

new bear deterrence applications and techniques and will update this set of guidelines with examples of future approved methods. Deterrence actions (other than the measures described in these guidelines) that do not result in serious injury or death to a polar bear remain permissible for persons identified in section 101(a)(4)(A) of the MMPA. Prior to conducting activities beyond those specifically described in these guidelines, persons should contact the Service's Alaska Regional Office's Marine Mammal Program for further guidance (for the location of the Alaska Regional Office see 50 CFR 2.2(g)).

Dated: September 22, 2010.

**Tom Strickland,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 0910131362-0087-02]

RIN 0648-XZ38

**Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in 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 prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) 36 hours after opening directed fishing for pollock, effective 2400 hrs, Alaska local time (A.l.t.), October 2, 2010. This adjustment is necessary to manage the pollock total allowable catch limit in Statistical Area 630 of the GOA.

**DATES:** Effective 2400 hrs, Alaska local time (A.l.t.), October 2, 2010, through 2400 hrs, A.l.t., December 31, 2010. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 18, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XZ38, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.

- **Mail:** P.O. Box 21668, Juneau, AK 99802.

- **Fax:** (907) 586-7557.

- **Hand delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 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.

The 2010 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA is 19,118 metric tons (mt) as established by the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010).

As of September 29, 2010, approximately 5,700 mt of pollock remain in the 2010 TAC for pollock in Statistical Area 630. The D season allowance of the pollock TAC in Statistical Area 630 is 5,912 mt for the period beginning October 1, 2010 through November 1, 2010. Section 679.23(b) specifies 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 in Statistical Area 630 of the GOA is in excess of 4,000 mt per day. The Administrator, Alaska Region, (Regional

Administrator) has determined that the pollock TAC could be exceeded if a 48-hour fishery were allowed to occur. NMFS intends that the TAC not be exceeded and, therefore, will not allow a 48-hour directed fishery. NMFS, in accordance with § 679.25(a)(1)(i), is issuing an inseason adjustment prohibiting directed fishing for pollock in Statistical Area 630 of the GOA by closing the fishery at 2400 hrs, A.l.t., October 2, 2010. This action has the effect of opening the fishery for 36 hours. NMFS is taking this action to allow a controlled fishery to occur, thereby preventing the overharvest of the pollock TAC. In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 2400 hrs, A.l.t., October 2, 2010, after a 36 hour opening is the least restrictive management adjustment to achieve the pollock TAC and will allow other fisheries to continue in noncritical areas and time periods. The Regional Administrator considered the following factors in reaching this decision: (1) The current catch of pollock in Statistical Area 630 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**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 closure of pollock directed fishing in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September, 29, 2010. NMFS will be accepting comments after the effective date of this closure (*See DATES*).

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: September 30, 2010.

**Carrie Selberg,**

*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. 0912231441-0465-03]

RIN 0648-AY48

#### Fisheries of the Exclusive Economic Zone Off Alaska; Skate Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands; Groundfish Annual Catch Limits for the Bering Sea and Aleutian Islands Management Area and Gulf of Alaska

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement Amendments 95 and 96 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) and Amendment 87 to the FMP for Groundfish of the Gulf of Alaska (GOA), (collectively referred to as “the FMPs”). Amendment 95 moves skates from the “other species” category to the “target species” category in the FMP. Amendments 96 and 87 revise the FMPs to meet the National Standard 1 guidelines for annual catch limits and accountability measures. These amendments move all remaining species groups from the “other species” category to the “target species” category, remove the “other species” and “non-specified species” categories from the FMPs, establish an “ecosystem component” category, and describe the current practices for groundfish fisheries management in the FMPs, as required by the guidelines. The final rule removes references to the “other species” category for purposes of the harvest specifications and adds skate species to the reporting codes for the BSAI groundfish fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens

Fishery Conservation and Management Act, the FMPs, and other applicable laws.

**DATES:** Effective November 5, 2010.

**ADDRESSES:** Electronic copies of Amendments 95 and 96 to the FMP for Groundfish of the BSAI, Amendment 87 to the FMP for Groundfish of the GOA, the Environmental Assessments (EAs), and the Regulatory Impact Review (RIR) prepared for this action are available from NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802 or from the Alaska Region NMFS Web site at <http://www.alaskafisheries.noaa.gov/regs/summary.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Melanie Brown, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive economic zone of the BSAI and GOA are managed under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

#### Background

Amendment 95 was unanimously adopted by the Council in October 2009. This amendment moves skates from the “other species” category to the “target species” list in the BSAI FMP, allowing the management of skates as a target species complex or as individual skate species. NMFS trawl survey and catch information shows that 15 skate species occur in the BSAI. In the Bering Sea subarea, the most abundant species is the Alaska skate, while the most abundant species in the Aleutian Islands subarea is the whiteblotched skate. Individual species of skate could be listed under the skate complex in the “target species” list during the harvest specifications process to allow NMFS to separately manage harvest of these individual species.

The Council unanimously adopted Amendments 96 and 87 in April 2010. These amendments revise the FMPs to meet the Magnuson-Stevens Act requirements to establish annual catch limits (ACLs) and accountability measures (AMs), and conform to the National Standard 1 (NS1) guidelines (74 FR 3178, January 16, 2009). The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), which was signed into law on January 12, 2007, included new requirements regarding ACLs and AMs, which

reinforce existing requirements to prevent overfishing and rebuild fisheries. The proposed rule for this action presents background on the NS1, MSRA requirements for ACLs and AMs, and harvest management of groundfish species (75 FR 41424, July 16, 2010).

The Council submitted Amendments 87, 95, and 96 for review by the Secretary of Commerce, and a notice of availability of the amendments was published in the **Federal Register** on July 2, 2010 (75 FR 38454), with comments on the amendments invited through August 31, 2010. The comments on the proposed rule were invited through August 30, 2010. The Secretary of Commerce approved the amendments to the FMPs on September 22, 2010.

#### Regulatory Amendments

This final rule revises definitions for “groundfish,” “license limitation groundfish,” and “target species,” in § 679.2, to remove reference to the “other species” category. Removing the term “other species category” from these definitions reduces confusion related to target species and the harvest specifications, as Amendments 96 and 87 remove the “other species” category from the FMPs for purposes of the harvest specifications, and leave only “target species” as a category for which NMFS must establish harvest specifications. This final rule revises the definition for “other species” to allow the continued management of BSAI and GOA sharks, sculpins, and octopuses, and GOA squids as a group for purposes of prohibited species catch under § 679.21 and maximum retainable amounts specified in Tables 10 and 11 to part 679.

This final rule revises § 679.20 by removing the term “other species category” in paragraphs related to harvest limits, reserves, harvest specifications, and fishery closures. This revision ensures the regulations for harvest specifications and “target species” management are consistent with Amendments 96 and 87, which remove “other species” from the FMP for purposes of harvest specifications and inseason management.

This final rule revises § 679.25 to remove the “other species” category from the paragraph related to reopening an area to achieve total allowable catch (TAC) for a target species. This revision ensures the regulations are consistent with removing “other species” from the FMP for purposes of target species management.

This final rule revises Table 2a to part 679 by adding whiteblotched, Alaska, and Aleutian skates, as well as the scientific names for individual skate