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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150916863-6211-02]

RIN 0648-XF010

Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish 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 exchanging unused flathead sole and rock sole Amendment 80 allocations of the total allowable catch for yellowfin sole Amendment 80 acceptable biological catch (ABC) reserves. This action is necessary to allow the 2016 total allowable catch of flathead sole, rock sole, and yellowfin sole in the Bering Sea and Aleutian Islands management area to be harvested.

DATES: Effective [*insert date of publication in the FEDERAL REGISTER*], through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (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 2016 flathead sole, rock sole, and yellowfin sole Amendment 80 allocations of the total allowable catch (TAC) specified in the BSAI are 9,853 metric tons (mt), 43,965 mt, and 115,038 mt as established by the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016) and as revised (81 FR 75740, November 1, 2016). The 2016 flathead sole, rock sole, and yellowfin sole Amendment 80 ABC reserves are 44,308 mt, 93,897 mt, and 55,531 mt as established by the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016).

The Alaska Seafood cooperative has requested that NMFS exchange 850 mt of flathead sole and 1,670 mt of rock sole Amendment 80 allocations of the TAC for 2,520 mt of yellowfin sole Amendment 80 ABC reserves under § 679.91(i). Therefore, in accordance with § 679.91(i), NMFS exchanges 850 mt of flathead sole and 1,670 mt of rock sole Amendment 80 allocations of the TAC for 2,520 mt of yellowfin sole Amendment 80 ABC reserves in the BSAI. This action also decreases and increases the TACs and Amendment 80 ABC reserves by the corresponding amounts. Tables 11 and 13 of the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016) and as revised (81 FR 75740, November 1, 2016) are further revised as follows:

TABLE 11–FINAL 2016 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	7,900	7,000	9,000	15,163	52,659	154,278
CDQ	845	749	963	1,160	4,364	18,241
ICA	200	75	10	5,000	6,000	3,500
BSAI trawl limited access	685	618	161	0	0	14,979
Amendment 80	6,169	5,558	7,866	9,003	42,295	117,558
Alaska Groundfish Cooperative	3,271	2,947	4,171	1,411	11,129	43,748
Alaska Seafood Cooperative	2,898	2,611	3,695	7,592	31,166	73,810

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

TABLE 13–FINAL 2016 AND 2017 ABC SURPLUS, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2016 Flathead sole	2016 Rock sole	2016 Yellowfin sole	2017 Flathead sole	2017 Rock sole	2017 Yellowfin sole
ABC	66,250	161,100	211,700	64,580	145,000	203,500
TAC	15,163	52,659	154,278	21,000	57,100	144,000
ABC surplus	51,087	108,441	57,422	43,580	87,900	59,500
ABC reserve	51,087	108,441	57,422	43,580	87,900	59,500
CDQ ABC reserve	5,929	12,874	4,411	4,663	9,405	6,367
Amendment 80 ABC reserve	45,158	95,567	53,011	38,917	78,495	53,134
Alaska Groundfish Cooperative for 2016 ¹	4,145	22,974	24,019	n/a	n/a	n/a
Alaska Seafood Cooperative for 2016 ¹	41,013	72,593	28,992	n/a	n/a	n/a

¹ The 2017 allocations for Amendment 80 species 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, 2016.

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 flatfish exchange by the Alaska Seafood cooperative the BSAI. Since these 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 this fishery, 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 October 25, 2016.

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 § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: November 1, 2016

Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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