Finding of No Significant Impact for a Regulatory Amendment to Revise The Maximum Retainable Amounts of Groundfish Using Arrowtooth Flounder and Kamchatka Flounder as Basis Species and Separate Management of Kamchatka Flounder in the Bering Sea and Aleutian Islands (RIN 60648-BA43)

National Marine Fisheries Service

This action revises the maximum retainable amounts (MRAs) for groundfish using arrowtooth flounder and Kamchatka flounder as basis species in the Bering Sea and Aleutian Islands management area (BSAI). This action increases the MRAs from zero percent to 20 percent for pollock, Pacific cod, Atka mackerel, Alaska plaice, yellowfin sole, other flatfish, rock sole, flathead sole, and squid; from zero percent to seven percent for Greenland turbot; from zero percent to one percent for sablefish; from zero percent to two percent for shortraker and rougheye rockfish (combined); from zero percent to five percent for aggregated rockfish; and from zero percent to three percent for other species (combined). These species and species groups are defined in the footnotes to retainable percentages listed in Table 11 to Part 679. The intended effect of this action is to reduce regulatory discards of otherwise marketable groundfish in the arrowtooth flounder fishery. NMFS also proposes additional amendments to support this action. NMFS proposes to revise § 679.20(b)(1)(ii) to provide greater flexibility for NMFS to determine in the annual harvest specifications whether allocations should be made to the Western Alaska Community Development Quota (CDQ) Program for any species not specifically allocated to the CDQ Program. NMFS proposes to revise Table 3 to Part 679 to include surimi product recovery rates for Kamchatka flounder as well as other flatfish not previously included in Table 3. NMFS proposes a revision to the BSAI groundfish seasons at § 679.23(e)(1) to include Kamchatka flounder with arrowtooth flounder and Greenland turbot so that the season commences on May 1, for all of these species. This rule revises Table 11 to identify Kamchatka flounder as a basis species, consistent with the annual harvest specifications, and include revisions to trawl fishery categories for prohibited species catch management and groundfish fishing seasons to continue management of Kamchatka flounder identical to arrowtooth flounder. These amendments increase opportunities for the BSAI non-pelagic trawl fishery to increase directed fishing for arrowtooth flounder, while constraining catch of Kamchatka flounder within its total allowable catch (TAC). It also limits targeting on other high valued species such as sablefish, Greenland turbot, and rockfish and limits retention of the other species (sharks, sculpins, skates, and octopus in the aggregate). This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, and other applicable law.

National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

Response: No. No significant adverse impacts on target species were identified for this action. No changes in overall amount, timing, or location of harvest of target species are expected with the proposed action; therefore, no impacts on the sustainability of any target species are expected. The amount of groundfish retained in the arrowtooth flounder and Kamchatka flounder fisheries will increase, but the total removal of each target species will still be within the TAC levels established for each target species and further constrained by the prohibited species catch limits established for Pacific halibut. The impacts of harvest strategies and resulting groundfish TAC amounts were analyzed in the final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS) and were found not to jeopardize the sustainability of any target species. (EA Section 4.2.1).

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

Response: No. Potential effects of the action on non-target/prohibited species are expected to not be significant and similar to status quo because no overall harvest changes to target species are expected. Because no overall changes in target species harvests is expected, the action is not likely to jeopardize the sustainability of any nontarget/prohibited species. This supports this conclusion of no significant effects to the sustainability of non-target species. (EA Section 4.2.3)

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

Response: No. Fishing effort targeting arrowtooth flounder or Kamchatka flounder is limited by TACs set substantially lower or at acceptable biological catch levels. No significant adverse impacts were identified for this action on ocean or coastal habitats or essential fish habitat (EFH). This action does not change the current habitat protection measures in place in the BSAI and does not allow for any overall increases in fishing practices that may harm bottom habitat (EA Section 4.2.5). The the Alaska Groundfish Harvest Specifications found that this level of effort has minor impacts on ocean, coastal, and EFH. This proposed action increases the amount of groundfish that may be retained in the arrowtooth flounder and Kamchatka flounder fisheries and does not have any additional impacts on habitat or EFH (EA Section 4.1 introduction). In addition, all fishing by non-pelagic trawlers will continue to be conducted according to the EFH and Habitat Areas of Particular Concern protection measures under 50 CFR part 679. Therefore, the proposed action is not expected to have any impact on ocean or coastal habitats or EFH beyond that described and authorized under the EIS for the Alaska Groundfish Harvest Specifications. (EA Sections 4.2.3).

4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

Response: No. Public health and safety will not be affected in any way not evaluated under previous actions or disproportionately as a result of the proposed action. The action will not change fishing methods (including gear types), timing of fishing, or quota assignments to gear groups, which are based on previously established seasons and allocation formulas in regulations. (RIR Section 3.3.2.6)

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, seabirds, or critical habitat of these species?

Response: No. The action is not expected to result in increased interactions with endangered or threatened species, marine mammals, seabirds, or their critical habitat beyond those identified in previous consultations under Section 7 of the Endangered Species Act (ESA), and through the four Section 7 consultations, and concurrence from the Northwest Region of NMFS. In the EA prepared for this action (EA Section 4.2.4) the impact of revising MRAs for the arrowtooth flounder and Kamchatka flounder fisheries on Steller sea lions (an ESA-listed species) was analyzed. Only the Steller sea lions were potentially affected by the action. The analysis of this action shows that the Steller sea lion protection measures currently implemented in the BSAI will not be altered. No change is expected in the overall harvest amounts of prey species or in fishing practices that may result in disturbance or incidental takes; therefore, this action will have no effect on Steller sea lions or their designated critical habitat nor on any ESA-listed species. (EA Section 4.2.5)

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: No. No significant adverse impacts on biodiversity or ecosystem function were identified for this action. Effects of fishing on the marine ecosystem in Alaska are analyzed in detail in the Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (PSEIS). Additional impacts on marine ecosystems in Alaska are summarized annually in the Stock Assessment and Fishery Evaluation (SAFE) reports. This action is limited in scope to the retention of groundfish in the arrowtooth flounder and Kamchatka flounder fisheries in the BSAI, and the impacts within the affected area are no different than those projected by the PSEIS or SAFE. Thus, no potential impacts are anticipated for this action on biodiversity and/or ecosystem function in the EA (EA Section 4.2).

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. No significant adverse impacts were identified for this action for social or economic impacts interrelated with natural or physical environmental effects (EA/RIR/IRFA Sections 5 and 6). Socioeconomic impacts of this action are limited to the reduction in waste of incidentally caught groundfish species in the arrowtooth flounder and Kamchatka flounder target fisheries. Reduced regulatory discards will benefit participants in the arrowtooth flounder and Kamchatka flounder fisheries and provide for more efficient use of fishery resources. No significant social or economic impacts of this action were identified in the EA or the

accompanying regulatory impact review (RIR) or initial regulatory flexibility analysis (IRFA). (RIR Section 3.4 and 6).

8) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No. Revising the MRAs for selected species of groundfish in the arrowtooth flounder and Kamchatka flounder fisheries in the BSAI is anticipated to modestly reduce the amount of discards of otherwise marketable fish currently required by regulation. This action is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, and other applicable laws (EA Sections 1 and 5). No controversial or adverse impacts have been identified as a result of this action.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

Response: No. This action does not affect any categories of areas on shore. This action takes place in the geographic area of the BSAI. The land adjacent to this marine area may contain archeological sites of native villages. This action occurs in adjacent marine waters, so no impacts on these cultural sites are expected. The marine waters where the fisheries occur contain ecologically critical areas. Effects on the unique characteristics of these areas are not anticipated to occur with this action because the amount of fish removed by vessels are within the TAC-specified harvest levels and this action does not change the current protection to EFH and ecologically critical nearshore areas (EA Section 4.2.3).

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The fish species and harvest methods involved, limited harvest amounts, and area of activity where potential effects might occur are well known and do not involve unique or unknown aspects (EA Section 4.2.3).

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No additional past or present cumulative impact issues have been identified that accrues from this action (EA Section 4).

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. This action is limited to the marine waters of the BSAI. The fishing activities under this action are not likely to result in destruction or loss of significant scientific, cultural, or historical resources because the pelagic trawling occurs primarily in the water column where

these resources do not occur. Shipwrecks with historical significance or potential historical significance are identified in nautical charts and avoided by fishermen. EA section 1)

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

Response: No. The action will not introduce or spread nonindigenous species into Alaska beyond those previously identified because it does not change fishing, processing, or shipping practices that may lead to the introduction of nonindigenous species (EA Section 1).

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

Response: No. Revising the MRAs for groundfish on a case-by-case basis to allow for better management has numerous precedents in the groundfish fisheries off Alaska. The action builds on that precedent. However, each decision about the appropriate management strategy for the incidental catch of groundfish harvested off Alaska is a separate decision requiring analysis and an adequate rationale. Therefore, this action does not create a precedent that binds NMFS or the Council in future management of other groundfish species.

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. This action poses no known violation of federal, state, or local laws or requirements for the protection of the environment. On July 1, 2011, the federally approved Coastal Management Program expired, resulting in a withdrawal from participation in the CZMA's National Coastal Management Program. The CZMA federal consistency provision in section 307 no longer applies in Alaska.

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No significant past or present cumulative impacts have been identified that accrues from the proposed action (EA Section 4.2).

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for this regulatory amendment, it is hereby determined that revising the amounts of groundfish that may be retained in the arrowtooth flounder and Kamchatka flounder fisheries in the Bering Sea and Aleutian Islands management area will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

5-2-13

James W. Balsiger, Ph.D. For JB Date
Administrator, Alaska Region