



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200227-0066]

RTID 0648-XA727

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2021 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 2021 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 0001 hours, Alaska local time (A.l.t.), January 1, 2021, until the effective date of the final 2021 and 2022 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.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 publication in the **FEDERAL REGISTER***].

ADDRESSES: Submit your comments, identified by NOAA-NMFS-2019-0074, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0074, 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: Records. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends.

All comments received are a part of the public record, and NMFS will post the comments for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), 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).

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 (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 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020) set the 2021 Aleutian Islands (AI) pollock TAC at 19,000 metric tons (mt), the 2021 Bering Sea (BS) pollock TAC at 1,450,000 mt, the 2021 BSAI Atka mackerel TAC at 54,482 mt, the 2021 BS Pacific cod TAC at 92,633 mt, and the 2021 AI Pacific cod TAC at 13,796 mt. In December 2020, the Council recommended a 2021 BS pollock TAC of 1,375,000 mt, which is less than the 1,450,000 mt TAC established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI. The Council also recommended a 2021 BSAI Atka mackerel TAC of 62,257 mt, which is more than the 54,482 mt TAC established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI. Furthermore, the Council recommended a 2021 BS Pacific cod TAC of 111,380 mt, and an AI Pacific cod TAC of 13,796 mt, which is more than the BS Pacific cod TAC of 92,633 mt, and the same as the AI Pacific cod TAC of 13,796 mt established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI. The Council's recommended 2021 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2020, 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. NMFS published regulations and the revised harvest limit amounts for pollock, Atka mackerel, and Pacific cod fisheries to implement Steller sea lion protection measures to insure that groundfish fisheries of the BSAI are not likely to jeopardize the continued existence of

the western distinct population segment of Steller sea lions or destroy or adversely modify their designated critical habitat (79 FR 70286, November 25, 2014).

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 2020 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 2021 BS pollock TAC to 1,375,000 mt, the 2021 BSAI Atka mackerel TAC to 62,257 mt, and the 2021 BS Pacific cod TAC to 111,380 mt. Therefore, Table 2 of the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(i) and (iii), Table 5 of the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020) is revised for the 2021 BS and AI allocations of pollock TAC to the directed pollock fisheries and to the Community Development Quota (CDQ) directed fishing allowances consistent with this adjustment.

TABLE 5—FINAL 2021 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)¹

[Amounts are in metric tons]

Area and sector	2021 Allocations	2021 A season ¹		2021 B season ¹
		A season DFA	SCA harvest limit ²	B season DFA
Bering Sea subarea TAC ¹	1,375,000	n/a	n/a	n/a
CDQ DFA	137,500	61,875	38,500	75,625
ICA ¹	49,500	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,188,000	534,600	332,640	653,400
AFA Inshore	594,000	267,300	166,320	326,700
AFA Catcher/Processors ³	475,200	213,840	133,056	261,360
Catch by CPs	434,808	195,664	n/a	239,144
Catch by CVs ³	40,392	18,176	n/a	22,216
Unlisted CP Limit ⁴	2,376	1,069	n/a	1,307
AFA Motherships	118,800	53,460	33,264	65,340
Excessive Harvesting Limit ⁵	207,900	n/a	n/a	n/a
Excessive Processing Limit ⁶	356,400	n/a	n/a	n/a
Aleutian Islands subarea ABC	58,384	n/a	n/a	n/a
Aleutian Islands subarea TAC ¹	19,000	n/a	n/a	n/a
CDQ DFA	1,900	1,900	n/a	-
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	14,700	n/a	-

Area harvest limit ⁷	n/a	n/a	n/a	n/a
541	17,515	n/a	n/a	n/a
542	8,758	n/a	n/a	n/a
543	2,919	n/a	n/a	n/a
Bogoslof District ICA ⁸	250	n/a	n/a	n/a

¹ Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock TAC, after subtracting the CDQ DFA (10 percent) and the ICA (4 percent), is allocated as a DFA as follows: inshore sector – 50 percent, catcher/processor sector (CP) – 40 percent, and mothership sector – 10 percent. In the Bering Sea subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) through (iii), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the Aleutian Islands subarea, the A season is allocated up to 40 percent of the Aleutian Islands pollock ABC.

² In the Bering Sea subarea, pursuant to § 679.20(a)(5)(i)(C), no more than 28 percent of each sector’s annual DFA may be taken from the SCA before noon, April 1.

³ Pursuant to § 679.20(a)(5)(i)(A)(4), 8.5 percent of the DFA allocated to listed CPs shall be available for harvest only by eligible catcher vessels with a CP endorsement delivering to listed CPs, unless there is a CP sector cooperative for the year.

⁴ 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/processor sector’s allocation of pollock.

⁵ 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.

⁶ 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.

⁷ Pursuant to § 679.20(a)(5)(iii)(B)(6), NMFS establishes harvest limits for pollock in the A season in Area 541 of no more than 30 percent, in Area 542 of no more than 15 percent, and in Area 543 of no more than 5 percent of the Aleutian Islands pollock ABC.

⁸ Pursuant to § 679.22(a)(7)(B), the Bogoslof District is closed to directed fishing for pollock. The amounts specified are for incidental catch 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 7 of the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020) is revised for the 2021 seasonal and spatial allowances, gear shares, CDQ reserve, incidental catch allowance, jig, BSAI trawl limited access, and Amendment 80 allocations of the BSAI Atka mackerel TAC consistent with this adjustment.

TABLE 7–FINAL 2021 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}	2021 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District
TAC	n/a	25,760	15,450	21,047
CDQ reserve	Total	2,756	1,653	2,252
	A	1,378	827	1,126
	Critical Habitat	n/a	496	676
	B	1,378	827	1,126
	Critical Habitat	n/a	496	676
Non-CDQ TAC	n/a	23,004	13,797	18,795
ICA	Total	800	75	20

Jig ⁶	Total	111	-	-
BSAI trawl limited access	Total	2,209	1,372	-
	A	1,105	686	-
	Critical Habitat	n/a	412	-
	B	1,105	686	-
	Critical Habitat	n/a	412	-
Amendment 80 sector	Total	19,883	12,350	18,775
	A	9,942	6,175	9,387
	Critical Habitat	n/a	3,705	5,632
	B	9,942	6,175	9,387
	Critical Habitat	n/a	3,705	5,632

¹ 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 50 CFR 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 December 31.

⁵Section 679.20(a)(8)(ii)(C)(1)(i) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; section 679.20(a)(8)(ii)(C)(1)(ii) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20(a)(8)(ii)(C)(2) requires that the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

⁶ Sections 679.2 and 679.20(a)(8)(i) require 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 the ICA. NMFS sets the amount of this allocation for 2021 at 0.5 percent. The jig gear allocation is not apportioned by season.

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

Pursuant to § 679.20(a)(7), Table 9 of the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020) is revised for the 2021 gear shares and seasonal allowances of the BSAI Pacific cod TAC consistent with this adjustment.

TABLE 9—FINAL 2021 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Sector	Percent	2021 share of total	2021 share of sector total	2021 seasonal apportionment	
				Season	Amount
BS TAC	n/a	111,380	n/a	n/a	n/a
BS CDQ	n/a	11,918	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	99,462	n/a	n/a	n/a
AI TAC	n/a	13,796	n/a	n/a	n/a
AI CDQ	n/a	1,476	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	12,320	n/a	n/a	n/a

Western Aleutian Island Limit	n/a	2,166	n/a	n/a	n/a
Total BSAI non-CDQ TAC ¹	100	111,782	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	67,964	n/a	n/a	n/a
Hook-and-line/pot ICA ²	n/a	400	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	67,564	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	54,118	Jan 1-Jun 10	27,600
				Jun 10-Dec 31	26,518
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	222	Jan 1-Jun 10	113
				Jun 10-Dec 31	109
Pot catcher/processor	1.5	n/a	1,667	Jan 1-Jun 10	850
				Sept 1-Dec 31	817
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	9,334	Jan 1-Jun 10	4,761
				Sept 1-Dec 31	4,574
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2.0	n/a	2,222	n/a	n/a
Trawl catcher vessel	22.1	24,704	n/a	Jan 20-Apr 1	18,281
				Apr 1-Jun 10	2,717
				Jun 10-Nov 1	3,706
AFA trawl catcher/processor	2.3	2,571	n/a	Jan 20-Apr 1	1,928
				Apr 1- Jun 10	643
				Jun 10-Nov 1	-
Amendment 80	13.4	14,979	n/a	Jan 20-Apr 1	11,234
				Apr 1- Jun 10	3,745
				Jun 10-Dec 31	-
Jig	1.4	1,565	n/a	Jan 1-Apr 30	939
				Apr 30-Aug 31	313
				Aug 31-Dec 31	313

¹ The sector allocations and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of the reserves for the CDQ Program. If the TAC for Pacific cod in either the AI or BS is or will be reached, then directed fishing for Pacific cod in that subarea will be prohibited, even if a BSAI allowance remains (§ 679.20(d)(1)(iii)).

² 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 400 mt for 2021 based on anticipated incidental catch in these fisheries.

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

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be 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 12, 2020.

Without this inseason adjustment, NMFS could not allow the fishery for pollock, Atka mackerel, and Pacific cod in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. 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 PUBLICATION IN THE FEDERAL REGISTER*].

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

Dated: December 17, 2020.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

