

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (75 FR 24482, May 5, 2010), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, thus allowing fishers access to the available fish at the time the fish were available while ensuring that quotas are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon Fishery Management Plan and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: August 13, 2010.

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. 0910131363-0087-02]

RIN 0648-XY29

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Rock Sole 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 amount of the 2010 rock sole total allowable catch (TAC) specified for the Bering Sea and Aleutian Islands incidental catch allowance ICA to the Amendment 80 cooperative in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2010 total allowable catch of rock sole to be fully harvested.

DATES: Effective August 16, 2010, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2010.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XY29, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.
- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586-7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comment will generally be posted without change. All Personal Identifying Information (for

example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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 rock sole TAC specified for the Bering Sea and Aleutian Islands ICA is 10,000 metric tons (mt) and the 2010 rock sole TAC specified for the Amendment 80 cooperative is 52,863 mt 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 6,000 mt of the rock sole specified for the BSAI ICA will not be harvested. Therefore, in accordance with § 679.91(f), NMFS reallocates 6,000 mt of rock sole from the BSAI ICA to the Amendment 80 cooperative in the BSAI. In accordance with § 679.91(f), NMFS will reissue cooperative quota permits for the reallocated rock sole following the procedures set forth in § 679.91(f)(3).

The harvest specifications for rock sole included in the harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010) are revised as follows: 4,000 mt to the BSAI ICA and 58,863 mt to the Amendment 80 cooperative in the BSAI. Table 7a is correctly revised and republished in its entirety as follows:

TABLE 7A—FINAL 2010 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	4,220	4,270	6,540	60,000	90,000	219,000
CDQ	452	457	700	6,420	9,630	23,433
ICA	100	50	50	5,000	4,000	2,000
BSAI trawl limited access	367	376	116	0	0	42,369
Amendment 80	3,302	3,387	5,674	48,580	76,370	151,198
Amendment 80 limited access	1,751	1,796	3,009	5,708	17,507	60,465
Amendment 80 cooperatives	1,551	1,591	2,666	42,872	58,863	90,733

This will enhance the socioeconomic well-being of harvesters dependent upon rock sole in this area. The Regional Administrator considered the following factors in reaching this decision: (1) The current catch of rock sole by the BSAI trawl limited access sector and, (2) the harvest capacity and stated intent on future harvesting patterns of the Amendment 80 cooperative that participates in this BSAI fishery.

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 rock sole from the BSAI trawl limited access sector to the Amendment 80 cooperative in the BSAI. Since the fishery is 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 August 13, 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: August 16, 2010.

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

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