

be committed, any of the following acts in regard to this species:

- (i) Import or export, as set forth at § 17.21(b) for endangered wildlife.
- (ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.
- (iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.
- (iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

- (i) Conduct activities as authorized by a permit under § 17.32.
- (ii) Take, as set forth at § 17.21(c)(2) through (4) for endangered wildlife.
- (iii) Take as set forth at § 17.31(b).
- (iv) Take incidental to an otherwise lawful activity caused by:

(A) Channel restoration or improvement projects that create natural, physically stable, ecologically functioning streams (or stream and wetland systems) that are reconnected with their groundwater aquifers and, if the projects involve known relict darter spawning habitat, that take place between June 30 and March 1. These projects can be accomplished using a variety of methods, but the desired outcome is a natural channel with low shear stress (force of water moving against the channel); bank heights that enable reconnection to the floodplain; a reconnection of surface and groundwater systems, resulting in perennial flows in the channel; riffles and pools composed of existing soil, rock, and wood instead of large imported materials; low compaction of soils within adjacent riparian areas; and inclusion of riparian wetlands.

(B) Streambank stabilization projects that use bioengineering methods to replace preexisting, bare, eroding stream banks with vegetated, stable stream banks, thereby reducing bank erosion and instream sedimentation and improving habitat conditions for the species and, if the projects involve known relict darter spawning habitat, that take place between June 30 and March 1. Stream banks may be stabilized using native live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), native live fascines (live branch cuttings, usually willows, bound together into long, cigar-shaped bundles), or brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill). Stream banks must not be stabilized through the use

of quarried rock (rip-rap) or the use of rock baskets or gabion structures.

(C) Bridge and culvert replacement/removal projects or low head dam removal projects that remove migration barriers or generally allow for improved upstream and downstream movements of relict darters while maintaining normal stream flows, preventing bed and bank erosion, and improving habitat conditions for the species, if completed between June 30 and March 1.

(D) Transportation projects that follow best management practices that eliminate sedimentation, do not block stream flow, do not channelize streams, and provide for fish passage under a wide range of hydrologic conditions at stream crossings and that are done between June 30 and March 1.

(E) Projects carried out in the species' range by the Natural Resources Conservation Service, U.S. Department of Agriculture, that:

(1) Do not alter habitats known to be used by the relict darter beyond the fish's tolerances; and

(2) Are performed between June 30 and March 1 to avoid the time period when the relict darter will be found within its spawning habitat, if such habitat is affected by the activity.

(v) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

**Martha Williams,**

*Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 230306-0065; RTID 0648-XD358]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Several Groundfish Species 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; apportionment of reserves; request for comments.

**SUMMARY:** NMFS apportions amounts of the non-specified reserve to the initial total allowable catch (ITAC) of Bering Sea (BS) Pacific ocean perch, Bering Sea and Aleutian Islands (BSAI) Kamchatka

flounder, BSAI northern rockfish, BSAI sharks, and Central Aleutian Islands and Western Aleutian Islands (CAI/WAI) blackspotted/rougheye rockfish. This action is necessary to allow the fisheries to continue operating. It is intended to promote the goals and objectives of the fishery management plan for the BSAI management area.

**DATES:** Effective September 26, 2023, through 2400 hours, Alaska local time, December 31, 2023. Comments must be received at the following address no later than 4:30 p.m., Alaska local time, October 11, 2023.

**ADDRESSES:** You may submit comments on this document, identified by docket number NOAA-NMFS-2022-0094, by any of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0094 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

*Mail:* Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the BSAI Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens 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 2023 ITAC of BS Pacific ocean perch was established as 10,118 metric tons (mt), the 2023 ITAC of BSAI Kamchatka flounder was established as 6,442 mt, the 2023 ITAC of BSAI northern rockfish was established as 9,350 mt, the 2023 ITAC of BSAI sharks was established as 213 mt, and the 2023 ITAC of CAI/WAI blackspotted/rougheye rockfish was established as 141 mt by the final 2023 and 2024 harvest specifications for groundfish of the BSAI (88 FR 14926, March 10, 2023) and correction (88 FR 18258, March 28, 2023). In accordance with § 679.20(a)(3) the Regional Administrator, Alaska Region, NMFS, has reviewed the most current available data and finds that the ITACs for BS Pacific ocean perch, BSAI Kamchatka flounder, BSAI northern rockfish, BSAI sharks, and CAI/WAI blackspotted/rougheye rockfish need to be supplemented from the non-specified reserve to promote efficiency in the utilization of fishery resources in the BSAI and allow fishing operations to continue.

Therefore, in accordance with § 679.20(b)(3), NMFS apportions from the non-specified reserve of groundfish to ITACs in the BSAI management area as follows: 1,785 mt to BS Pacific ocean perch, 1,137 mt to BSAI Kamchatka flounder, 1,650 mt to BSAI northern rockfish, 120 mt to BSAI sharks, and 25 mt to CAI/WAI blackspotted/rougheye rockfish. These apportionments are consistent with § 679.20(b)(1)(i) and do not result in overfishing of any target species because the revised ITACs and total allowable catches (TACs) are equal to or less than the specifications of the acceptable biological catch in the final 2023 and 2024 harvest specifications for groundfish in the BSAI (88 FR 14926, March 10, 2023) and correction (88 FR 18258, March 28, 2023).

The harvest specification for the 2023 ITACs and TACs included in the harvest specifications for groundfish in the BSAI are revised as follows 11,903 mt for BS Pacific ocean perch, 7,579 mt for BSAI Kamchatka flounder, 11,000 mt for BSAI northern rockfish, 333 mt for BSAI sharks, and 166 mt for CAI/WAI blackspotted/rougheye rockfish.

#### Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be 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 apportionment of the non-specified reserves of groundfish to BS Pacific ocean perch, BSAI Kamchatka flounder, BSAI northern rockfish, BSAI sharks, and CAI/WAI blackspotted/rougheye rockfish. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 5, 2023.

The Assistant Administrator for Fisheries, NOAA 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.

Under § 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see **ADDRESSES**) until October 11, 2023.

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

Dated: September 22, 2023.

**Jennifer M. Wallace,**

*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. 230306-0065; RTID 0648-XD359]**

### Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of 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; reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amount of the 2023 Atka mackerel incidental catch allowance (ICA) for the Bering Sea

subarea and Eastern Aleutian district (BS/EAI) to the Amendment 80 cooperative allocation for the BS/EAI in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2023 total allowable catch of Atka mackerel in the BSAI to be fully harvested.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 25, 2023 through 2400 hours, A.l.t., December 31, 2023.

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

**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 (Magnuson-Stevens 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 2023 Atka mackerel ICA for the BS/EAI is 800 metric tons (mt) and the 2023 Atka mackerel total allowable catch allocated to the Amendment 80 cooperative for the BS/EAI is 21,083 mt as established by the final 2023 and 2024 harvest specifications for groundfish in the BSAI (88 FR 14926, March 10, 2023) and correction (88 FR 18258, March 28, 2023).

The Administrator, Alaska Region, NMFS, has determined that 700 mt of the Atka mackerel ICA for the BS/EAI will not be harvested. Therefore, in accordance with § 679.91(f), NMFS reallocates 700 mt of Atka mackerel from the BS/EAI ICA to the BS/EAI Amendment 80 cooperative allocation in the BSAI. In accordance with § 679.91(f), NMFS will reissue the cooperative quota permit for the reallocated Atka mackerel following the procedures set forth in § 679.91(f)(3).

The harvest specifications for Atka mackerel included in the harvest specifications for groundfish in the BSAI (88 FR 14926, March 10, 2023) and corrected (88 FR 18258, March 28, 2023) are revised as follows: 100 mt of Atka mackerel for the BS/EAI ICA and 21,783 mt of Atka mackerel for the Amendment 80 cooperative allocation for the BS/EAI. Table 6 is revised and republished in its entirety as follows: