the American Fisheries Act (AFA).

This action provides interim harvest specifications and apportionments thereof for BSAI groundfish for the 1999 fishing year that will become available on January 1, 1999, and remain in effect until superseded by the final 1999 harvest specifications.

NMFS notes that the Council at its December 1998, meeting requested NMFS to implement an emergency interim rule establishing conservation measures to mitigate impacts of the BSAI pollock fishery on Steller sea lions and their critical habitat. NMFS is currently preparing an emergency rule to implement parts of the Council's recommendations as well as other measures necessary to ensure that the pollock trawl fishery does not jeopardize the continued existence, or adversely modify the critical habitat, of Steller sea lions. These emergency measures will likely revise these interim specifications for pollock.

Establishment of Interim TACs

Fifteen percent of the TAC for each target species or species group, except for the hook-and-line and pot gear allocation of sablefish, is automatically placed in a non-specified reserve (§ 679.20(b)(1)). The remainder is the initial TAC (ITAC). The AFA supersedes this provision for pollock because the 1999 TAC for this species is required to be fully allocated among the CDQ program, incidental catch allowance, and inshore, catcher/processor, and mothership directed fishery allowances.

Regulations at § 679.20(b)(1)(iii) require that one-half of each TAC amount placed in the non-specified reserve be allocated to the groundfish CDQ reserve, and that 20 percent of the hook-and-line and pot gear allocation of sablefish, be allocated to the fixed-gear sablefish CDQ reserve. The AFA requires that 10 percent of the pollock TAC be allocated to a pollock CDQ reserve (section 206). The groundfish and pollock CDQ reserves are not further apportioned by gear. Fifteen percent of the groundfish CDQ reserve established for squid, arrowtooth flounder, and "other species" is apportioned to a non-specific CDQ reserve. Regulations governing the use and release of the non-specific CDQ reserve are found at § 679.31(g). Regulations at § 679.21(e)(1)(i) also require that 7.5 percent of each PSC limit, with the exception of herring, be withheld as prohibited species quota (PSQ) reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at § 679.30 and § 679.31.

After subtraction of the CDQ reserves, the remainder of the non-specified reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing.

Regulations at § 679.20(c)(2)(ii) require that one-fourth of each proposed ITAC amount and apportionment thereof (not including the first seasonal allowance of pollock), one-fourth of each prohibited species catch (PSC) allowance established under § 679.21, and the first seasonal allowance of pollock TAC become effective 0001 hours, A.I.t., January 1, on an interim basis and remain in effect until superseded by the final groundfish harvest specifications.

A proposed rule was published in the **Federal Register** on November 9, 1998, (63 FR 60288) that would implement measures to mitigate effects of the Atka mackerel fishery on Steller sea lion critical habitat. NMFS anticipates that a final rule will be effective by January 20, 1999, the start of the 1999 trawl season, that will seasonally apportion the Atka mackerel TACs and revise the interim specifications for this species.

Apportionment of Pollock TAC to Vessels Using Nonpelagic Trawl Gear

Regulations at § 679.20(a)(5)(i)(B) authorize NMFS, in consultation with

the Council, to limit the amount of pollock that may be taken in the directed fishery for pollock using nonpelagic trawl gear. At its June 1998 meeting, the Council adopted management measures that, if approved by NMFS, would prohibit the use of nonpelagic trawl gear in the directed fishery for pollock and reduce specified prohibited species bycatch limits by amounts equal to anticipated savings in bycatch or bycatch mortality that would be expected from this prohibition. The Council did not take specific action to allocate zero amounts of pollock to the 1999 directed fishery for pollock with nonpelagic trawl gear under § 679.20(a)(5)(i)(B) because implementation of the Council's June action in time for the 1999 fishery was assumed.

NMFS recognizes that the Council's proposed prohibition on the use of nonpelagic trawl gear in the BSAI pollock fishery will not be effective in time for the 1999 pollock "A" season fishery that starts on January 20. Therefore, NMFS allocates 0 mt of the

BSAI pollock TAC to the directed fishery for pollock with nonpelagic trawl gear. The action is necessary to reduce unnecessary bycatch in the 1999 pollock fishery and to carry out the Council's intent for this fishery. For further discussion of this action see the proposed 1999 harvest specifications for BSAI groundfish published in the **Federal Register** on December 30, 1998.

Interim 1999 BSAI Groundfish Harvest Specifications

Table 1 provides interim TAC and CDQ amounts and apportionments thereof. Regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for the non-trawl sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota (IFQ) management plan. As a result, fishing for the non-trawl allocation of CDQ sablefish and sablefish harvested with fixed gear is prohibited until the effective date of the Final 1999 Groundfish Specifications.

TABLE 1.—INTERIM 1999 TAC AMOUNTS FOR GROUNDFISH AND APPORTIONMENTS THERE FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA ^{1 2}

| Species and component (if applicable) | Area and/or gear (if applicable) | Interim TAC | Interim CDQ |
|--|-------------------------------------|----------------|----------------|
| Pollock ² | | | |
| Inshore | BS | 197,012 | |
| Catcher/processor | BS | 157,610 | |
| Mothership | BS | 39,402 | |
| CDQ | BS | | 46,575 |
| Inshore | AI | 10,067 | |
| Catcher/processor | AI | 8,054 | |
| Mothership | AI | 2,013 | |
| CDQ | AI | | 2,380 |
| Inshore | BogDist | 423 | |
| Catcher/processor | BogDist | 338 | |
| Mothership | BogDist | 85 | |
| CDQ | BogDist | | 100 |
| Total Pollock | | 415,005 | 49,055 |
| Pacific Cod ³ | Jig | 893 | |
| | H/L & Pot | 22,759 | |
| | Trawl C/Vs | 10,487 | |
| | Trawl C/Ps | 10,487 | |
| CDQ | | | 3,938 |
| Total Pacific cod | | 44,625 | 3,938 |
| Sablefish ^{4 5} | BS-Trawl | 138 | 12 |
| | BS-H/L & Pot | N/A | N/A |
| | AI-Trawl | 73 | 6 |
| | AI-H/L & Pot | N/A | N/A |
| Total Sablefish | | 211 | 18 |
| Atka mackerel ⁶ | Western AI | 5,738 | 506 |
| | Central AI | 4,760 | 420 |
| | Eastern AI/BS | 3,166 | 279 |
| | Jig gear | 32 | |
| | Other gear | 3,135 | |
| Total Atka mackerel | | 13,664 | 1,205 |
| Yellowfin sole | BSAI | 46,750 | 4,125 |
| Rock sole | BSAI | 21,250 | 1,875 |

TABLE 1.—INTERIM 1999 TAC AMOUNTS FOR GROUNDFISH AND APPORTIONMENTS THERE FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA ^{1 2}—Continued

| Species and component (if applicable) | Area and/or gear (if applicable) | Interim TAC | Interim CDQ |
|---|-------------------------------------|----------------|----------------|
| Greenland turbot | BS | 2,136 | 188 |
| | AI | 1,052 | 93 |
| Total Greenland turbot | | 3,188 | 281 |
| Arrowtooth flounder | BSAI | 3,400 | 255 |
| Flathead sole | BSAI | 21,250 | 1,875 |
| Other flatfish ⁷ | BSAI | 19,005 | 1,677 |
| Pacific ocean perch | BS | 298 | 26 |
| | Western AI | 1,186 | 105 |
| | Central AI | 733 | 65 |
| | Eastern AI | 652 | 57 |
| Total Pacific ocean perch | | 2,869 | 253 |
| Other red rockfish ⁸ | BS | 57 | 5 |
| Sharpchin/Northern | AI | 899 | 79 |
| Shortraker/Rougheye | AI | 205 | 18 |
| Other rockfish ⁹ | BS | 78 | 7 |
| | AI | 146 | 13 |
| Total other rockfish | | 224 | 20 |
| Squid | BSAI | 419 | 31 |
| Other Species ¹⁰ | BSAI | 5,483 | 411 |
| Non-specified CDQ reserve ¹¹ | BSAI | | 123 |
| Total interim TAC | | 601,668 | 65,246 |

¹ Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified. With the exception of pollock, and for purposes of these specifications, the BS includes the Bogoslof District (BogDist).

² After subtraction of the pollock CDQ amount (10 percent of the TAC) and the incidental catch allowance (6 percent of the remainder of the TAC), the ITAC amounts of pollock for each subarea or district are then divided into A and B seasonal allowances. (See § 679.20(a)(5)(i).) For the BS subarea, the A and B seasonal apportionments are 45 and 55 percent of the pollock ITAC amounts, respectively. The AI subarea and the Bogoslof District receive 100 percent of their respective ITAC seasonal allowances during the A season with the remainder of the respective ITAC seasonal allowance during the B season. Component allocations of the ITAC amounts are 50 percent for the Inshore, 40 percent for listed catcher/processors, and 10 percent to vessels delivering to Motherships. The first seasonal allowance of the pollock component allocations are in effect on January 1 as an interim TAC. NMFS, under regulations at § 679.20(a)(5)(i)(B), allocates 0 mt of pollock to nonpelagic trawl gear. This action is based on Council intent to prohibit the use of nonpelagic trawl gear in 1999 because of concerns of unnecessary bycatch with bottom trawl gear in the pollock fishery.

³ After subtraction of the reserves, the ITAC amount for Pacific cod is allocated 2 percent to vessels using jig gear, 51 percent to H/L gear, and 47 percent to Trawl. The Pacific cod allocation to trawl gear is split evenly between catcher vessels and catcher/processor vessels (See § 679.20(a)(7)(i)). Pacific cod ITAC seasonal apportionments to vessels using H/L or pot gear are not reflected in the interim TAC amounts. One-fourth of the ITAC gear apportionments are in effect on January 1 as an interim TAC.

⁴ Sablefish gear allocations are as follows: In the BS subarea, trawl gear is allocated 50 percent and H/L and pot gear is allocated 50 percent of the TAC. In the AI subarea, trawl gear is allocated 25 percent, and H/L and pot gear is allocated 75 percent of the TAC (See § 679.20(a)(4)(iii) and (iv)). Fifteen percent of the sablefish trawl gear allocation is placed in the nonspecific reserve. One-fourth of the ITAC amount for trawl gear is in effect January 1 as an interim TAC amount.

⁵ The sablefish H/L gear fishery is managed under the IFQ program and subject to regulations contained in subpart D of 50 CFR part 679. Twenty percent of the sablefish H/L and pot gear final TAC amount will be reserved for use by CDQ participants. (See § 679.31(c).) Existing regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for the CDQ sablefish reserve or for an interim specification for sablefish managed under the IFQ program. In addition, in accordance with § 679.7(f)(3), retention of sablefish caught with fixed gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 1999, IFQ permits and IFQ cards will not be valid prior to the effective date of the 1999 final specifications. Thus, fishing for sablefish with fixed gear is not authorized under these interim specifications. See subpart D of 50 CFR part 679 and § 679.23(g) for guidance on the annual allocation of IFQ and the sablefish fishing season.

⁶ Regulations at § 679.20 (a)(8) require that up to 2 percent of the Eastern AI area ITAC be allocated to the jig gear fleet. The amount of this allocation is 1 percent and was determined by the Council based on anticipated harvest capacity of the Jig gear fleet. The jig gear allocation is not apportioned by season.

⁷ "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, arrowtooth flounder, and yellowfin sole.

⁸ "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern rockfish in the BS subarea.

⁹ "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye rockfish.

¹⁰ "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

¹¹ Fifteen percent of the groundfish CDQ reserve established for squid, arrowtooth flounder, and "other species" is allocated to a non-specific CDQ reserve (§ 679.31(g)).

Pollock Allocations Under the AFA

The AFA specifies the manner in which the BSAI pollock TAC must be allocated among industry components. Under section 206 of the AFA, 10 percent of the BSAI pollock TAC is allocated as a directed fishing allowance

to the CDQ program. The remainder of the BSAI pollock TAC, after the subtraction of an allowance for the incidental catch of pollock by vessels harvesting other groundfish species, is allocated: 50 percent to catcher vessels harvesting pollock for processing by the inshore component, 40 percent to listed

catcher/processors and listed catcher vessels harvesting pollock for processing by listed catcher/processors in the offshore component, and 10 percent to catcher vessels harvesting pollock for processing by listed motherships in the offshore component (Table 1). For 1999, NMFS has proposed

an incidental catch allowance of 6 percent of the pollock TAC after subtraction of the 10 percent CDQ reserve. The considerations leading to this proposal are discussed in the proposed 1999 harvest specifications for BSAI groundfish which was published in the **Federal Register** on December 30, 1998.

The AFA also contains three specific pollock allocations that must be specified annually. First, paragraph 208(e)(21) of the AFA specifies that catcher/processors qualifying to fish for pollock under this paragraph are prohibited from harvesting in the aggregate a total of more than one-half (0.5) percent of the pollock allocated to vessels for processing by offshore catcher/processors. Second, section 210(c) of the AFA requires that not less than 8.5 percent of the pollock allocated

to vessels for processing by offshore catcher/processors be available for harvest only by offshore catcher vessels harvesting pollock for processing by offshore catcher/processors listed in section 208(b). Third, section 210(e)(1) prohibits any particular individual, corporation, or other entity from harvesting a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery. The interim allocations and catch limits are equal to the proposed pollock "A" season specifications set out in Table 2 of the proposed specifications.

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

Under § 679.21(e), annual PSC limits are specified for red king crab, *Chionoecetes (C.) bairdi* Tanner crab, and *C. opilio* crab in applicable Bycatch

Limitation Zones (see § 679.2) of the BS subarea, and for Pacific halibut and Pacific herring throughout the BSAI. Regulations under § 679.21(e) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for halibut, crab, and salmon is reserved as a PSQ reserve for use by the groundfish CDQ program.

Regulations at § 679.20(c)(2)(ii) require that one-fourth of each proposed PSC and PSQ allowance be made available on an interim basis for harvest at the beginning of the fishing year, until superseded by the final harvest specifications. The fishery specific interim PSC allowances for halibut and crab are specified in Table 2 and are in effect at 0001 hours, A.L.T., January 1, 1999.

TABLE 2.—INTERIM 1999 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

| Trawl Fisheries | Prohibited species and zone | | | | | |
|---|-----------------------------|-------------------|---|--|---------------------|---------------------|
| | Halibut mortality (mt) BSAI | Herring (mt) BSAI | Red King Crab (animals) Zone 1 ¹ | C. opilio (animals) COBLZ ² | C. bairdi (animals) | |
| | | | | | Zone 1 ¹ | Zone 2 ¹ |
| Yellowfin sole | 232 | 66 | 4,625 | 759,656 | 63,898 | 221,487 |
| Rock sole/oth.flat/flat sole ³ | 184 | 5 | 24,688 | 187,313 | 68,462 | 73,829 |
| RKCSS ⁴ | | | 10,000 | | | |
| Turbot/sablefish/arrowtooth ⁵ | | | | 10,406 | | |
| Rockfish | 17 | 2 | | 10,406 | | 1,448 |
| Pacific cod | 358 | 5 | 3,469 | 31,219 | 30,808 | 40,327 |
| Midwater trawl pollock | | 305 | | | | |
| Pollock/Atka/other ⁶ | 81 | 38 | 3,469 | 41,625 | 10,269 | 97,198 |
| Total Trawl PSC | 873 | 421 | 46,250 | 1,040,625 | 173,437 | 434,288 |
| Non-Trawl Fisheries | | | | | | |
| Pacific cod | 187 | | | | | |
| Other non-trawl | 21 | | | | | |
| Groundfish pot & jig | exempt | | | | | |
| Sablefish hook & line | exempt | | | | | |
| Total Non-Trawl | 208 | | | | | |
| PSQ Reserve ⁷ | 88 | | 3,750 | 84,375 | 14,063 | 35,212 |
| Grand Total | 1,169 | 421 | 50,000 | 1,125,000 | 187,500 | 469,500 |

¹ Refer to § 679.2 for definitions of areas.

² *C. opilio* Bycatch Limitation Zone. Boundaries are defined at § 679.21(e)(7)(iv)(B).

³ Rock sole, other flatfish, and flathead sole category.

⁴ The Council at its October 1998 meeting allocated 10,000 red king crab to the RKCSS (§ 679.21(e)(3)(ii)(B)).

⁵ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

⁶ Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.

⁷ With the exception of herring, 7.5 percent of each PSC limit is allocated to the multi-species CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

NMFS will issue fishery closures based on these interim specifications if the Regional Administrator, Alaska Region, NMFS, determines that interim TAC amounts are required as incidental catch to support other anticipated groundfish fisheries or if the PSC allowance for a fishery has been reached. NMFS may also issue other

closures based on the final 1999 harvest specifications.

Protections for Other Fisheries Under the AFA

Section 211(b)(2)(A) of the AFA prohibits listed catcher/processors from harvesting more than a specified amount of each non-pollock groundfish

species in the BSAI. Non-pollock groundfish that is delivered to listed catcher/processors by catcher vessels would be deducted from the open access groundfish allocations and would not be deducted from the 1999 interim harvest limits for the listed catcher/processors. Except for Atka mackerel, the catch limitations specified for the

listed catcher/processors are equivalent to the percentage of non-pollock groundfish harvested in the non-pollock fisheries by the listed catcher/processors and those listed under section 209 of the AFA during 1995, 1996, and 1997. The groundfish harvest amounts by these vessels in the BSAI from 1995 through 1997 are shown in Table 3. These data were used to calculate the relative amount of non-pollock groundfish TACs harvested by listed catcher/processors in the non-pollock fisheries, and then used to determine the proposed harvest limits for non-pollock groundfish by listed catcher/processors in the 1999 BSAI fisheries.

These annual limits may be higher than the interim TAC, which is 25 percent of the ITAC. If the interim TAC is less than the listed catcher/processor limit then the listed catcher/processors would be prohibited from exceeding a harvest amount greater than the interim TAC as specified in Table 1. However, listed catcher/processors are not restricted to 25 percent of their 1999 limit (Table 3) under the interim TAC specifications.

NMFS intends to establish by emergency rule inseason authority necessary to manage the harvest of groundfish by listed catcher/processors so that the 1999 non-pollock harvest

limits are not exceeded. Under the emergency rule authority, NMFS likely will limit directed fishing by the listed catcher/processors to Atka mackerel, Pacific cod, and yellowfin sole. The interim 1999 harvest limits for other species may not be sufficient to allow for both a directed fishery and for incidental catch requirements in other directed fisheries. NMFS intends to manage conservatively the listed catcher/processor harvest limitations consistent with the intent of the AFA to limit the ability of these vessels to redistribute fishing effort into non-pollock fisheries in which they have not historically participated.

TABLE 3.—INTERIM HISTORICAL CATCH RATIO, 1999 AGGREGATE CATCH LIMITS, AND 1999 CATCH LIMITS FOR VESSELS LISTED UNDER SECTION 208 OF THE AMERICAN FISHERIES ACT¹

| Target species ² | Area | 1995–1997 | | | 1999 ITAC available to trawl C/Ps | 1999 harvest limit ⁴ |
|----------------------------------|---------------|-------------|---------------|--------------------|-----------------------------------|---------------------------------|
| | | Total catch | Available TAC | Ratio ³ | | |
| Atka mackerel ⁵ | Eastern AI/BS | | | | | |
| | Central AI | | | 0.115 | 19,040 | 2,190 |
| | Western AI | | | 0.200 | 22,950 | 4,590 |
| Arrowtooth flounder | BSAI | 788 | 36,873 | 0.021 | 13,600 | 291 |
| Other flatfish | BSAI | 12,145 | 92,428 | 0.131 | 76,019 | 9,989 |
| Flathead sole | BSAI | 3,030 | 87,975 | 0.034 | 85,000 | 2,927 |
| Greenland turbot | AI | 31 | 6,839 | 0.005 | 4,208 | 19 |
| | BSAI | 168 | 16,911 | 0.010 | 8,543 | 85 |
| Other species | BSAI | 3,551 | 65,925 | 0.054 | 21,930 | 1,181 |
| Pacific Cod trawl ⁶ | BSAI | 13,547 | 51,450 | 0.263 | 41,948 | 11,045 |
| Pacific ocean perch ⁷ | BSAI | 58 | 5,760 | 0.010 | 1,190 | 12 |
| | Central AI | 95 | 6,195 | 0.015 | 2,933 | 45 |
| | Eastern AI | 112 | 6,265 | 0.018 | 2,610 | 47 |
| | Western AI | 356 | 12,440 | 0.029 | 4,743 | 136 |
| Other rockfish | AI | 95 | 1,924 | 0.049 | 582 | 29 |
| | BS | 39 | 1,026 | 0.038 | 314 | 12 |
| Rock sole | BSAI | 14,753 | 202,107 | 0.073 | 85,000 | 6,205 |
| Sablefish trawl ⁸ | AI | 1 | 1,135 | 0.001 | 293 | 0 |
| | BS | 8 | 1,736 | 0.005 | 553 | 3 |
| Sharpchin/Northern | AI | 1,034 | 13,254 | 0.078 | 3,596 | 280 |
| Squid | BSAI | 7 | 3,670 | 0.002 | 1,675 | 3 |
| Shortraker/Rougheye | AI | 68 | 2,827 | 0.024 | 314 | 8 |
| Other red rockfish | BS | 75 | 3,034 | 0.025 | 227 | 6 |
| Yellowfin sole | BSAI | 123,003 | 527,000 | 0.233 | 187,000 | 43,646 |

¹ The AFA specifies the manner in which the BSAI pollock TAC must be allocated among industry components and prohibits catcher/processors listed under paragraphs 1–20 of section 208(e) from exceeding the historical non-pollock harvest percentages by such catcher/processors and those listed under section 209 relative to the total available in the offshore component in BSAI groundfish fisheries in 1995, 1996, and 1997. Amounts are in metric tons.

² For further definitions of target species see Table 1.

³ The ratio is calculated by dividing the total catch by the available TAC.

⁴ The 1999 harvest limit for listed catcher/processors is calculated by multiplying the historic catch ratio by the 1999 proposed ITAC available to trawl catcher/processors.

⁵ In section 211(b)(2)(C) of the AFA, catcher/processors listed in paragraphs 1–20 of section 208(e) are prohibited from harvesting Atka mackerel in excess of 11.5 percent of the available TAC in the Central Aleutian Islands area and 20 percent in the Western Aleutian Islands area. It is prohibited for listed catcher/processors to harvest Atka mackerel in the Eastern Aleutian Islands and Bering Sea subarea.

⁶ For Pacific cod, 47 percent of the ITAC is allocated to trawl, and of that 50 percent is available for catcher/processors. Separate catcher/processor and catcher/vessel allocations became effective in 1997, therefore only data from 1997 was used to calculate the historic ratio.

⁷ Apportionments to western, central, and eastern Aleutian Islands subareas began in 1996, therefore only data from 1996 and 1997 was used to calculate the historic ratio.

⁸ 25 percent of the Sablefish ITAC is allocated to trawl in the AI subarea, 50 percent is allocated to trawl in the BS subarea.

Section 211(b)(2)(A) of the AFA prohibits listed catcher/processors from harvesting more than a specified amount of each prohibited species in the BSAI. These amounts are equivalent

to the percentage of prohibited species bycatch limits harvested in the non-pollock fishery by the listed catcher/processors and those listed under section 209 during 1995, 1996, and

1997. Prohibited species amounts harvested by these catcher/processors in BSAI non-pollock fisheries from 1995 through 1997 is shown in Table 4. These data were used to calculate the relative

amount of prohibited species bycatch limits harvested by listed catcher/processors, and then used to determine the proposed prohibited species harvest limits for listed catcher/processors in the 1999 non-pollock fisheries. Regulations at § 679.21(e)(7)(vii) and (viii) do not provide for fishery-specific management of the salmon bycatch limits. Therefore, NMFS is not including salmon catch limits for the listed catcher/processors during 1999.

The Council at its November 1998 meeting proposed that prohibited species caught by listed catcher/processors and listed catcher vessels while fishing for pollock accrue against either the midwater pollock or the pollock/Atka mackerel/other species fishery categories (Table 2). However, PSC that is caught by listed catcher/processors participating in groundfish fisheries other than pollock (Table 3), shall accrue against the 1999 PSC limits

for the listed catcher/processors as outlined in section 211(b)(2)(B) of the AFA (Table 4). The emergency rule being prepared by NMFS to manage the AFA harvest limitations specified for listed catcher/processors will provide authority to close directed fishing for groundfish to the listed catcher/processors once a 1999 PSC limitation listed in Table 4 is reached.

TABLE 4.—PROPOSED PSC LIMITS FOR VESSELS LISTED UNDER SECTION 208 OF THE AMERICAN FISHERIES ACT ¹

| PSC species | 1995–1997 | | | 1999 PSC available to C/Ps | 1999 limit ³ |
|-------------------------|-----------|------------|--------------------|----------------------------|-------------------------|
| | PSC catch | Total PSC | Ratio ² | | |
| Halibut mortality | 955 | 11,325 | 0.084 | 3,492 | 294 |
| Herring | 62 | 5,137 | 0.012 | 1,685 | 20 |
| Red king crab | 7,641 | 473,750 | 0.016 | 185,000 | 2,984 |
| C. bairdi | | | | | |
| Zone 1 | 385,978 | 2,750,000 | 0.140 | 693,750 | 97,372 |
| Zone 2 | 406,860 | 8,100,000 | 0.050 | 1,737,150 | 87,256 |
| C. opilio | 2,323,731 | 15,139,178 | 0.153 | 4,162,500 | 638,907 |

¹ The AFA specifies the manner in which the BSAI pollock TAC must be allocated among industry components and prohibits catcher/processors listed under sections 1–20 of section 208(e) from exceeding the historical harvest percentages of prohibited species by such catcher/processors and those listed under section 209 relative to the total available in the offshore component in BSAI groundfish fisheries in 1995, 1996, and 1997. Amounts are in metric tons.

² The ratio is calculated by dividing the PSC catch by the total PSC available.

³ The 1999 prohibited species catch limit for listed catcher/processors is calculated by multiplying the historic ratio by the PSC available in 1999. The 1999 PSC limit is based on an annual amount and is not reduced on an interim basis.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under E.O. 12866.

Pursuant to section 7 of the Endangered Species Act, NMFS has completed a consultation on the effects of the pollock and Atka mackerel fisheries on listed and candidate species, including the Steller sea lion, and designated critical habitat. The biological opinion prepared for this consultation, dated December 3, 1998, concludes that the pollock fisheries in the BSAI and the GOA jeopardize the continued existence of Steller sea lions and adversely modify their designated critical habitat. The biological opinion contains reasonable and prudent alternatives (RPAs) to mitigate the adverse impacts of the pollock fisheries on Steller sea lions. Specific measures necessary to implement the RPAs were discussed at the December 1998 Council meeting. On December 16, 1998, NMFS issued revised reasonable and prudent alternatives based on the Council's recommendations adopted during its December meeting, which adhere to the principles identified in the December 3, 1998, Biological Opinion. NMFS will implement measures necessary to comply with the RPAs prior to the start of the 1999 pollock trawl fishery. If these measures are not in place by the

scheduled regulatory opening on January 20, 1999, then NMFS will close the pollock trawl fishery.

NMFS also initiated consultation on the effects of the 1999 BSAI groundfish fisheries (excluding pollock and Atka mackerel) on listed and candidate species, including the Steller sea lion and listed seabirds, and on designated critical habitat. The Biological Opinion prepared for this consultation, dated December 22, 1998, concludes that groundfish fisheries in the BSAI (excluding pollock and Atka mackerel) are not likely to jeopardize the continued existence of the listed and candidate species, or to adversely modify designated critical habitat.

NMFS has also initiated consultation on the effects of the 1999 BSAI groundfish fisheries on listed and candidate species, including the Steller sea lion and listed seabirds, and on designated critical habitat. This consultation will be concluded prior to the start of fishing on January 1, 1999, under the 1999 interim specifications. Pending determinations under this consultation, NMFS may initiate emergency rulemaking to mitigate any adverse impacts resulting from the BSAI groundfish fisheries on listed and candidate species and designated critical habitat.

The Assistant Administrator, NMFS (AA), finds for good cause under 5

U.S.C. 553(b)(B) that the need to establish interim total allowable catch levels and other management measures for fisheries in the BSAI, effective on January 1, 1999, makes it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this rule. Likewise, the AA finds for good cause under 5 U.S.C. 553(d)(3) that the need to establish interim TACs levels and other management measures in the BSAI, effective January 1, 1999, makes it impractical and contrary to the public interest to delay the effective date of the limits and measures for 30 days. Regulations at § 679.20(c)(2) require NMFS to specify interim harvest specifications to be effective on January 1 and remain in effect until superseded by the final specifications in order for the BSAI groundfish fishing season to begin on January 1 (see § 679.23). Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, which would result in unnecessary closures and disruption within the fishing industry. Because the stock assessment reports and other information concerning the fisheries in the BSAI became available only recently, NMFS is not able to provide an opportunity for comment on the interim specifications. NMFS anticipates that the interim specifications will be in

effect for only a short period of time before they are superseded by the final specifications. The proposed 1999 harvest specifications for groundfish of the BSAI were published in the **Federal Register** on December 30, 1998 and provide the opportunity for public

comment. The interim specification will be effective January 1, 1999.

Because these interim specifications are not required to be issued with prior notice and opportunity for public comment, the analytical requirements of the Regulatory Flexibility Act do not apply. Consequently, no regulatory flexibility analysis has been prepared.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

Dated: December 28, 1998.

Gary C. Matlock,

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

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