

**§ 648.106 Sea Turtle conservation.**

Sea turtle regulations are found at 50 CFR parts 222 and 223.

13. Section 648.107 is added under Subpart G to read as follows:

**§ 648.107 Framework adjustments to management measures.**

(a) *Within season management action.* The Council, at any time, may initiate action to add or adjust management measures within the Summer Flounder, Scup, and Black Sea Bass FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the plan.

(1) *Adjustment process.* The Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second Council meeting. The Council's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Minimum fish size, maximum fish size, gear restrictions, gear requirements or prohibitions, permitting restrictions, recreational possession limit, recreational seasons, closed areas, commercial seasons, commercial trip limits, commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch, recreational harvest limit, annual specification quota setting process, FMP Monitoring Committee composition and process, description and identification of essential fish habitat (and fishing gear management measures that impact EFH), description and identification of habitat areas of particular concern, overfishing definition and related thresholds and targets, regional gear restrictions, regional season restrictions (including option to split seasons), restrictions on vessel size (LOA and GRT) or shaft horsepower, operator permits, any other commercial or recreational management measures, any other management measures currently included in the FMP, and set aside quota for scientific research.

(2) *Council recommendation.* After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale, if management

measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, it must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) *NMFS action.* If the Council's recommendation includes adjustments or additions to management measures and, if after reviewing the Council's recommendation and supporting information:

(i) NMFS concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If NMFS concurs with the Council's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if NMFS concurs with the Council recommendation, the measures will be issued as a final rule and published in the **Federal Register**.

(iii) If NMFS does not concur, the Council will be notified in writing of the reasons for the non-concurrence.

(4) *Emergency actions.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

(b) [Reserved]

14. Section 648.127 is added under subpart H to read as follows:

**§ 648.127 Framework adjustments to management measures.**

(a) *Within season management action.* See § 648.107(a).

(1) *Adjustment process.* See § 648.107(a)(1).

(2) *Council recommendation.* See § 648.107(a)(2)(i) through (iv).

(3) *NMFS action.* See § 648.107(a)(i) through (iii).

(4) *Emergency actions.* See § 648.107(a)(4).

(b) [Reserved]

15. Section 648.147 is added under subpart I to read as follows:

**§ 648.147 Framework adjustments to management measures.**

(a) *Within season management action.* See § 648.107(a).

(1) *Adjustment process.* See § 648.107(a)(1).

(2) *Council recommendation.* See § 648.107(a)(2)(i) through (iv).

(3) *Regional Administrator action.* See § 648.107(a)(i) through (iii).

(4) *Emergency actions.* See § 648.107(a)(4).

(b) [Reserved]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 990304063-9063-01; I.D. 102099A]

**Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea**

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

**ACTION:** Modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the 1999 pollock total allowable catch (TAC) specified to the inshore component in the Bering Sea subarea of the BSAI.

**DATES:** Effective 1200 hours, Alaska local time (A.L.T.), October 24, 1999 until 2400 hrs A.L.T., December 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI 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 50 CFR part 679.

In accordance with section 206(b)(1) of the American Fisheries Act (AFA), 50 percent of the remainder of the pollock TAC in the BSAI, after the subtraction of the allocation to the pollock Community Development Quota and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species, shall be allocated as a directed fishing allowance to catcher vessels harvesting pollock for processing by the inshore component. The Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999), and subsequent reallocation (64 FR 56474, October 20, 1999), established

the final 1999 amount of pollock allocated for processing by the inshore component of the Bering Sea subarea as 424,187 metric tons.

NMFS prohibited directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI effective October 6, 1999 (64 FR 55438, October 13, 1999) in accordance with § 679.20(d)(1)(iii) with the expectation that the directed fishing allowance would be caught by that date.

NMFS has determined that as of October 16, 1998, 10,600 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea.

#### **Classification**

All other closures remain in full force and effect. This action responds to the best available information recently

obtained from the fishery. It must be implemented immediately in order to allow full utilization of the pollock TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP and AFA objective of providing the pollock TAC for harvest. 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 required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: October 20, 1999.

**Bruce C. Morehead,**

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

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