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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131363-0087-02]

RIN 0648-XZ08

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Crab and Halibut Prohibited Species Catch Allowances in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of the 2010 crab and halibut prohibited species catch (PSC) allowances assigned to the Bering Sea and Aleutian Islands trawl limited access sector to the Amendment 80 cooperative in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow

the Amendment 80 cooperative to fully harvest their 2010 groundfish allocations.

DATES: Effective September 13, 2010, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2010.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI 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 2010 halibut PSC assigned to the Bering Sea and Aleutian Islands trawl limited access sector is 875 metric tons (mt) and to the Amendment 80 cooperative is 1,754 mt in the BSAI as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

The Administrator, Alaska Region, NMFS, has determined that 358 mt of the halibut PSC assigned to the BSAI

trawl limited access sector will not be needed to support BSAI trawl limited access fisheries. Therefore, in accordance with § 679.91(f)(4), NMFS is reallocating 340 mt of halibut PSC assigned to the BSAI trawl limited access sector to the Amendment 80 cooperative in the BSAI.

The Administrator, Alaska Region, NMFS, has also determined that 290,000 crabs of Zone 1 *C. bairdi* tanner crab PSC, 880,000 crabs of Zone 2 *C. bairdi* tanner crab PSC, and 48,000 crabs of Zone 1 red king crab PSC assigned to the BSAI trawl limited access sector will not be needed to support BSAI trawl limited access fisheries. Therefore, in accordance with § 679.91(f)(5), NMFS is reallocating these crab PSC amounts assigned to BSAI trawl limited access sector to the Amendment 80 cooperative in the BSAI.

In accordance with § 679.91(f)(1), NMFS will reissue cooperative quota permits for the reallocated crab and halibut PSC following the procedures set forth in § 679.91(f)(4) and § 679.91(f)(5).

The harvest specifications for crab and halibut PSC included in the final harvest specifications for crab and halibut PSC in the BSAI (75 FR 11778, March 12, 2010) are revised as follows in Tables 8a, 8c, and 8d:

TABLE 8A—FINAL 2010 AND 2011 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

| PSC species | Total non-trawl PSC | Non-trawl PSC remaining after CDQ PSQ ¹ | Total trawl PSC | Trawl PSC remaining after CDQ PSQ ¹ | CDQ PSQ reserve ¹ | Amendment 80 sector | | BSAI trawl limited access fishery |
|---|---------------------|--|-----------------|--|------------------------------|---------------------|-----------|-----------------------------------|
| | | | | | | 2010 | 2011 | |
| Halibut mortality (mt) BSAI | 900 | 832 | 3,675 | 3,349 | 393 | 2,765 | 2,375 | 517 |
| Herring (mt) BSAI | n/a | n/a | 1,974 | n/a | n/a | n/a | n/a | n/a |
| Red king crab (animals) Zone 1 ¹ | n/a | n/a | 197,000 | 175,921 | 21,079 | 146,920 | 93,432 | 5,797 |
| <i>C. opilio</i> (animals) COBLZ ² | 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 ² | n/a | n/a | 830,000 | 741,190 | 88,810 | 641,176 | 331,608 | 58,285 |
| <i>C. bairdi</i> crab (animals) Zone 2 | n/a | n/a | 2,520,000 | 2,250,360 | 269,640 | 1,479,271 | 565,966 | 173,394 |

¹ Section 679.21(e)(3)(j)(A)(2) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(j)(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.

² Refer to § 679.2 for definitions of zones.

TABLE 8C—FINAL 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 ¹ | | | | |
|---|--|--------------------------------|----------------------------------|----------------------------|---------|
| | 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 | 47 | 4,000 | 1,176,494 | 27,285 | 160,304 |
| Rock sole/flathead sole/other flatfish ² | 0 | 0 | 0 | 0 | 0 |
| Turbot/arrowtooth/sablefish ³ | 0 | 0 | 0 | 0 | 0 |
| Rockfish April 15–December 31 | 5 | 0 | 2,000 | 0 | 848 |
| Pacific cod | 275 | 1,700 | 50,000 | 20,000 | 8,000 |

TABLE 8C—FINAL 2010 AND 2011 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES—Continued

| BSAI trawl limited access fisheries | Prohibited species and area ¹ | | | | |
|---|--|--------------------------------|----------------------------------|----------------------------|---------|
| | 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 |
| Pollock/Atka mackerel/other species | 190 | 97 | 20,000 | 1,000 | 4,242 |
| Total BSAI trawl limited access PSC | 517 | 5,797 | 1,248,494 | 58,285 | 173,394 |
| 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 | | | |
| Total non-trawl PSC | | 833 | | | |

¹ Refer to § 679.2 for definitions of areas.

² “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.

³ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

TABLE 8D—FINAL 2010 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

| Year | Prohibited species and zones ¹ | | | | |
|------------|---|--------------------------------|----------------------------------|----------------------------|-----------|
| | 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 | 2,094 | 118,237 | 1,461,309 | 547,715 | 1,320,277 |

¹ Refer to § 679.2 for definitions of zones.

This will enhance the socioeconomic well-being of harvesters of groundfish dependent upon these PSC amounts. The Regional Administrator considered the following factors in reaching this decision: (1) the current catch and stated future harvesting intent of BSAI trawl limited access sector fisheries and, (2) the harvest capacity and stated intent on future harvesting patterns of the Amendment 80 cooperative that participates in this BSAI fishery. The Regional Administrator also has determined that this action will create no threats of exceeding TACs for any species or species group.

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 delay the reallocation of crab and halibut PSC from the BSAI trawl limited access sector to the Amendment 80 cooperative in the BSAI. Since the fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of these fisheries, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most

recent, relevant data only became available as of September 8, 2010.

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.

This action is required by § 679.91 and is exempt from review under Executive Order 12866.

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

Dated: September 13, 2010.

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

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