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Federal Communications Commission.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031218322–4137–02; I.D. 111903A]

RIN 0648–AR73

#### Fisheries of the Exclusive Economic Zone Off Alaska; Skates Management in the Groundfish Fisheries of the 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 Amendment 63 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Amendment 63 moves skates from the “other species” list to the “target species” list in the FMP. By listing skates as a target species, management of a directed fishery for skates in the Gulf of Alaska (GOA) is improved. The final rule revises the definition of “other species” and revises the listings for skates and “other species” to allow for the management of incidental catch of skates in groundfish fisheries and for groundfish in the skates directed fishery. This action is necessary to reduce the potential for overfishing skates. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

**DATES:** Effective June 11, 2004.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action, as well as the Other Species Considerations for the Gulf of Alaska in the November 1999 GOA Stock Assessment and Fishery Evaluation (SAFE) report may be obtained from NMFS, Alaska Region,

P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall.

**FOR FURTHER INFORMATION CONTACT:**

Melanie Brown, 907–586–7228 or [melanie.brown@noaa.gov](mailto:melanie.brown@noaa.gov).

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

#### Background

The Council adopted Amendment 63 in October 2003, to prevent overfishing of skate species. Amendment 63 moves skates from the “other species” list to the “target species” list in the FMP. The Notice of Availability for Amendment 63 was published in the **Federal Register** for a 60-day public review and comment period that ended February 2, 2004 (68 FR 67390, December 2, 2003). The proposed rule for this action was published in the **Federal Register** on January 6, 2004 (69 FR 614). The comment period for the proposed rule ended February 20, 2004. The Secretary of Commerce approved the FMP amendment on February 27, 2004.

In December 2003, the Council recommended proposed harvest specifications for skates in the GOA. These harvest specifications were published in the **Federal Register** on March 4, 2004 (69 FR 10190), with a 15-day comment period ending March 19, 2004. Harvest specifications establishing overfishing levels (OFLs), acceptable biological catch (ABC), and total allowable catch (TAC) amounts for skates will allow management of the directed fishery for skates, reducing the potential for overfishing of skate species and meeting the conservation objectives of the Magnuson-Stevens Act.

This final rule will facilitate incidental catch management by clarifying the maximum retainable amounts (MRAs) of groundfish in the skate directed fishery and the MRAs for skates in other groundfish directed fisheries. This action revises Table 10 of 50 CFR part 679 to separate skates from the “other species” complex and to establish a separate listing of MRAs for skates. The listing of species groups under footnote 7 to Table 10 for the “other species” complex is revised to remove skates from the listing. Footnote 11 to Table 10 is added to the MRAs column and row for skates to identify the managed skate species and the

reporting codes. These changes are necessary to clarify the retention limits of skates incidentally caught in other groundfish directed fisheries and the retention limits of other groundfish taken incidentally in the directed fishery for skates. No changes are made to the MRA that apply to skates or to other groundfish from the MRAs that apply to the “other species” complex.

The definition of “other species” in the regulations is revised to reference 50 CFR 679.20(e) for Tables 10 and 11 instead of 50 CFR 679.20(c), which does not apply to Tables 10 and 11.

#### Comments and Responses

Two letters of comment were received regarding Amendment 63. The letters contained seven separate comments which are summarized and responded to below.

**Comment 1.** Reduce the TAC by 50 percent this year and an additional 10 percent each year, thereafter.

**Response.** NMFS assumes this is a recommendation to set TAC at 50 percent of the ABC level. Amendment 63 does not set annual TACs for skates, rather it removes skates from the “other species” complex in the GOA and authorizes the Council to recommend OFLs, ABCs, TACs, and other management measures for skates as part of the annual harvest specifications process for groundfish in the GOA. In a separate action, NMFS has published proposed 2004 harvest specifications and associated management measures for skates in the GOA (69 FR 10190, March 4, 2004) based on Council recommendations made in December 2003. The Council recommended and NMFS proposed that the combined TACs for all skates in the GOA in 2004 be a total of 6,993 metric tons (mt) (86 percent of the combined ABC amounts). Comments on these proposed specifications were invited through March 19, 2004.

TAC amounts in the GOA are established at or below the ABC amounts for groundfish species with reductions from the ABC dependent on socioeconomic and ecosystem concerns. The ABCs are developed by the Groundfish Plan Team based on conservative estimates of biomass, depending on the amount of information available for a species. The ABCs are reviewed by the Council’s Scientific and Statistical Committee (SSC) and TACs are recommended by the Council’s Advisory Panel (AP) and the Council. No socioeconomic or ecosystem concerns have been brought forward indicating the need for a reduction in TAC of 50 percent in 2004, and 10 percent each year, thereafter. For

further discussion of the harvest specifications for skates, see the response to Comment 5 below.

**Comment 2.** Establish an extensive system of no take marine reserves to prevent overfishing, which is detrimental to the American public.

**Response.** The creation of marine reserves is outside the scope of Amendment 63. The concept of establishing marine reserves is explored in the draft environmental impact statement (EIS) for essential fish habitat (EFH) dated January, 2004. Further information on the draft EIS may be found at the NMFS Alaska Region website at [www.fakr.noaa.gov](http://www.fakr.noaa.gov). Comments on the draft EIS were accepted through April 15, 2004 (69 FR 2593, January 16, 2004). In April 2004, the Council received a report from its Groundfish Plan Teams regarding 23 proposals for designating Habitat Areas of Particular Concern. Several of these proposals recommended the creation of no-take marine reserves around such uncommon features as high relief coral gardens and sea mounts. NMFS also reopened the comment period for national EFH Guidelines through April 26, 2004 (69 FR 86156, February 25, 2004). Preventing overfishing of skates is best accomplished by establishing separate harvest management for skates. Information supporting the creation of marine reserves for the protection of skates is not available at this time.

**Comment 3.** Environmental interests should be better represented in the regional fishery management councils.

**Response.** Amendment 63 does not address membership of the regional fishery management councils. The regional fishery management councils were established by the Magnuson-Stevens Act, which specifies the qualifications of members and the procedures for appointing members to the councils. The number of voting members varies (7–19) by region. The majority of voting members in each region are appointed by the Secretary of Commerce from a list of nominees submitted by the governor of each constituent state. Changing the voting membership of a regional fishery management council should be done through petition to the applicable constituent state governor.

**Comment 4.** Adoption of Amendment 63 is strongly supported to enable NMFS to prevent the overfishing of skates in the GOA through more species-specific and area-specific management. Based on the sensitive life history of skates (big skates, *Raja binoculata*, and longnose skates, *Raja rhina*, in particular) which includes slow growth, late maturity, long life,

and low fecundity, we urge application of the precautionary approach in all aspects of managing these vulnerable species.

**Response.** Amendment 63 separates skates from the “other species” complex in the GOA and authorizes the Council to set OFL, ABC, and TAC levels, as well as other management measures, including species-specific and area-specific management as part of the annual groundfish harvest specification process. A precautionary approach is used in developing the OFL and ABC amounts and in establishing how to manage the harvest of the TAC amounts for skates in the Western, Central, and Eastern GOA. The level of precaution of harvest management is dependent on the amount of information available and the potential impacts on other groundfish fisheries, as further explained in the response to comment 5.

**Comment 5.** We urge NMFS to adopt the following management measures. (A) Prohibit directed fishing for, and retention of, big and longnose skates. At the very least, quotas for these species should be significantly reduced. (B) Immediately pursue management measures to reduce incidental catch of big and longnose skates. (C) Adopt the general framework of Option 3 in the EA prepared for this action (see ADDRESSES). (D) Do not increase the gulf-wide total ABC for skates given that management of skates should lead to reduced landings. (E) The proposed ABCs and OFLs would allow more skates to be caught in 2004 than all “other species,” including skates, in previous years and should be reduced. (F) Cap skate harvest at or below recent levels (2003) until more robust estimates of skate stock conditions and ABC levels can be made.

**Response.** All of the remarks in comment 5 are germane to the management measures NMFS proposed for the 2004 skate fisheries in the GOA.

(A) Each option for the management of skates analyzed in the EA prepared for this action contained two suboptions: set TACs at the ABC levels or lower levels sufficient to meet anticipated incidental catch needs in other directed fisheries during the fishing year, or set TACs at ABC levels. The first suboption would have the effect of prohibiting directed fishing for skates throughout the year. The second suboption would allow NMFS to establish a directed fishing allowance for skates after deducting anticipated incidental catch needs. In either case, retention of skates would be prohibited once the TACs are reached. The Council’s recommended TACs would allow for a modest directed fishery of

about 1,000 mt in each of two specified skate fisheries. When this directed fishing allowance is reached, skates would be placed on bycatch status, and directed fishing would be prohibited. For 2004, the Council recommended, and NMFS proposed (69 FR 10190, March 19, 2004) to set TACs for skates (totaling 6,996 mt) at or below the ABCs (totaling 8,144 mt) which are substantially below the 2003 TAC for “other species” (11,260 mt) in the GOA.

(B) The reduction of incidental catch is a goal of NMFS. By breaking skates out of the “other species” category in Table 10 of 50 CFR part 679, the MRAs will be specific to skate species, allowing for better monitoring and enforcement of incidental catch of skates in the directed fisheries for groundfish and of groundfish in the directed fishery for skates. NMFS will continue to work with the Council and the fishing industry to develop ways, including management measures and fishing practices, to reduce bycatch for all groundfish species.

(C) The GOA Groundfish Plan Team, the SSC, the AP, and the Council analyzed and considered Option 3 in the EA prepared for this action. Option 3 would create separate OFLs, ABCs, and TACs for three skate targets (big skates, longnose skates, and other skates) in the Eastern, Central, and Western management areas of the GOA. Of all the options considered, Option 3 would provide the most protection for skates in the GOA. In the GOA, one species is managed in this manner, Pacific ocean perch (POP). The rationale for the management of POP in this instance is that they are long lived, slow to mature, and could possibly be subject to localized depletion. This rationale also applies to skates. Option 3 is a viable method for management if enough information is available, and should continue to be considered in the future during the harvest specifications process.

Based on the lack of information available, the SSC recommended a single gulf-wide OFL for skates in 2004, and a single ABC for skates gulf-wide, except for big and longnose skates in the Central GOA. The SSC believes that big and longnose skates in the Central GOA require additional protection because the 2003 directed fishery for skates preferentially targeted these two species and fishing effort was concentrated in the Central GOA. The Council and its committees also wished to avoid a situation where finely divided target fisheries often have small regional quotas which, if unexpectedly reached, could have detrimental impacts on other more fully developed fisheries. The Plan

Team recognized that most of the skates landed in the Central GOA were big skates and recommended a TAC for big and longnose skates in the Central GOA at the OFL for big skates (3,284 mt), which is below the ABC (4,435 mt) for big and longnose skates combined. The AP and Council concurred with the Plan Team's and SSC's recommendation, and it was incorporated into the proposed 2004 GOA skate harvest specifications published March 19, 2004 (69 FR 10190). The big and longnose skate fisheries will be managed to prevent the combined TAC level from being exceeded. This should prevent the big skates' OFL from being exceeded.

(D) The ABC for skates gulf-wide is not being increased. Rather this is the first time an ABC for skates in the GOA is being established. The proposed skates' gulf-wide ABCs (8,144 mt) and TACs (6,993 mt) are substantially lower than the 2003 TAC for "other species" in the GOA (11,260 mt). The conservative directed fishing allowances (DFA) resulting from the TACs will lead to lower harvests of skates in 2004 than in 2003.

(E) While the 2004 TAC for big and longnose skates in the Central GOA is higher than the actual 2003 catch, this does not mean that catches will increase. The commenter does not take into account that NMFS now will be able to set a DFA for skates that is far lower than what would have been possible if skates were managed as part of the "other species" assemblage. Catches of skates in the GOA in 2004 likely will be lower than 2003 because NMFS now will be able to limit the amount harvested in directed skate fisheries at a much lower level than when skates were managed together with "other species."

(F) For the reasons discussed above, skate landings in the GOA in 2004 are expected to be lower than 2003 levels.

*Comment 6.* Reduce the TAC for the "other species" complex by 45 percent, once skates are removed from this complex.

*Response.* NMFS recognizes that with the removal of skates from the "other species" complex, the TAC for the "other species" complex will increase. The TAC for the "other species" complex is required by the FMP to be 5 percent of the combined TACs for groundfish species in the GOA. The skates TACs will now be added into the combined TACs, resulting in a larger TAC for the "other species" complex. Any changes to how the TAC is established for the "other species" complex would require an additional FMP amendment.

The Council has started work through its Target/Nontarget Committee and ad hoc group on how species should be identified, grouped, and managed based on available information. The committee is exploring factors necessary to support a directed fishery for a species, including preparation of stock assessments before a directed fishery is allowed to develop. Preparation of stock assessments for the remaining species in the "other species" complex (sharks, sculpins, octopi, and squid) likely would result in ABC recommendations totaling approximately 6,500 mt based on the most recent stock assessment (Other Species Considerations for the Gulf of Alaska in the November 1999 GOA SAFE report, see **ADDRESSES**). This would be a reduction of approximately 50 percent from the proposed 2004 "other species" complex TAC of 12,942 mt.

*Comment 7.* NMFS should consider skates and sharks as priority species in terms of research, assessment, and outreach projects.

*Response.* This comment is outside the scope of Amendment 63 and the proposed 2004 GOA harvest specifications. However, sharks and skates are priority species for improved assessments. In this regard, NMFS has recently: (1) Prepared skate identification manuals for use by observers, (2) trained at sea and shoreside observers in the catch and landing composition of skates in the groundfish fisheries, (3) sampled shoreside deliveries of skates for catch composition with respect to species, sex, and size, (4) collected age information to help determine the age structure of skate stocks, (5) amended recordkeeping and reporting requirements to record landings and discards of sharks and skates at the species or genus level, facilitating the inseason monitoring of the skates' TACs, and (6) encouraged fishermen, when discarding skates, to employ careful release methods like those required for halibut to reduce bycatch mortality.

No changes were made from the proposed rule in the final rule.

#### Classification

The Regional Administrator determined that Amendment 63 is necessary for the conservation and management of the GOA groundfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS prepared a FRFA which incorporates the IRFA and a summary of the analyses completed to support the action. A copy of these analyses is available from NMFS (see **ADDRESSES**). The FRFA did not reveal any Federal rules that duplicate, overlap, or conflict with the action. The following summarizes the FRFA.

#### *Need for and Objectives of This Action*

The need and objectives for this action are described above in the preamble to this final rule.

#### *Issues Raised by Public Comments on the IRFA*

The proposed rule was published in the **Federal Register** on January 6, 2004 (69 FR 614). An IRFA was prepared for the proposed rule, and described in the Classification section of the preamble to that rule. The public comment period ended on February 20, 2004. No public comments were received in response to the IRFA or on the economic impacts of the rule.

#### *Number and Description of Small Entities Affected by the Rule*

The entities directly regulated by this action would be the fishing operations harvesting species in the "other species" complex in the GOA, using hook-and-line gear or trawls. These vessels may be targeting skates (the only species in the "other species" category currently fished as a target), or they may be harvesting skates and other species in the "other species" category incidentally to other targeted fishing operations; (e.g., fishing for Pacific cod or shallow water flatfish). Because any hook-and-line or trawl operation in the GOA may harvest the "other species" complex, the universe of potentially affected operations includes all GOA hook-and-line and trawl vessels.

In 2001, the universe of potentially affected vessels included 670 hook-and-line vessels and 138 trawlers. Of these, 650 were small hook-and-line catcher vessels, 15 were small hook-and-line catcher/processors, 120 were small trawl catcher vessels, and 4 were small trawl catcher/processors. The remaining 19 vessels are large vessels. This size determination is based on operation revenues from groundfish fishing in Alaska. Moreover, the data are not available to take account of affiliations between fishing operations and associated processors, or other associated fishing operations. For these reasons, these counts may overstate the numbers of small entities potentially directly regulated by the action. Average Alaska groundfish revenues, in 2001, for these small entities were \$100,000 for

hook-and-line catcher vessels, \$1.82 million for hook-and-line catcher/processors, \$370,000 for trawl catcher vessels, and \$1.80 million for trawl catcher/processors.

The directed skates fishery that emerged in 2003 is described in Section 1.0 of the EA (see **ADDRESSES**). Seventy-seven hook-and-line catcher vessels, 53 trawl catcher vessels, 13 hook-and-line catcher/processors, and 10 trawl catcher/processors took part in the fishery in 2003, producing an estimated ex-vessel gross revenue of about \$1.7 million. This suggests average revenues for these vessels were about \$11,000.

#### *Alternatives to the Proposed Action*

The Council considered the alternative of taking no action. This would have left skates in the "other species" category. The "other species" category includes additional species such as sculpin, shark, squid, and octopus. The "other species" TAC is set equal to 5 percent of the combined TACs for all target species in the GOA. In 2004, the "other species" TAC is 12,592 mt. This amount far exceeded the biologically desirable skate harvest in 2004. The 2004 OFL for all skate species together was projected to be 10,859 mt. The "other species" TAC also is higher than the OFLs would have

been for individual species or species groups. Nevertheless, fishermen would have been able to harvest skates, or any of the individual skate species or species groups up to the "other species" TAC. This alternative was rejected because of the need for improved management controls to protect skate species, in light of the serious concerns about the health of the skate resource under a continuing directed fishery without sufficient management controls.

#### *Recordkeeping and Reporting Requirements*

Nothing in the action would result in changes in reporting or recordkeeping requirements.

#### **Small Entity Compliance Guide**

This action revises 50 CFR part 679, Table 10, which is used to determine the MRAs for skates in the directed fisheries for other groundfish and for other groundfish in the directed fishery for skates. This action does not require any additional compliance from small entities. This action gives effect to separate inseason actions which may be taken to limit the harvest of skates. Copies of this final rule are available from NMFS (see **ADDRESSES**) and at the following Web site: <http://www.fakr.noaa.gov>.

#### **List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: May 5, 2004.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

#### **PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

■ 1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105–277, Title II of Division C; Pub. L. 106–31, Sec. 3027; and Pub. L. 106–554, Sec. 209.

■ 2. In § 679.2, the definition "Other species" is revised to read as follows:

#### **§ 679.2 Definitions.**

\* \* \* \* \*

*Other species* is a category that consists of groundfish species in each management area that are not specified as target species (see Tables 10 and 11 to this part pursuant to § 679.20(e)).

\* \* \* \* \*

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- 3. Table 10 to part 679 is revised to read as follows:

Table 10 to Part 679—Gulf of Alaska Retainable Percentages

| BASIS SPECIES                               |                                        | INCIDENTAL CATCH SPECIES |                 |                        |                 |                 |                        |                 |           |                                    |                          |                        |                 |                                       |                        |                              |
|---------------------------------------------|----------------------------------------|--------------------------|-----------------|------------------------|-----------------|-----------------|------------------------|-----------------|-----------|------------------------------------|--------------------------|------------------------|-----------------|---------------------------------------|------------------------|------------------------------|
| Code                                        | Species                                | Pollock                  | Pacific cod     | DW flat <sup>(2)</sup> | Rex sole        | Flathead sole   | SW flat <sup>(3)</sup> | Arrowtooth      | Sablefish | Aggregated rockfish <sup>(6)</sup> | SR/RE ERA <sup>(1)</sup> | DSR SEO <sup>(6)</sup> | Atka mackerel   | Aggregated foragg fish <sup>(6)</sup> | Skates <sup>(11)</sup> | Other species <sup>(7)</sup> |
| 110                                         | Pacific cod                            | 20                       | na <sup>9</sup> | 20                     | 20              | 20              | 20                     | 35              | 1         | 5                                  | <sup>(1)</sup>           | 10                     | 20              | 2                                     | 20                     | 20                           |
| 121                                         | Arrowtooth                             | 5                        | 5               | 0                      | 0               | 0               | 0                      | na <sup>9</sup> | 0         | 0                                  | 0                        | 0                      | 0               | 2                                     | 0                      | 0                            |
| 122                                         | Flathead sole                          | 20                       | 20              | 20                     | 20              | na <sup>9</sup> | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
| 125                                         | Rex sole                               | 20                       | 20              | 20                     | na <sup>9</sup> | 20              | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
| 136                                         | Northern rockfish                      | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
| 141                                         | Pacific ocean perch                    | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
| 143                                         | Thornyhead                             | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
| 152/<br>151                                 | Shortraker/<br>rougheye <sup>(1)</sup> | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 7         | 15                                 | na <sup>9</sup>          | 1                      | 20              | 2                                     | 20                     | 20                           |
| 193                                         | Atka mackerel                          | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 1         | 5                                  | <sup>(1)</sup>           | 10                     | na <sup>9</sup> | 2                                     | 20                     | 20                           |
| 270                                         | Pollock                                | na <sup>9</sup>          | 20              | 20                     | 20              | 20              | 20                     | 35              | 1         | 5                                  | <sup>(1)</sup>           | 10                     | 20              | 2                                     | 20                     | 20                           |
| 710                                         | Sablefish                              | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              |           | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
| Flatfish, deep water <sup>(2)</sup>         | Flatfish, deep water <sup>(2)</sup>    | 20                       | 20              | na <sup>9</sup>        | 20              | 20              | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
|                                             | Flatfish, shallow water <sup>(3)</sup> | 20                       | 20              | 20                     | 20              | 20              | na <sup>9</sup>        | 35              | 1         | 5                                  | <sup>(1)</sup>           | 10                     | 20              | 2                                     | 20                     | 20                           |
| Rockfish, other <sup>(4)</sup>              | Rockfish, other <sup>(4)</sup>         | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
|                                             | Rockfish, pelagic <sup>(5)</sup>       | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 7         | 15                                 | 7                        | 1                      | 20              | 2                                     | 20                     | 20                           |
| Rockfish, DSR-SEO                           | Rockfish, DSR-SEO                      | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 7         | 15                                 | 7                        | na <sup>9</sup>        | 20              | 2                                     | 20                     | 20                           |
|                                             | Skates <sup>(11)</sup>                 | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 1         | 5                                  | <sup>(1)</sup>           | 10                     | 20              | 2                                     | na <sup>9</sup>        | 20                           |
| Other species <sup>(7)</sup>                |                                        | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 1         | 5                                  | <sup>(1)</sup>           | 10                     | 20              | 2                                     | 20                     | na <sup>9</sup>              |
| Aggregated amount of non-groundfish species |                                        | 20                       | 20              | 20                     | 20              | 20              | 20                     | 35              | 1         | 5                                  | <sup>(1)</sup>           | 10                     | 20              | 2                                     | 20                     | 20                           |

Notes to Table 10 to Part 679

Notes to Table 10 to Part 679

|                                                                                                                       |                               |  |                           |                                                                                             |                             |                                                  |
|-----------------------------------------------------------------------------------------------------------------------|-------------------------------|--|---------------------------|---------------------------------------------------------------------------------------------|-----------------------------|--------------------------------------------------|
| 1                                                                                                                     | Shortraker/rougheye rockfish  |  |                           | shortraker/rougheye rockfish (171)                                                          |                             |                                                  |
|                                                                                                                       | SR/RE                         |  |                           | shortraker rockfish (152)                                                                   |                             |                                                  |
|                                                                                                                       |                               |  |                           | rougheye rockfish (151)                                                                     |                             |                                                  |
|                                                                                                                       | SR/RE ERA                     |  |                           | shortraker/rougheye rockfish in the Eastern Regulatory Area.                                |                             |                                                  |
| Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish |                               |  |                           |                                                                                             |                             |                                                  |
| 2                                                                                                                     | Deep-water flatfish           |  |                           | Dover sole, Greenland turbot, and deep-sea sole                                             |                             |                                                  |
| 3                                                                                                                     | Shallow water flatfish        |  |                           | Flatfish not including deep water flatfish, flathead sole, rex sole, or arrowtooth flounder |                             |                                                  |
| 4                                                                                                                     | Other rockfish                |  |                           | Western Regulatory Area                                                                     |                             | means slope rockfish and demersal shelf rockfish |
|                                                                                                                       |                               |  |                           | Central Regulatory Area                                                                     |                             |                                                  |
|                                                                                                                       |                               |  |                           | West Yakutat District                                                                       |                             |                                                  |
|                                                                                                                       |                               |  |                           | Southeast Outside District                                                                  |                             |                                                  |
|                                                                                                                       |                               |  |                           |                                                                                             |                             |                                                  |
| Slope rockfish                                                                                                        |                               |  |                           |                                                                                             |                             |                                                  |
|                                                                                                                       | S. aurora (aurora)            |  | S. variegatus (harlequin) |                                                                                             | S. brevispinis (silvergrey) |                                                  |
|                                                                                                                       | S. melanostomus (blackgill)   |  | S. wilsoni (pygmy)        |                                                                                             | S. diploproa (splinose)     |                                                  |
|                                                                                                                       | S. paucispinis (bocaccio)     |  | S. babcocki (redbanded)   |                                                                                             | S. saxicola (stripetail)    |                                                  |
|                                                                                                                       | S. goodei (chilipepper)       |  | S. proriger (redstripe)   |                                                                                             | S. miniatus (vermilion)     |                                                  |
|                                                                                                                       | S. crameri (darkblotch)       |  | S. zacentrus (sharpchin)  |                                                                                             | S. reedi (yellowmouth)      |                                                  |
|                                                                                                                       | S. elongatus (greenstriped)   |  | S. jordani (shortbelly)   |                                                                                             |                             |                                                  |
| In the Eastern GOA only, Slope rockfish also includes S. polyspinous. (Northern)                                      |                               |  |                           |                                                                                             |                             |                                                  |
| 5                                                                                                                     | Pelagic shelf rockfish        |  |                           | S. ciliatus (dusky)                                                                         |                             | S. flavidus (yellowtail)                         |
| 6                                                                                                                     | Demersal shelf rockfish (DSR) |  |                           | S. pinniger (canary)                                                                        |                             | S. ruberrimus (yelloweye)                        |
|                                                                                                                       |                               |  |                           | S. maliger (quillback)                                                                      |                             |                                                  |
|                                                                                                                       |                               |  |                           | S. nebulosus (china)                                                                        |                             |                                                  |
|                                                                                                                       |                               |  |                           | S. caurinus (copper)                                                                        |                             |                                                  |
| DSR-SEO = Demersal shelf rockfish in the Southeast Outside District                                                   |                               |  |                           |                                                                                             |                             |                                                  |
| 7                                                                                                                     | Other species                 |  |                           | sculpins                                                                                    |                             | sharks                                           |
|                                                                                                                       |                               |  |                           | octopus                                                                                     |                             | squid                                            |

|    |                                                                |                                                                                                    |                                                                                         |
|----|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 8  | Aggregated rockfish                                            | means rockfish of the genera <i>Sebastes</i> and <i>Sebastolobus</i> defined at § 679.2 except in: |                                                                                         |
|    |                                                                | Southeast Outside District (SEO)                                                                   | where DSR is a separate category for those species marked with a numerical percentage   |
|    |                                                                | Eastern Regulatory Area (ERA)                                                                      | where SR/RE is a separate category for those species marked with a numerical percentage |
| 9  | N/A                                                            | not applicable                                                                                     |                                                                                         |
| 10 | Aggregated forage fish (all species of the following families) |                                                                                                    |                                                                                         |
|    |                                                                | Bristlemouths, lightfishes, and anglemouths (family <i>Gonostomidae</i> )                          | 209                                                                                     |
|    |                                                                | Capelin smelt (family <i>Osmeridae</i> )                                                           | 516                                                                                     |
|    |                                                                | Deep-sea smelts (family <i>Bathylagidae</i> )                                                      | 773                                                                                     |
|    |                                                                | Eulachon smelt (family <i>Osmeridae</i> )                                                          | 511                                                                                     |
|    |                                                                | Gunnels (family <i>Pholidae</i> )                                                                  | 207                                                                                     |
|    |                                                                | Krill (order <i>Euphausiacea</i> )                                                                 | 800                                                                                     |
|    |                                                                | Laternfishes (family <i>Myctophidae</i> )                                                          | 772                                                                                     |
|    |                                                                | Pacific herring (family <i>Clupeidae</i> )                                                         | 235                                                                                     |
|    |                                                                | Pacific Sand fish (family <i>Trichodontidae</i> )                                                  | 206                                                                                     |
|    |                                                                | Pacific Sand lance (family <i>Ammodytidae</i> )                                                    | 774                                                                                     |
|    |                                                                | Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family <i>Stichaeidae</i> )         | 208                                                                                     |
|    |                                                                | Surf smelt (family <i>Osmeridae</i> )                                                              | 515                                                                                     |
| 11 | Skates Species and Groups                                      |                                                                                                    |                                                                                         |
|    | Big Skates (702)                                               |                                                                                                    |                                                                                         |
|    | Longnose Skates (701)                                          |                                                                                                    |                                                                                         |
|    | Other Skates (700)                                             |                                                                                                    |                                                                                         |

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 040223064-4136-02; I.D. 020404F]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2004 Harvest Specifications for Skates

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

**ACTION:** Final 2004 harvest specifications for skates and associated management measures; closures.

**SUMMARY:** NMFS announces final 2004 harvest specifications for skates and associated management measures for the skate fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits and associated management measures for skates during the 2004 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the GOA (FMP). The intended effect of this action is to conserve and manage the skate resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective at 1200 hrs, Alaska local time (A.l.t.), June 11, 2004, through 2400 hrs, A.l.t., December 31, 2004.

**ADDRESSES:** Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action and the Final 2003 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2003, are available from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall.

**FOR FURTHER INFORMATION CONTACT:** Tom Pearson, 907-481-1780 or e-mail at [tom.pearson@noaa.gov](mailto:tom.pearson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background for the Final 2004 Skate Harvest Specifications

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.*

Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

In October 2003, the Council made final recommendations on Amendment 63 to the FMP and submitted it for review by the Secretary of Commerce (Secretary) in November 2003. The Council proposed Amendment 63 to move skates from the "other species" category to the target species category in the FMP. By establishing skates as a target species, a directed fishery for skates in the GOA could be managed to reduce the potential of overfishing skates while providing an opportunity for achieving a long term sustainable yield from the skate resource in the GOA. NMFS published a Notice of Availability for Amendment 63 on December 2, 2003 (68 FR 67390) and a proposed rule to implement Amendment 63 on January 6, 2004 (69 FR 614). The Secretary approved Amendment 63 on February 27, 2004.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and for the "other species" category, the sum of which must be within the optimum yield (OY) range of 116,000 to 800,000 metric tons (mt) (see § 679.20(a)(1)(ii)). Regulations at § 679.20(c)(3)(i) further require NMFS to publish annually the final annual TAC. NMFS published the final 2004 groundfish harvest specifications in the **Federal Register** on February 27, 2004 (69 FR 9261). The final 2004 harvest specifications for skates in the GOA and associated management measures contained in this action amend the final 2004 groundfish harvest specifications.

The proposed harvest specifications for skates in the GOA were published in the **Federal Register** on March 4, 2004 (69 FR 10190). Comments were invited and accepted through March 19, 2004. NMFS received one letter of comment on the proposed specifications. This letter of comment is summarized and responded to in this document under the heading Response to Comments. Public consultation with the Council occurred during its December 2003 meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, the Council recommended, and NMFS approved, the final 2004 harvest specifications for skates set forth in Table 1 of this action. No changes were made from the proposed to the final harvest specifications for skates. For 2004, the sum of skate TAC amounts is 6,993 mt.

#### Acceptable Biological Catch (ABC) and TAC Specifications

The final ABC and TAC levels for each species group are based on the best available biological and socioeconomic information, including methods used to calculate stock biomass, assumed distribution of stock biomass, and estimated incidental catch in other directed groundfish fisheries. In December 2003, the Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) reviewed current biological and harvest information about the condition of groundfish stocks in the GOA. Most of this information was compiled initially by the Council's GOA Plan Team and is presented in the final 2003 SAFE report for the GOA groundfish fisheries, dated November 2003. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the GOA ecosystem and the economic condition of the groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates an ABC for each species category.

The Plan Team recommended a single gulfwide overfishing level (OFL) for all skate species, a single gulfwide ABC for "other skates" (Genus *Bathyraja*), and ABCs for Big and Longnose skates (*Raja binoculata* and *Raja rhina*, respectively) combined in the Western, Central, and Eastern Regulatory Areas of the GOA. Additionally, the Plan Team recommended that the TAC for Big and Longnose skates in the Central Regulatory Area not exceed the calculated OFL for Big skates in that area (3,284 mt). The SSC concurred with the Plan Team's recommendation for a single gulfwide OFL for all skate species but recommended a separate ABC for Big and Longnose skates only in the Central Regulatory Area. The SSC believes that this breakout would be a better method to address the immediate management concerns in the Central Regulatory Area given the current data limitations, which include a lack of skate species composition data in the retained and discarded catch in previous years. The AP and Council concurred with the SSC's ABC recommendations which are presented in Table 1. The AP and the Council concurred with the Plan Team's TAC recommendation of 3,284 mt for Big and Longnose skates combined in the Central Regulatory Area. The AP and