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**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 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 closed the directed fishery for pollock in Statistical Area 620 of the GOA under § 679.20(d)(1)(iii) on August 29, 2005 (70 FR 51300, August 30, 2005). NMFS opened directed fishing for pollock in Statistical Area 620 of the GOA for 96 hrs on September 8, 2005 (70 FR 53971, September 13, 2005).

NMFS has determined that approximately 2,740 mt of pollock remain in the directed fishing allowance. Therefore, in accordance with 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the C season allowance of the 2005 TAC of pollock in Statistical area 620, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 620 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 96 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA effective 1200 hrs, A.l.t., September 19, 2005.

#### 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 NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in

Statistical Area 620 of the GOA. NMFS was unable to publish an action providing time for public comment because the most recent, relevant data only became available as of September 12, 2005.

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 D season allowance of the 2005 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 September 30, 2005.

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

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

Dated: September 15, 2005.

**Alan D. Risenhoover,**

*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. 041126332-5039-02; I.D. 091605F]

### Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole 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; rescinding the prohibition of retention.

**SUMMARY:** NMFS is rescinding the prohibition on retention of yellowfin sole in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully use the 2005 total allowable catch of yellowfin sole in the BSAI and to allow vessels to retain yellowfin sole and reduce discards.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 17, 2005, until 2400 hrs, A.l.t., December 31, 2005.

#### 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 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. 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 2005 TAC of yellowfin sole in the BSAI was established as 83,883 metric tons by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005) and the apportionment of the non-specified reserve to the yellowfin sole TAC on July 28, 2005 (70 FR 43644, July 28, 2005) and September 16, 2005 (70 FR 54656, September 16, 2005).

NMFS prohibited retention of yellowfin sole BSAI under § 679.20(d)(2) on August 24, 2005 (70 FR 50995, August 29, 2005).

NMFS has determined that approximately 240 mt of yellowfin sole remain in the directed fishing allowance. Therefore to fully utilize the 2005 TAC of yellowfin sole in the BSAI, NMFS is rescinding the prohibition on retention and is allowing that catches of yellowfin sole in this area be retained according to the maximum retainable amounts at 50 CFR 679.20(e) and (f).

#### 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 a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from immediately implementing this action in order to allow the retention of yellowfin sole by vessels fishing in the BSAI. Approximately 36 hook-and-line catcher/processors will be fishing in the BSAI into December. Approximately 240 metric tons of yellowfin sole TAC remains. Therefore, it is no longer necessary to prohibit retention of yellowfin sole. Allowing for prior notice and opportunity for public comment would prevent the fisheries from realizing the economic benefits of this action. In addition, this rule is not

subject to a 30-day delay in the effective date pursuant to 5 U.S.C. 553(d)(1) because it relieves a restriction. This action allows vessels to retain yellowfin sole and reduce discards.

Because prior notice and opportunity for public comment are not required for

this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This action has been determined to be not significant for purposes of Executive Order 12866.

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

Dated: September 16, 2005.

**Emily Menashes,**

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

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