

jeopardy situation is not remedied in a timely fashion. On September 30, 1999 (64 FR 52676), we published a correction to the regulations promulgated in our June 17, 1999 (64 FR 32706), final rule; however, the correction was not associated with permit revocation.

On February 11, 2000 (65 FR 6916), we published a request for additional public comment on specific regulatory changes included in the June 17, 1999 (64 FR 32706), final rule, including the Permit Revocation Rule. Based on our review of the comments we received in response to the February 11, 2000 (65 FR 6916), request for comments, we published a notice on January 22, 2001 (66 FR 6483), that affirmed the provisions of the June 17, 1999 (64 FR 32706), final rule, including the Permit Revocation Rule.

The plaintiffs in *Spirit of the Sage Council v. Norton*, Civil Action No. 98-1873 (D.D.C.), challenged the validity of the Permit Revocation Rule. On December 11, 2003, the court ruled that the public notice and comment procedures followed by the Service when promulgating the Permit Revocation Rule were in violation of the APA. The court vacated and remanded the Permit Revocation Rule to the Service for further consideration consistent with section 553 of the APA. In compliance with the court's order, we therefore withdraw the Permit Revocation Rule (50 CFR 17.22(b)(8) and 17.32(b)(8)).

#### Effective Date

In accordance with 5 U.S.C. 553(d)(3), we find good cause to make this rule effective upon publication. Moreover, in accordance with 5 U.S.C. 553(b)(3)(B), we find good cause that notice and public procedure for this rulemaking action are impracticable, unnecessary, or contrary to the public interest. We must remove the text identified in this rule from 50 CFR 17 because the December 11, 2003, court order in *Spirit of the Sage Council v. Norton*, Civil Action No. 98-1873 (D.D.C.) vacated this text.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### Regulation Promulgation

■ For the reasons set out in the preamble, we amend title 50, chapter I, subchapter B of the Code of Federal Regulations, as set forth below.

### PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

#### § 17.22 [Amended]

■ 2. Amend § 17.22 by removing paragraph (b)(8).

#### § 17.32 [Amended]

■ 3. Amend § 17.32 by removing paragraph (b)(8).

Dated: April 12, 2004.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 04-11740 Filed 5-24-04; 8:45 am]

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### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031124287-4060-02; I.D. 051804B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole in the Bering Sea and Aleutian Islands Area

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

**ACTION:** Apportionment of reserve; request for comments.

**SUMMARY:** NMFS apportions amounts of the non-specified reserve of groundfish in the Bering Sea and Aleutian Islands management area (BSAI) to rock sole. This action is necessary to account for previous harvest of the total allowable catch (TAC). It is intended to promote the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

**DATES:** Effective May 25, 2004. Comments must be received no later than 4:30 p.m., Alaska local time, June 8, 2004.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

● Mail: P.O. Box 21668, Juneau, AK 99802-1668;

● Hand Delivery to the Federal Building; 709 West 9th Street, Room 420A, Juneau, AK;

● Fax: 907-586-7557;

● E-mail: [bsairel04\\_1@noaa.gov](mailto:bsairel04_1@noaa.gov)

Include in the subject line of the e-mail comment the document identifier: bsairel04\_1; or

● Webform at the Federal eRulemaking Portal:

<http://www.regulations.gov>. Follow the instructions at that site for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the 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 Administrator, Alaska Region, NMFS, has determined that the initial TAC for rock sole in the BSAI, specified in the final 2004 harvest specifications (69 FR 9242, February 27, 2004) needs to be supplemented from the non-specified reserve in order to continue operations and account for prior harvest.

Therefore, in accordance with § 679.20(b)(3), NMFS proposes to apportion 3,075 metric tons from the non-specified reserve to the rock sole initial TAC in the BSAI. These proposed apportionments are consistent with § 679.20(b)(1)(ii) and do not result in overfishing of a target species because the revised initial TAC is equal to or less than the specification of the acceptable biological catch (69 FR 9242, February 27, 2004).

#### 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) and 679.20 (b)(3)(iii)(A) as such a 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 apportionment of the reserves to the rock sole fishery, thus preventing full utilization of the TAC of rock sole,

cause disruption to the industry and potential economic harm through unnecessary discards. This action will allow for the orderly conduct and efficient operation of the BSAI groundfish fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 4, 2004.

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.

Under § 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see **ADDRESSES**) until June 8, 2004.

This action is required by 50 CFR 679.20 and is exempt from review under Executive Order 12866.

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

Dated: May 19, 2004.

**Bruce C. Morehead,**

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

[FR Doc. 04-11799 Filed 5-24-04; 8:45 am]

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