

Dated: May 17, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 043002A]

Fisheries of the Exclusive Economic Zone off Alaska; Bycatch Rate Standards for the Second Half of 2002

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the second half of 2002. Publication of these bycatch rate standards is required by regulations implementing the vessel incentive program (VIP). This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 1, 2002, through 2400 hours, A.l.t., December 31, 2002. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., June 27, 2002.

ADDRESSES: Comments may be submitted to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228, fax 907-

586-7465, e-mail mary.furuness@noaa.gov.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) are managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR part 679.

Regulations at § 679.21(f) implement a VIP to reduce halibut and red king crab bycatch rates in the groundfish trawl fisheries. Under the incentive program, operators of trawl vessels may not exceed Pacific halibut bycatch rate standards specified for the BSAI and GOA midwater pollock and "other trawl" fisheries, and the BSAI yellowfin sole and "bottom pollock" fisheries. Vessel operators also may not exceed red king crab bycatch standards specified for the BSAI yellowfin sole and "other trawl" fisheries in Bycatch Limitation Zone 1 (defined in § 679.2). The fisheries included under the incentive program are defined in regulations at § 679.21(f)(2).

Regulations at § 679.21(f)(3) require that halibut and red king crab bycatch rate standards for each fishery included under the incentive program be published in the Federal Register. The standards are in effect for specified seasons within the 6-month periods of January 1 through June 30, and July 1 through December 31. For purposes of calculating vessel bycatch rates under the incentive program, 2002 fishing months and halibut and red king crab bycatch rate standards for the first half of 2002 were published in the **Federal Register** (67 FR 1160, January 9, 2002).

As required by § 679.21(f)(3) and (4), the Administrator of the Alaska Region, NMFS (Regional Administrator), has established the bycatch rate standards for the second half of 2002 (July 1 through December 31). These standards were endorsed by the Council at its April 2002 meeting and are set out in Table 1. As required by § 679.21(f)(4), bycatch rate standards must be based on the following information:

(A) Previous years' average observed bycatch rates;

(B) Immediately preceding season's average observed bycatch rates;

(C) The bycatch allowances and associated fishery closures specified under §§ 679.21(d) and (e);

(D) Anticipated groundfish harvests;

(E) Anticipated seasonal distribution of fishing effort for groundfish; and

(F) Other information and criteria deemed relevant by the Regional Administrator.

TABLE 1—BYCATCH RATE STANDARDS BY FISHERY FOR THE SECOND HALF OF 2002 FOR PURPOSES OF THE VESSEL INCENTIVE PROGRAM IN THE BSAI AND GOA.

Fishery	2002 bycatch rate standard
Halibut bycatch rate standards (kilogram (kg) of halibut/metric ton (mt) of groundfish catch)	
BSAI Midwater pollock	1.0
BSAI Bottom pollock	5.0
BSAI Yellowfin sole	5.0
BSAI Other trawl	30.0
GOA Midwater pollock	1.0
GOA Other trawl	40.0
Zone 1 red king crab bycatch rate standards (number of crab/mt of groundfish catch)	
BSAI yellowfin sole	2.5
BSAI Other trawl	2.5

Bycatch Rate Standards for Pacific Halibut

The halibut bycatch rate standards for the second half of 2002 trawl fisheries are unchanged from those implemented for the second half of 2001. The Regional Administrator based standards for the second half of 2002 on anticipated seasonal fishing effort for groundfish species and on 1998-2001 halibut bycatch rates observed in the trawl fisheries included under the incentive program. Along with bycatch rate standards, the industry and the Council are exploring opportunities under fishery cooperatives and other voluntary or mandatory arrangements to control bycatch and optimize the amount of groundfish harvested under halibut and crab bycatch limits. Under § 679.50(k), vessel specific prohibited species bycatch rates from observer data are published weekly on the NMFS, Alaska Region website (www.fakr.noaa.gov).

In determining these bycatch rate standards, the Regional Administrator considered the annual and seasonal bycatch specifications for the BSAI and the GOA trawl fisheries (67 FR 956, January 8, 2002). In the BSAI, the rockfish, yellowfin sole, and rock sole/flathead sole/"other flatfish" fishery categories will open or reopen on June 30 when seasonal apportionments of halibut bycatch allowances specified for these fisheries become available. The BSAI Pacific cod trawl fishery is currently open for catcher vessels and catcher processors. On June 10 the third allocation of trawl Pacific cod becomes available until November 1. The Regional Administrator also considered the June 10 opening date of the 2002 Bering Sea pollock 'B' season (§ 679.23(e)(5)) and the Gulf of Alaska 'C' and 'D' season pollock fisheries on August 25 and October 1, respectively (§ 679.23(d)(3)). The Regional Administrator acknowledged that the 2002 BSAI and GOA trawl fisheries for pollock and Pacific cod are closed November 1 for the remainder of the year as a protection measure for the endangered Western population of Steller sea lions.

The halibut bycatch rate standards for the BSAI yellowfin sole and "bottom pollock" trawl fisheries are each set at 5 kilograms (kg) of halibut per metric ton (mt) of groundfish. The BSAI yellowfin sole fishery has experienced undesirably high bycatch rates that NMFS and the Council wish to reduce through existing incentives. The average halibut bycatch rate for the 2001 third and fourth calendar quarter fisheries was equal to 8 and 13 kg halibut/mt groundfish, respectively. These rates are lower than those in 1999 and similar to those in 2000.

Since 1999, the use of nonpelagic trawl gear has been prohibited in the BSAI non-CDQ directed pollock fishery (§ 679.24(b)(4)). Even with this prohibition, a vessel using pelagic trawl gear may be assigned to the BSAI bottom pollock fishery defined at § 679.21(f)(2) because assignment to a fishery for purposes of the VIP is based on retained catch composition during a weekly period instead of gear type. If the majority of the catch is pollock, but pollock comprises less than 95 percent of the catch, then a haul is assigned to the BSAI bottom pollock fishery. The

prohibition on the use of nonpelagic trawl gear has reduced the number of hauls assigned to the BSAI bottom pollock fishery. Since the prohibition became effective, the halibut bycatch rates for this fishery are low compared to the halibut bycatch rate standards established for this fishery. The average halibut bycatch rate for the 2001 third and fourth calendar quarter pollock fisheries was equal to 3.17 and 0.63 kg halibut/mt groundfish, respectively.

The halibut bycatch rate standard for the BSAI and GOA midwater pollock fisheries (1 kg of halibut/mt of groundfish) is higher than the bycatch rates normally experienced by vessels participating in these fisheries. This standard is intended to encourage vessel operators to maintain off-bottom trawl operations and limit further bycatch of halibut in the pollock fishery. The average halibut bycatch rates for the BSAI 2001 third and fourth calendar quarter fisheries are equal to 0.17 and 0.22 kg halibut/mt groundfish, respectively, and the average halibut bycatch rates for the GOA 2001 third and fourth calendar quarter fisheries are equal to 0.95 and 0.06 kg halibut/mt groundfish, respectively.

The considerations that support the bycatch rate standards for the "other trawl" fisheries are unchanged from previous years and are discussed in the **Federal Register** publications of 1995 bycatch rate standards (60 FR 2905, January 12, 1995, and 60 FR 27425, May 24, 1995). A bycatch rate standard of 30 kg halibut/mt of groundfish is established for the BSAI "other trawl" fishery. This standard has remained unchanged since 1992. Observer data from the 2001 BSAI "other trawl" fishery show third and fourth quarter halibut bycatch rates of 9 and 6 kg of halibut/mt of groundfish. A bycatch rate standard of 40 kg of halibut/mt of groundfish is established for the GOA "other trawl" fishery, which is unchanged since 1994. Observer data collected from the 2001 GOA "other trawl" fishery show average third and fourth quarter halibut bycatch rates of 27 and 57 kg of halibut/mt of groundfish, respectively.

Bycatch Rate Standards for Red King Crab

The red king crab bycatch rate standard for the yellowfin sole and

"other trawl" fisheries in Zone 1 of the Bering Sea subarea is 2.5 crab/mt of groundfish during the second half of 2002. This standard has remained unchanged since 1992. Through April 6, 2002, the rock sole/flathead sole/"other flatfish" fishery category has taken 104 percent of its annual red king crab bycatch allowance in Zone 1 including the Red King Crab Savings Subarea bycatch limit. The Pacific cod and yellowfin sole fisheries have taken 38 percent and 9 percent, respectively, of their bycatch allowances in Zone 1. The Regional Administrator anticipates that the non-pelagic trawl gear closure of the Red King Crab Savings Area in Zone 1 and the trawl gear closure for rock sole/flathead sole/"other flatfish" in Zone 1 will continue to result in low red king crab bycatch rates for the remainder of the year and is maintaining the 2.5 red king crab/mt of groundfish bycatch rate standard.

The Regional Administrator has determined that the bycatch rate standards set forth in Table 1 for the second half of 2002 are appropriately based on the information and considerations necessary for such determinations under § 679.21(f). These bycatch rate standards may be revised and published in the **Federal Register** when deemed appropriate by the Regional Administrator, pending his consideration of the information set forth at § 679.21(f)(4).

Classification

The halibut and red king crab bycatch rate standards for the second half of 2002 must be effective by July 1, 2002, when the bycatch rate standards for the first half of 2002 expire, in order to limit bycatch rates in the second half of the 2002 fishing year. Consequently, NMFS finds good cause to waive the requirement for prior notice comment pursuant to 5 U.S.C. 553(b)(B) as such procedures are contrary to the public interest. For the same reason, NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived. This action is taken under 50 CFR 679.21(f) and is exempt from Office of Management and Budget review under Executive Order 12866.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.* and 3631 *et seq.*

Dated: May 21, 2002.

Virginia M. Fay,

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

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