

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679****RIN 0648–AY48****Fisheries of the Exclusive Economic Zone Off Alaska; Skates Management in the Bering Sea and Aleutian Islands Management Area; 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: Notification of availability of fishery management plan amendments; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendments 95 and 96 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI)—as well as Amendment 87 to the FMP for Groundfish of the Gulf of Alaska (GOA)—to NMFS for review. If approved, Amendment 95 would move skates from the other species category to the target species category in the FMP for Groundfish of the BSAI. Amendments 96 and 87 would revise the FMPs to meet the National Standard 1 guidelines for annual catch limits and accountability measures. These amendments would move all remaining species groups from the “other species” category to the “target species” category, remove the “other species” category 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. 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: Comments on Amendments 95, 96, and 87 must be received by August 31, 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–AY48, 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) 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.

Electronic copies of Amendments 95, 96, and 87 to the FMPs, the Environmental Assessments (EAs), and the Regulatory Impact Review (RIR) prepared for this action are available from the Alaska Region NMFS website at <http://www.alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendments 95, 96, and 87 to the FMPs are available for public review and comment.

Amendment 95 was unanimously adopted by the Council in October 2009. If approved by the Secretary, this amendment would move the skates group from the “other species” category to the “target species” list in the BSAI, allowing the management of skates as a target species complex or as individual skates species. The FMP currently provides for setting harvest specifications either for a complex of several species or for each individual

species within the “target species” group through the stock assessment and Council process, allowing for fishery management of individual species. The FMP currently provides for setting harvest specifications that apply to all species identified in the “other species” category in the aggregate. NMFS trawl survey and catch information show that 15 skate species occur in the BSAI. In the Bering Sea, the most abundant species is the Alaska skate, while in the Aleutian Islands the most abundant species is the whiteblotched skate.

Amendments 96 and 87 were unanimously adopted by the Council in April 2010. If approved by the Secretary, these amendments would 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. NMFS revised the NS1 guidelines at 50 CFR 600.310 to integrate these new requirements with existing provisions related to overfishing, rebuilding overfished stocks, and achieving optimum yield. Section 104(a)(10) of the MSRA, codified as section 303(a)(15) of the Magnuson-Stevens Act, requires FMPs to establish mechanisms for specifying ACLs, including AMs. The provision states that FMPs shall “establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.” ACLs and AMs are required by fishing year 2011 in fisheries where overfishing is not occurring. None of the Alaska groundfish fisheries have overfishing occurring, and therefore the groundfish ACLs and AMs must be implemented by January 1, 2011.

Skate, shark, sculpin, and octopus groups are currently managed as a complex in the “other species” category in the BSAI. In the GOA, shark, sculpin, octopus, and squid groups are currently managed as a complex in the “other species” category. Each year, the overfishing limit (OFL), acceptable biological catch (ABC), and total allowable catch (TAC) are specified for the “other species” category as a whole

in each management area. National Standard 1 guidelines require species managed in a stock complex to have similar life histories, but the current “other species” category combines the management of short-lived invertebrates (squids and octopuses) with long-lived fish (sharks and skates).

If approved, Amendment 95 would move BSAI skates from the “other species” category to the “target species” category and require annual specification of OFL, ABC, and TAC for the skate group as a whole or for individual skate species. Amendments 96 and 87 would remove the remaining species groups from the “other species” categories in each FMP and place these groups in the “target species” category. The “other species” category would be removed from the FMPs. Managing skates, sculpins, sharks, octopuses, and squids as separate groups or as individual species, each with its own OFL, ABC, ACL, and TAC, would enhance NMFS’ ability to control the harvest of these species groups based on the best available scientific information, and would reduce the potential for overfishing these groups. The susceptibility of skates to fishing pressure has been well documented in the EA for Amendment 95 (see ADDRESSES). While no target fishery has been developed yet for groups currently in the “other species” category, without the proposed amendments, the potential exists for the entire “other species” TAC to be taken as the harvest of a single group. Such a harvest could represent an unsustainable level of fishing mortality for that group, even though the harvest may not exceed the aggregate OFL for all groups in the “other species” category. Amendment 63 to the FMP for Groundfish of the GOA was a similar precautionary measure that removed skates from the “other species” category in response to a rapidly developing directed fishery (69 FR 26313, May 12, 2004).

A retrospective analysis in the EA for Amendments 96 and 87 of past shark and octopus harvest compared to the 2010 ABCs and OFLs showed that potential harvests of these species may exceed ABCs and OFLs without NMFS inseason management to control incidental catch (see ADDRESSES). If the TACs for these groups are insufficient to support a directed

fishery, a vessel’s harvest of sharks and octopuses would be limited to a maximum retainable amount, representing a percentage of the amount of “target species” harvested by that vessel. If closing directed fishing for sharks and octopuses is not sufficient to prevent reaching the ABCs and OFLs for these groups, NMFS inseason management would use observed catch, fish ticket, and vessel monitoring system data to determine the most effective actions to prevent overfishing and minimize adverse economic impacts to fishing communities, to the extent practicable. Controlling incidental harvests of BSAI and GOA octopuses may require temporary closure of areas of high octopus retention to Pacific cod pot gear vessels. If necessary, BSAI and GOA shark incidental harvest would likely be constrained by temporarily restricting harvesting locations for hook-and-line sablefish and Pacific cod fisheries and the trawl pollock fishery. Because BSAI and GOA octopus may be sold, estimated decreased revenue is \$110,000 to \$155,000 based on the retrospective harvest and inseason management methods. Increased costs may occur if harvest locations are restricted and fishing operations have to travel further to reach alternative fishing grounds, or if they must fish in areas with lower catch-per-unit of effort (and thus incur increased costs of fishing effort to catch the same amount of fish). Decreased revenues may occur if increased travel or fishing time requirements makes it impossible to catch the same amount of fish in the time available. Decreased revenues also may occur if shifts in fishing activity also make it harder to deliver a quality product.

Specific changes to the FMPs under Amendments 96 and 87 include:

- Identifying “target species” as stocks in the fishery and establishing an “ecosystem component” category that is comprised of stocks that are not in the fishery and would contain “prohibited species” and “forage fish” species;
- Moving the species groups managed in the “other species” category to the “target species” category and eliminating the “other species” category;
- Removing the “unspecified species” category; and
- Providing housekeeping changes that add text to the FMPs to describe:

- Specification of minimum stock size thresholds (MSSTs) or a reasonable proxy;
- Measures that are taken if and when a stock drops below MSST;
- AMs that are employed to prevent ACLs from being exceeded and those that will be triggered if an ACL is exceeded;
- Ecological factors that are considered by the Council in reducing optimum yield from maximum sustainable yield;
- How the tier levels for ABC and OFL are based on the scientific knowledge about the stock/complex, the scientific uncertainty in the estimate of OFL, and any other scientific uncertainty; and
- How the stock assessments account for all catch.

Details on each of these proposed revisions to the FMPs are contained in the EA and its appendix for Amendments 96 and 87 (see ADDRESSES).

Public comments are being solicited on proposed Amendments 95, 96, and 87 to the FMPs through the end of the comment period stated (see DATES). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that partially implements Amendments 95, 96, and 87 following NMFS’s evaluation of the proposed rule under the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendments 95, 96, and 87 in order to be considered in the approval/disapproval decision on these amendments. All comments received by the end of the comment period on Amendments 95, 96, and 87, whether specifically directed to the FMPs or to the proposed rule, will be considered in the approval/disapproval decision on the amendments. To be considered, comments must be received, not just postmarked or otherwise transmitted, by 5 p.m., Alaska time, on the last day of the comment period.

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

Dated: June 29, 2010.

Carrie Selberg,

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

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