

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 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 interim 2004 halibut bycatch allowance specified for the trawl rock sole/flathead sole/“other flatfish” fishery category in the BSAI is 195 metric tons as established by the interim 2004 harvest specifications for groundfish of the BSAI (68 FR 68265, December 8, 2003).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the amount of the interim 2004 halibut bycatch allowance specified for the trawl rock sole/flathead sole/“other flatfish” fishery category in the BSAI has been caught. Consequently, NMFS is closing directed fishing for species in the rock sole/flathead sole/“other flatfish” 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 impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure under the 2004 interim specifications of directed fishing for species in the rock sole/flathead sole/“other flatfish” fishery category by vessels using trawl gear in the BSAI.

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: February 23, 2004.

**Bruce C. Morehead,**

*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. 031126297-3297-01; I.D. 022004B]

##### Fisheries of the Exclusive Economic Zone off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

**ACTION:** Inseason adjustment; request for comments.

**SUMMARY:** NMFS issues an inseason adjustment opening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 12 hours effective 1200 hrs, Alaska local time (A.l.t.), February 24, 2004, until 2400 hrs, A.l.t., February 24, 2004. This adjustment is necessary to allow the fishing industry opportunity to harvest the 2004 interim total allowable catch (TAC) of pollock specified for Statistical Area 630 of the GOA.

**DATES:** Effective 1200 hrs, A.l.t., February 24, 2004, until 2400 hrs, A.l.t., February 24, 2004. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 10, 2004.

**ADDRESSES:** Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall. Comments also may be sent via facsimile (fax) to 907 586 7557 or e-mail. The mailbox address for providing e-mail comments is AKR.eComments@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: “Pollock Re-opening in Statistical Area 630, ID 022004B.” 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.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the

GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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.

NMFS issued a prohibition to directed fishing for pollock effective January 21, 2004, for Statistical Area 630, in accordance with § 679.20(d)(1)(iii), (see 69 FR 2850, January 21, 2004).

As of February 19, 2004, 1,200 metric tons (mt) of pollock remain in the 2004 interim TAC of the pollock specified for Statistical Area 630 of the GOA. Regulations at § 679.23(b) specify that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. Current information shows the catching capacity of vessels catching pollock for processing by the inshore component in Statistical Area 630 of the GOA is about 2,500 mt per day. The Administrator, Alaska Region, NMFS, has determined that the 2004 interim TAC of pollock could be exceeded if a 24-hour fishery were allowed to occur. NMFS intends that the seasonal allowance not be exceeded and, therefore, will not allow a 24-hour directed fishery. NMFS, in accordance with § 679.25(a)(1)(i) and § 679.25(a)(2)(i)(A) and (C), is adjusting directed fishery for pollock in Statistical Area 630 of the GOA by opening the fishery at 1200 hrs, A.l.t., February 24, 2004, and closing the fishery at 2400 hrs, A.l.t., February 24, 2004, at which time directed fishing for pollock will be prohibited. This action has the effect of opening the fishery for 12 hours.

NMFS is taking this action to allow a controlled fishery to occur, thereby preventing the overharvest of the 2004 interim TAC of pollock designated in accordance with the interim 2004 harvest specifications for groundfish in the GOA (68 FR 67964, December 5, 2004) and § 679.20(a)(5)(iii). In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 2400 hrs, A.l.t., February 24, 2004, after a 12 hour opening is the least restrictive management adjustment to achieve the 2004 interim TAC of pollock in Statistical Area 630 of the GOA. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

## 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 the Agency from responding to the most recent fisheries data in a timely fashion and, thus, preventing the full utilization of the 2004 interim TAC of pollock in statistical area 630 of the GOA.

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.

Without this inseason adjustment, NMFS could not allow the 2004 interim TAC of pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 10, 2004.

This action is required by §§ 679.20 and 679.25 and is exempt from review under Executive Order 12866.

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

Dated: February 23, 2004.

**Bruce C. Morehead,**

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. 031124287-4060-02; I.D. 111703C]

### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2004 Harvest Specifications for Groundfish

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

**ACTION:** Final 2004 harvest specifications for groundfish; apportionment of reserves; closures.

**SUMMARY:** NMFS announces final 2004 harvest specifications and prohibited species catch (PSC) allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2004 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI.

**DATES:** The final 2004 harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), February 27, 2004, through 2400 hrs, A.l.t., December 31, 2004.

**ADDRESSES:** Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall. The Final 2003 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2003, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809) or from its Home page at <http://www.fakr.noaa.gov/npfmc>.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228 or e-mail [mary.furuness@noaa.gov](mailto:mary.furuness@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Federal regulations at 50 CFR part 679 that implement the FMP govern the groundfish fisheries in the BSAI. The Council prepared the FMP and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and for the "other species" category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). Also specified are apportionments of TACs, and Community Development Quota (CDQ) reserve amounts, PSC allowances, and prohibited species

quota (PSQ) reserve amounts. Regulations at § 679.20(c)(3) further require NMFS to consider public comment on the proposed annual TACs and apportionments thereof and the proposed PSC allowances, and to publish final specifications in the **Federal Register**. The final specifications set forth in Tables 1 through 17 of this action satisfy these requirements. For 2004, the sum of TACs is 2 million mt.

The proposed BSAI groundfish specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 3, 2003 (68 FR 67642). Comments were invited and accepted through January 2, 2004. NMFS received one letter of comment on the proposed specifications. This letter of comment is summarized and responded to in the Response to Comments section. NMFS consulted with the Council during the December 2003 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 2004 groundfish harvest specifications as recommended by the Council.

Regulations at § 679.20(c)(2)(ii) establish the interim amounts of each proposed initial TAC (ITAC) and allocations thereof, of each CDQ reserve established by § 679.20(b)(1)(iii), and of the proposed PSC allowances and PSQ reserves established by § 679.21 that become available at 0001 hours, A.l.t., January 1, and remain available until superseded by the final specifications. NMFS published the interim 2004 groundfish harvest specifications in the **Federal Register** on December 8, 2003 (68 FR 68265). Regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for either the hook-and-line or pot gear sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota (IFQ) management plan. The final 2004 groundfish harvest specifications, PSC allowances and PSQ reserves contained in this action supersede the interim 2004 groundfish harvest specifications.

#### Acceptable Biological Catch (ABC) and TAC Specifications

The final ABC levels are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations and is