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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563-3148-02]

RIN 0648-XC985

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Halibut and Crab 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 2013 halibut and crab prohibited species catch (PSC) allowances from the Bering Sea and Aleutian Islands trawl (BSAI) limited access sector to the Amendment 80 cooperatives in the BSAI management area. This action is necessary to allow the Amendment 80 cooperatives to fully harvest their 2013 groundfish allocations.

DATES: Effective [Insert date of filing for public inspection with the Office of the Federal Register], through 2400 hrs, Alaska local time (A.l.t.), December 31, 2013.

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 Administrator, Alaska Region, NMFS, has determined that 140 metric tons of halibut PSC, 20,000 crabs of Zone 1 red king crab PSC, 300,000 crabs of Zone 1 C. bairdi tanner crab PSC, 900,000 crabs of Zone 2 C. bairdi tanner crab PSC, and 2,400,000 crabs of C. opilio Bycatch Limitation Zone (COBLZ) C. opilio tanner crab PSC from 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) and (5), NMFS is reallocating these halibut and crab PSC amounts from the BSAI trawl limited access sector to the Amendment 80 cooperatives in the BSAI.

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

In accordance with § 679.91(f)(4)(i), NMFS will reallocate 95 percent of the halibut PSC reallocated from the BSAI trawl limited access sector to the Amendment 80 cooperatives, which is 133 metric tons.

In accordance with the formula set forth in § 679.91(f)(5), NMFS will reallocate 3,620,000 crab PSC from the BSAI trawl limited access sector to the Amendment 80 cooperatives.

The 2013 harvest specifications for halibut and crab PSC allowances included in the final 2013 and 2014 harvest specifications for crab in the BSAI (78 FR 13813, March 1, 2013) are revised as follows in Tables 10, 12, and 14:

TABLE 10-FINAL 2013 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

| PSC species and area <sup>1</sup>      | Total non-trawl PSC | Non-trawl PSC remaining after CDQ PSQ <sup>2</sup> | Total trawl PSC | Trawl PSC remaining after CDQ PSQ <sup>2</sup> | CDQ PSQ reserve <sup>2</sup> | Amendment 80 sector <sup>3</sup> | BSAI trawl limited access fishery |
|--|---------------------|--|-----------------|--|------------------------------|----------------------------------|-----------------------------------|
| Halibut mortality (mt) BSAI            | 900                 | 832  | 3,675           | 3,349  | 393                          | 2,458                            | 735                               |
| Herring (mt) BSAI                      | n/a                 | n/a  | 2,648           | n/a  | n/a                          | n/a                              | n/a                               |
| Red king crab (animals) Zone 1         | n/a                 | n/a  | 97,000          | 86,621   | 10,379                       | 63,293                           | 6,489                             |
| <i>C. opilio</i> (animals) COBLZ       | n/a                 | n/a  | 10,501,333      | 9,377,690                                      | 1,123,643                    | 7,009,135                        | 613,990                           |
| <i>C. bairdi</i> crab (animals) Zone 1 | n/a                 | n/a  | 980,000         | 875,140  | 104,860                      | 668,521                          | 111,228                           |
| <i>C. bairdi</i> crab (animals) Zone 2 | n/a                 | n/a  | 2,970,000       | 2,652,210                                      | 317,790                      | 1,527,778                        | 341,500                           |

<sup>1</sup>Refer to § 679.2 for definitions of zones.

<sup>2</sup>Section 679.21(e)(3)(i)(A)(2) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(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.

<sup>3</sup>The Amendment 80 program reduced apportionment of the trawl PSC limits by 150 mt for halibut mortality and 20 percent for crab. These reductions are not apportioned to other gear types or sectors.

Note: Sector apportionments may not total precisely due to rounding.

TABLE 12-FINAL 2013 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

| BSAI trawl limited access fisheries                 | Prohibited species and area <sup>1</sup> |                                |                                  |                            |         |
|---|--|--------------------------------|----------------------------------|----------------------------|---------|
|   | 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                                      | 167                                      | 3,338                          | 440,175                          | 46,228                     | 285,500 |
| Rock sole/flathead sole/other flatfish <sup>2</sup> | 0  | 0                              | 0                                | 0                          | 0       |
| Turbot/arrowtooth/sablefish <sup>3</sup>            | 0  | 0                              | 0                                | 0                          | 0       |
| Rockfish April 15 - December 31                     | 5  | 0                              | 4,828                            | 0                          | 1,000   |
| Pacific cod   | 333                                      | 2,954                          | 120,705                          | 60,000                     | 50,000  |
| Pollock/Atka mackerel/other species <sup>4</sup>    | 230                                      | 197                            | 48,282                           | 5,000                      | 5,000   |
| Total BSAI trawl limited access PSC                 | 735                                      | 6,489                          | 613,990                          | 111,228                    | 341,500 |

<sup>1</sup> Refer to § 679.2 for definitions of areas.

<sup>2</sup> “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.

<sup>3</sup> Arrowtooth flounder for PSC monitoring includes Kamchatka flounder.

<sup>4</sup> “Other species” for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.

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

TABLE 14-FINAL 2013 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

| Cooperative | Prohibited species and zones <sup>1</sup> |                         |                            |                            |
|-------------|---|-------------------------|----------------------------|----------------------------|
|             | Halibut mortality (mt)                    | Red king crab (animals) | <i>C. opilio</i> (animals) | <i>C. bairdi</i> (animals) |
|             |   |                         |                            |                            |

|                               | BSAI  | Zone 1 | COBLZ     | Zone 1  | Zone 2    |
|-------------------------------|-------|--------|-----------|---------|-----------|
| Alaska Seafood Cooperative    | 1,701 | 43,105 | 4,525,272 | 470,617 | 1,054,123 |
| Alaska Groundfish Cooperative | 757   | 20,188 | 2,483,863 | 197,904 | 473,655   |

<sup>1</sup> Refer to § 679.2 for definitions of zones.

Note: Sector apportionments may not total precisely due to rounding.

This will enhance the socioeconomic well-being of harvesters of groundfish dependent upon these PSC allowances. 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 cooperatives 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 PSC allowances from the BSAI trawl limited access sector to the Amendment 80 cooperatives 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 November 12, 2013.

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: November 15, 2013

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Kelly Denit

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