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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563-3148-02]

RIN 0648-XD060

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2014 Bering Sea and Aleutian Islands Pollock, Atka Mackerel, and Pacific cod Total Allowable Catch Amounts

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2014 total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands (BSAI) pollock, Atka mackerel, and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the BSAI pollock, Atka mackerel, and Pacific cod TACs are the appropriate amounts based on the best available scientific information.

This action is consistent with the goals and 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.), [insert date of filing for public inspection in the FEDERAL REGISTER], until the effective date of the final 2014 and 2015 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the Federal Register.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., [insert date 15 days after date of filing for public inspection with the OFFICE OF THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by FDMS

Docket Number NOAA-NMFS- 2012-0210 by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=\[NOAA-NMFS-2012-0210\]](http://www.regulations.gov/#!docketDetail;D=[NOAA-NMFS-2012-0210]), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if

you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 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 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 final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) set the 2014 BSAI pollock TAC at 1,266,100 metric tons (mt), the 2014 BSAI Atka mackerel TAC at 25,379 mt, and the 2014 BSAI Pacific cod TAC at 260,880 mt. In December 2013, the North Pacific Fishery Management Council (Council) recommended a 2014 BSAI pollock TAC of 1,286,075 mt, which is more than the 1,266,100 mt TAC established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI. The Council also recommended a 2014 BSAI Atka mackerel TAC of 32,322 mt, which is more than the 25,379 mt TAC established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI. Furthermore, the Council recommended a 2014 BSAI Pacific cod TAC of 253,894 mt, which is less than the 260,880 mt TAC established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI. In 2014 the Council recommended that the TAC for Pacific cod be split by a Bering Sea TAC of 246,897 and an Aleutian Island TAC of 6,997 mt. The

Council's recommended 2014 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2013, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock, Atka mackerel, and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock, Atka mackerel, and Pacific cod are a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock, Atka mackerel, and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(5) specify how the BS pollock TAC will be apportioned. The regulations at § 679.20(a)(7) specify how the BSAI Pacific cod TAC will be apportioned. The regulations at § 679.20(a)(8) specify how the BSAI Atka mackerel TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii) , (a)(2)(i)(B), and (a)(2)(iv), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2013 SAFE report for this fishery, the current BSAI pollock, Atka mackerel, and Pacific cod TACs are incorrectly specified. Pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2014 BSAI pollock TAC to 1,286,075 mt, the 2014 BSAI Atka mackerel TAC to 32,322 and the 2014 BSAI Pacific cod TAC to 253,894 mt. Therefore, Table 1 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(i), Table 3 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) and reallocations (78 FR 14932, March 8, 2013 and 78 FR 49200, August 13, 2013) is revised for the 2014 BSAI allocations of pollock TAC to the directed pollock fisheries and to the Community Development Quota (CDQ) directed fishing allowances consistent with this adjustment.

TABLE 3—FINAL 2013 AND 2014 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	2013 Allocations	2013 A season <sup>1</sup>		2013 B season <sup>1</sup>	2014 Allocations	2014 A season <sup>1</sup>		2014 B season <sup>1</sup>
		A season DFA	SCA harvest limit <sup>2</sup>	B season DFA		A season DFA	SCA harvest limit <sup>2</sup>	B season DFA
Bering Sea subarea	1,261,900	n/a	n/a	n/a	1,267,000	n/a	n/a	n/a
CDQ DFA	126,600	50,640	35,448	75,960	126,700	50,680	35,476	76,020
ICA <sup>1</sup>	33,699	n/a	n/a	n/a	38,770	n/a	n/a	n/a
AFA Inshore	550,801	220,320	154,224	330,480	550,765	220,306	154,214	330,459
AFA Catcher/Processors <sup>3</sup>	440,640	176,256	123,379	264,384	440,612	176,245	123,371	264,367
Catch by C/Ps	403,186	161,274	n/a	241,912	403,160	161,264	n/a	241,896
Catch by CVs <sup>3</sup>	37,454	14,982	n/a	22,473	37,452	14,981	n/a	22,471
Unlisted C/P Limit <sup>4</sup>	2,203	881	n/a	1,322	2,203	881	n/a	1,322
AFA Motherships	110,160	44,064	30,845	66,096	110,153	44,061	30,843	66,092
Excessive Harvesting Limit <sup>5</sup>	192,780	n/a	n/a	n/a	192,768	n/a	n/a	n/a
Excessive Processing Limit <sup>6</sup>	330,480	n/a	n/a	n/a	330,459	n/a	n/a	n/a
Total Bering Sea DFA	1,101,601	440,640	308,448	660,961	1,101,530	440,612	308,428	660,918
Aleutian Islands subarea <sup>1</sup>	6,600	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	0	0	n/a	0	1,900	760	n/a	1,140
ICA	1,600	800	n/a	800	2,000	1,000	n/a	1,000
Aleut Corporation	5,000	5,000	n/a	0	15,100	11,863	n/a	3,237
Bogoslof District ICA <sup>7</sup>	100	n/a	n/a	n/a	75	n/a	n/a	n/a

<sup>1</sup>Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3 percent), is allocated as a DFA as follows: inshore sector - 50 percent, catcher/processor sector (C/P) - 40 percent, and mothership sector - 10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20-June 10) and 60 percent of the DFA is allocated to the B season (June 10-November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,000 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

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the directed pollock fishery.

<sup>2</sup>In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

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

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

<sup>5</sup>Pursuant to § 679.20(a)(5)(i)(A)(6), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

<sup>6</sup>Pursuant to § 679.20(a)(5)(i)(A)(7), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

<sup>7</sup>The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(8), Table 4 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) is revised for the 2014 seasonal and spatial allowances, gear shares, CDQ reserve, incidental catch allowance, and Amendment 80 allocation of the BSAI Atka mackerel TAC.

TABLE 4—FINAL 2013 AND 2014 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector <sup>1</sup>	Season <sup>2,3,4</sup>	2013 allocation by area			2014 allocation by area		
		Eastern Aleutian District/Bering Sea	Central <sup>5</sup> Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central <sup>5</sup> Aleutian District	Western Aleutian District
TAC	n/a	16,900	7,520	1,500	21,652	9,670	1,000
CDQ reserve	Total	1,808	805	161	2,317	1,035	107
	A	904	402	80	1,158	517	54
	Critical Habitat <sup>5</sup>	n/a	40	n/a	n/a	52	n/a
	B	904	402	80	1,158	517	54
	Critical Habitat <sup>5</sup>	n/a	40	n/a	n/a	52	n/a
ICA	Total	1,000	75	40	1,000	75	40
Jig <sup>6</sup>	Total	70	0	0	92	0	0
BSAI trawl limited access	Total	1,402	664	0	1,824	856	0
	A	701	332	0	912	428	0
	B	701	332	0	912	428	0
Amendment 80 sectors	Total	12,619	5,976	1,300	16,419	7,704	853
	A	6,310	2,988	650	8,210	3,852	427
	B	6,310	2,988	650	8,210	3,852	427
Alaska Groundfish Cooperative <sup>7</sup>	Total <sup>7</sup>	7,271	3,563	783	9,482	4,596	500
	A	3,636	1,782	392	4,741	2,298	250
	Critical Habitat <sup>5</sup>	n/a	178	n/a	n/a	230	n/a
	B	3,636	1,782	392	4,741	2,298	250
	Critical Habitat <sup>5</sup>	n/a	178	n/a	n/a	230	n/a
Alaska Seafood Cooperative <sup>7</sup>	Total <sup>7</sup>	5,348	2,414	517	6,937	3,108	353
	A	2,674	1,207	259	3,469	1,554	177
	Critical Habitat <sup>5</sup>	n/a	121	n/a	n/a	155	n/a
	B	2,674	1,207	259	3,469	1,554	177
	Critical Habitat <sup>5</sup>	n/a	121	n/a	n/a	155	n/a

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

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

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

<sup>4</sup> 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.

<sup>5</sup> Section 679.20(a)(8)(ii)(C) requires the TAC in area 542 shall be no more than 47% of ABC, and Atka mackerel harvests for Amendment 80 cooperatives and CDQ groups within waters 10 nm



to 20 nm of Gramp Rock and Tag Island, as described Table 12 to part 679, in Area 542 are limited to no more than 10 percent of the Amendment 80 cooperative Atka mackerel allocation or 10 percent of the CDQ Atka mackerel allocation.

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

<sup>7</sup>The 2014 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2013. NMFS will post 2014 Amendment 80 allocations when they become available in December 2013.

**Note:** Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(7), Table 5 of the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) is revised as Table 5a for the 2014 gear shares and seasonal allowances of the BSAI Pacific cod TAC consistent with this adjustment.

TABLE 5a–FINAL 2014 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2014 share of gear sector total	2014 share of sector total	2014 seasonal apportionment	
				Seasons	Amount
BS TAC		246,897	n/a	n/a	n/a
BS CDQ		26,418	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI TAC		6,997	n/a	n/a	n/a
AI CDQ		749	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total BSAI non-CDQ TAC <sup>1</sup>	100	226,727	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	137,850	n/a	n/a	n/a
Hook-and-line/pot ICA <sup>2</sup>	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	137,350	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	110,016	Jan 1-Jun 10	56,108
				Jun 10-Dec 31	53,908
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	452	Jan 1-Jun 10	230
				Jun 10-Dec 31	221
Pot catcher/processor	1.5	n/a	3,389	Jan 1-Jun 10	1,728
				Sept 1-Dec 31	1,660
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	18,976	Jan 1-Jun 10	9,678
				Sept 1-Dec 31	9,298
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2	n/a	4,518	n/a	n/a
Trawl catcher vessel	22.1	50,107	n/a	Jan 20-Apr 1	37,079
				Apr 1-Jun 10	5,512
				Jun 10-Nov 1	7,516
AFA trawl catcher/processor	2.3	5,215	n/a	Jan 20-Apr 1	3,911
				Apr 1- Jun 10	1,304
				Jun 10-Nov 1	0
Amendment 80	13.4	30,381	n/a	Jan 20-Apr 1	22,786
				Apr 1- Jun 10	7,595
				Jun 10-Nov 1	0
Alaska Groundfish Cooperative	n/a	n/a	5,657	Jan 20-Apr 1	4,243
				Apr 1- Jun 10	1,414
				Jun 10-Nov 1	0
Alaska Seafood Cooperative	n/a	n/a	24,724	Jan 20-Apr 1	18,543
				Apr 1- Jun 10	6,181
				Jun 10-Nov 1	0
Jig	1.4	3,174	n/a	Jan 1-Apr 30	1,905
				Apr 30-Aug 31	635
				Aug 31-Dec 31	635

<sup>1</sup> The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

<sup>2</sup> The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2014 based on anticipated incidental catch in these fisheries.

**Note:** Seasonal or sector apportionments may not total precisely due to rounding.

## 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 allow for harvests that exceed the appropriate allocations for pollock, Atka mackerel, and Pacific cod in the BSAI 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 23, 2013, 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 [insert date 15 days after date of filing for public inspection with the OFFICE OF THE FEDERAL REGISTER].

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: January 2, 2014.

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Sean F. Corson,  
Acting Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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