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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 180713633-9174-02]**

**RIN 0648-XY041**

**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 yellowfin sole Community Development Quota (CDQ) for rock sole CDQ acceptable biological catch (ABC) reserves in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2019 total allowable catch of flathead 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, 2019.

**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 2019 flathead sole, rock sole, and yellowfin sole CDQ reserves specified in the BSAI are 1,552 metric tons (mt), 5,440 mt, and 16,078 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and flatfish exchange (84 FR 49067, September 18, 2019). The 2019 flathead sole, rock sole, and yellowfin sole CDQ ABC reserves are 5,577 mt, 7,283 mt, and 12,084 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and flatfish exchange (84 FR 49067, September 18, 2019).

The Aleutian Pribilof Island Community Development Association has requested that NMFS exchange 400 mt of rock sole CDQ reserves for 50 mt of flathead sole CDQ ABC reserves and 350 mt of yellowfin sole CDQ ABC reserves under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 400 mt of rock sole CDQ reserves for 50 mt of flathead sole CDQ ABC reserves and 350 mt of yellowfin sole CDQ ABC reserves in the BSAI. This action also decreases and increases the TACs and CDQ ABC reserves by the corresponding amounts. Tables 11 and 13 of the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and revised in flatfish exchanges (84 FR 49067, September 18, 2019), are further revised as follows:

TABLE 11 -- FINAL 2019 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	11,009	8,385	10,000	21,350	39,000	155,250
CDQ	1,178	897	1,070	1,602	5,040	16,428
ICA	100	60	10	3,000	6,000	4,000
BSAI trawl limited access	973	743	178	-	-	18,351
Amendment 80	8,758	6,685	8,742	16,749	27,960	116,471

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

TABLE 13 -- FINAL 2019 AND 2020 ABC SURPLUS, ABC RESERVES, 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	2019 Flathead sole	2019 Rock sole	2019 Yellowfin sole	2020 <sup>1</sup> Flathead sole	2020 <sup>1</sup> Rock sole	2020 <sup>1</sup> Yellowfin sole
ABC	66,625	118,900	263,200	68,448	143,700	257,800
TAC	21,350	39,000	155,250	14,500	57,100	166,425
ABC surplus	45,275	79,900	107,950	53,948	86,600	91,375
ABC reserve	45,275	79,900	107,950	53,948	86,600	91,375
CDQ ABC reserve	5,527	7,683	11,734	5,772	9,266	9,777
Amendment 80 ABC reserve	39,748	72,217	96,216	48,176	77,334	81,598

<sup>1</sup> The 2020 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, 2019.

## 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 Aleutian Pribilof Island Community Development Association in 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 September 24, 2019.

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: September 30, 2019.

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Alan D. Risenhoover,

Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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