

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA784

## Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of 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 2011 crab prohibited species catch (PSC) allowances from the Bering Sea and Aleutian Islands trawl limited access sector to the Amendment 80

cooperatives in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the Amendment 80 cooperatives to fully harvest their 2011 groundfish allocations.

**DATES:** Effective October 25, 2011, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2011.

**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 also determined that 259,000 crabs of Zone 1 *C. bairdi* tanner crab PSC, 750,000 crabs of Zone 2 *C. bairdi* tanner crab PSC, 37,000 crabs of Zone 1 red king crab PSC, and 1,300,000 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)(5), NMFS is reallocating these 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 crab PSC following the procedures set forth in § 679.91(f)(4) and § 679.91(f)(5).

The harvest specifications for crab PSC allowances included in the final harvest specifications for crab in the BSAI (76 FR 11139, March 1, 2011) are modified as follows in Tables 8a, 8c, and 8d:

TABLE 8a—FINAL 2011 AND 2012 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 <sup>1</sup> | Total trawl PSC | Trawl PSC remaining after CDQ PSQ <sup>1</sup> | CDQ PSQ reserve <sup>1</sup> | Amendment 80 sector |           | BSAI trawl limited access fishery |           |
|---|---------------------|--|-----------------|--|------------------------------|---------------------|-----------|-----------------------------------|-----------|
|   |                     |  |                 |  |                              | 2011                | 2012      | 2011                              | 2012      |
| Halibut mortality (mt) BSAI .....                         | 900                 | 832  | 3,675           | 3,349  | 393                          | 2,375               | 2,325     | 875                               | 875       |
| Herring (mt) BSAI .....                                   | n/a                 | n/a  | 2,273           | n/a  | n/a                          | n/a                 | n/a       | n/a                               | n/a       |
| Red king crab (animals) Zone 1 <sup>1</sup> .....         | n/a                 | n/a  | 197,000         | 175,921  | 21,079                       | 130,432             | 87,925    | 16,797                            | 53,797    |
| <i>C. opilio</i> (animals) COBLZ <sup>2</sup> .....       | n/a                 | n/a  | 8,310,480       | 7,421,259                                      | 889,221                      | 5,175,381           | 3,647,549 | 1,085,193                         | 2,385,193 |
| <i>C. bairdi</i> crab (animals) Zone 1 <sup>2</sup> ..... | n/a                 | n/a  | 830,000         | 741,190  | 88,810                       | 590,608             | 312,115   | 89,285                            | 348,285   |
| <i>C. bairdi</i> crab (animals) Zone 2 .....              | n/a                 | n/a  | 2,520,000       | 2,250,360                                      | 269,640                      | 1,315,966           | 532,660   | 303,394                           | 1,053,394 |

<sup>1</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>2</sup> Refer to § 679.2 for definitions of zones.

<sup>3</sup> Sector apportionments may not total precisely due to rounding.

TABLE 8c—FINAL 2011 AND 2012 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

| 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         |
| <b>2011</b>   |  |                                |                                  |                            |                |
| Yellowfin sole .....                                      | 167                                      | 14,799                         | 1,022,610                        | 75,172                     | 289,709        |
| 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                              | 1,738                            | 0                          | 244            |
| Pacific cod .....   | 453                                      | 1,873                          | 43,460                           | 13,027                     | 12,219         |
| Pollock/Atka mackerel/other species .....                 | 250                                      | 125                            | 17,384                           | 1,086                      | 1,222          |
| <b>Total BSAI trawl limited access PSC .....</b>          | <b>875</b>                               | <b>16,797</b>                  | <b>1,085,193</b>                 | <b>89,285</b>              | <b>303,394</b> |
| Non-trawl fisheries                                       |  | Catcher/processor              | Catcher vessel                   |                            |                |
| Pacific cod—Total .....                                   |  | 760                            | 15                               |                            |                |
| January 1–June 10 .....                                   |  | 455                            | 10                               |                            |                |
| June 10–August 15 .....                                   |  | 190                            | 3                                |                            |                |

|   |  |   |  |                            |           |
|---|--|---|--|----------------------------|-----------|
| Non-trawl fisheries                                       |  |   |  |                            |           |
| August 15–December 31 .....                               | 115                                      | 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                                      |   |  |                            |           |
| BSAI trawl limited access fisheries                       | Prohibited species and area <sup>1</sup> |   |  |                            |           |
|   | Halibut mortality (mt)<br>BSAI           | Red king<br>crab<br>(animals)<br>Zone 1 | <i>C. opilio</i><br>(animals)<br>COBLZ | <i>C. bairdi</i> (animals) |           |
|   |  |   |  | Zone 1                     | Zone 2    |
| 2012  |  |   |  |                            |           |
| Yellowfin sole .....                                      | 167                                      | 47,397                                  | 2,247,640                              | 293,234                    | 1,005,879 |
| 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                                       | 3,821                                  | 0                          | 849       |
| Pacific cod .....   | 453                                      | 6,000                                   | 95,523                                 | 50,816                     | 42,424    |
| Pollock/Atka mackerel/other species <sup>4</sup> .....    | 250                                      | 400                                     | 38,209                                 | 4,235                      | 4,242     |
| Total BSAI trawl limited access PSC .....                 | 875                                      | 53,797                                  | 2,385,193                              | 348,285                    | 1,053,394 |
| Non-trawl fisheries                                       | Catcher/<br>processor                    | Catcher<br>vessel                       |  |                            |           |
| Pacific cod—Total .....                                   | 760                                      | 15                                      |  |                            |           |
| January 1–June 10 .....                                   | 455                                      | 10                                      |  |                            |           |
| June 10–August 15 .....                                   | 190                                      | 3                                       |  |                            |           |
| August 15–December 31 .....                               | 115                                      | 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                                      |   |  |                            |           |

<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 sculpins, sharks, skates, and octopuses.

<sup>5</sup> Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 8d—FINAL 2011 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

| Cooperative                         | Prohibited species and zones <sup>1</sup> |   |  |                            |         |
|-------------------------------------|---|---|--|----------------------------|---------|
|                                     | Halibut<br>≤mortality<br>(mt) BSAI        | Red king<br>crab<br>(animals)<br>Zone 1 | <i>C. opilio</i><br>(animals)<br>COBLZ | <i>C. bairdi</i> (animals) |         |
|                                     |   |   |  | Zone 1                     | Zone 2  |
| Alaska Seafood Cooperative .....    | 1,643                                     | 88,830                                  | 3,341,355                              | 415,769                    | 907,979 |
| Alaska Groundfish Cooperative ..... | 732                                       | 41,602                                  | 1,834,026                              | 174,839                    | 407,987 |

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

<sup>2</sup> 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 October 17, 2011.

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: October 20, 2011.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA783

#### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel 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; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel in the Bering Sea subarea and Eastern Aleutian district (BS/EAI) of the Bering Sea and Aleutian Island management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2011 total allowable catch (TAC) of Atka mackerel in these areas allocated to vessels participating in the BSAI trawl limited access fishery.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 20, 2011, through 2400 hrs, A.l.t., December 31, 2011.

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

**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 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 2011 TAC of Atka mackerel, in the BS/EAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 2,859 metric tons by the final 2011 and 2012

harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the BS/EAI by vessels participating in the BSAI trawl limited access fishery.

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### 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 a 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 closure of the Atka mackerel fishery in the BS/EAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 19, 2011. 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: October 20, 2011.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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