

substantive or de minimis changes to the ALWTRP regulations, good cause exists under 5 U.S.C. 553(d) not to delay the effective date of this final rule for 30 days.

In addition, in regard to removing minke whales from the regulatory text, NMFS did not intend to change the regulatory text to include minke whales and had no authority to do so; therefore, NMFS has no discretion in the decision to correct the provision. Because this portion of the rule relieves a restriction, it is not subject to a 30-day delay in effective date.

Because a general notice of proposed rulemaking is not required for this final rule under 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

#### List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, and Marine mammals.

Dated: April 15, 2003.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, the National Marine Fisheries Service amends 50 CFR part 229 as follows:

#### PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

**Authority:** 16 U.S.C. 1371 *et seq.*

■ 2. In § 229.32, paragraph (f)(4)(iv) is revised to read as follows:

#### § 229.32 Atlantic large whale take reduction plan regulations.

\* \* \* \* \*

(f) \* \* \*

(4) \* \* \*

(iv) *Special provision for strikenets.*

Fishing for sharks with strikenet gear is exempt from the restrictions under paragraphs (f)(4)(ii) and (f)(4)(iii) of this section if:

(A) No nets are set at night or when visibility is less than 500 yards (460m);

(B) Each set is made under the observation of a spotter plane;

(C) No net is set within 3 nautical miles of a right, humpback or fin whale; and

(D) If a right, humpback or fin whale moves within 3 nautical miles of the set gear, the gear is removed immediately from the water.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021212307-3037-02; I.D. 041503A]

#### Fisheries of the Exclusive Economic Zone off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 17, 2003, through 1200 hrs, May 21, 2003.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands 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 CFR part 679.

The second seasonal apportionment of the halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI is 195 metric tons as established by the final 2003 harvest specifications for Groundfish of the BSAI (68 FR 9907, March 3, 2003).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the amount of the second seasonal apportionment of the halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI will be caught. Consequently, NMFS is closing directed fishing for species in the yellowfin sole fishery category by vessels using trawl gear in the BSAI.

#### 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 contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the second seasonal apportionment of the halibut bycatch allowance specified, and therefore reduce the public's ability to use and enjoy the fishery resource.

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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 15, 2003.

**Dean Swanson,**

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

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