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Comment Period Extension

On October 30, 2008 (73 FR 64790), TSA published an NPRM on the Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program. The NPRM has a 60-day comment period that would have ended on December 29, 2008. In a request dated October 30, 2008, the National Business Aviation Association (NBAA) and the Aircraft Owners and Pilots Association (AOPA) requested an extension of the deadline for filing comments on the LASP NPRM from December 29, 2008 to February 27, 2009. See Docket Item No. TSA-2008-0021-0018. NBAA and AOPA believe that the original 60-day comment period is insufficient time to provide TSA with substantive answers to the questions posed in the proposal or for community education and feedback.

TSA has decided to grant NBAA and AOPA's requests for an extension and, therefore, is extending the comment period for an additional sixty (60) days. The comment period will now be a total of 120 days and will end on February 27, 2009. This extension will allow the aviation industry and other interested entities and individuals additional time to complete their comments on the NPRM.

Issued in Arlington, Virginia, on November 19, 2008.

Kip Hawley,

Assistant Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 080103016-8417-01]

RIN 0648-AW40

Fisheries of the Exclusive Economic Zone Off Alaska; Revise Maximum Retainable Amounts of Groundfish Using Arrowtooth Flounder as a Basis Species in the Gulf of Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a regulatory amendment to revise the maximum retainable amounts (MRAs) of groundfish using arrowtooth flounder as a basis species in the Gulf of Alaska. This action would increase the MRAs from 0 percent to 20 percent for deep-water flatfish, rex sole, flathead sole, shallow-water flatfish, Atka mackerel, and skates; from 0 percent to 5 percent for aggregated rockfish; and from 0 percent to 1 percent for sablefish. The intended effect of this action is to reduce regulatory discards of otherwise marketable groundfish in the arrowtooth flounder fishery. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and other applicable law.

DATES: Comments must be received no later than December 26, 2008.

ADDRESSES: Send written comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian, Records Officer. You may submit comments, identified by "RIN 0648-AW40" by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal website 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 part of the public record and will be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., 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). Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats to be accepted.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from the NMFS Alaska Region at the address above or from the

Alaska Region Web site at <http://www.fakr.noaa.gov/sustainablefisheries.htm>.

FOR FURTHER INFORMATION CONTACT: Tom Pearson, 907-481-1780.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the exclusive economic zone in the Gulf of Alaska (GOA) under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (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.

Regulations at (679.20(e)) establish maximum retainable amount (MRA) percentages for groundfish species and species groups. These MRA percentages establish the amount of a species closed to directed fishing that may be retained onboard a vessel, relative to the amounts of other groundfish open to directed fishing retained onboard the vessel. MRA percentages serve as a management tool to slow down the rate of harvest and reduce the incentive for targeting a species closed to directed fishing. MRAs also allow for retention of incidentally caught species instead of requiring regulatory discards of species closed to directed fishing. MRA percentages do not reflect a natural incidental catch rate, but rather, reflect a balance between the recognized need to slow harvest rates, minimize the potential for discards, and, in some cases, provide an increased opportunity to harvest available total allowable catch (TAC) through limited targeting activity.

In 1994, and after it became apparent that several groundfish stocks as well as halibut were impacted, NMFS published an emergency interim rule to prohibit the use of arrowtooth flounder as a basis species for the purpose of retaining groundfish (59 FR 6222, February 10, 1994). This action prevented exceeding the overfishing limit of Pacific ocean perch and thornyhead rockfish. Also, it prevented premature fishery closures due to reaching the halibut prohibited species catch (PSC) limit. At the time the emergency rule was published, several vessel operators were deliberately targeting arrowtooth flounder to provide a basis for the retention of highly valued groundfish species, such as sablefish, which were closed to directed fishing. After landing, the retained arrowtooth

flounder was either discarded or made into fish meal. The prohibition was made permanent in 1995 (60 FR 40304, August 8, 1995).

By 1995, a limited market for arrowtooth flounder had begun to develop. In 1997, the MRAs for pollock and Pacific cod using arrowtooth flounder as a basis species were increased from 0 to 5 percent to reduce regulatory discards without providing an incentive to intentionally target an MRA species that is closed to directed fishing (62 FR 11109, March 11, 1997). This action was successful in reducing discards required by regulation and reduced the number of violation notices issued by the Office of Enforcement for exceeding the MRAs of pollock and Pacific cod. Since 1997, the incidental catch of pollock and Pacific cod in the arrowtooth flounder fishery has not increased from previous average rates. In 2006, as part of Amendment 69 to the FMP, which revised the formula used to establish the TAC for the (other species) complex, the MRA for (other species) using arrowtooth flounder as a basis species was increased from 0 to 20 percent (71 FR 12626, March 13, 2006). This action was also taken to reduce discards required by regulation.

In October 2006, the Council received a proposal from industry to increase the MRAs for several groundfish species using arrowtooth flounder as a basis species because arrowtooth flounder is now a viable target fishery. Effort by the trawl fleet to improve retention of groundfish species is constrained by the current MRAs. In addition, to support the increased catch of arrowtooth flounder, the annual TAC for arrowtooth flounder was increased from 5,000 mt to 8,000 mt in the Western GOA in 2001 and has remained at that level since then. The arrowtooth flounder TAC was increased from 25,000 mt to 30,000 mt in the Central GOA in 2007 and remained at that level in 2008. Total catch of arrowtooth flounder in the GOA, including both directed fishing and incidental catch in other groundfish fisheries, has increased from 16,247 mt in 1997 to 25,340 mt in 2007. Over the same period the retention of arrowtooth flounder in all trawl fisheries has increased from 18 percent to 58 percent of the total catch of arrowtooth flounder in the GOA, an indication of a growing market for arrowtooth flounder. In the 2006 directed arrowtooth flounder fishery in the GOA, 82 percent of arrowtooth flounder catch was retained.

The Council took final action in October 2007, and selected the industry's proposal as its preferred alternative. The proposed action would revise the GOA Retainable Percentages

listed in Table 10 to part 679 to increase the MRAs for selected groundfish species using arrowtooth flounder as a basis species. The MRAs for deep-water flatfish, rex sole, flathead sole, shallow-water flatfish, Atka mackerel, and skates would be increased from 0 percent to 20 percent; the MRA for aggregated rockfish would be increased from 0 percent to 5 percent; and the MRA for sablefish would be increased from 0 percent to 1 percent. The MRAs for pollock, Pacific cod, (other species), (and forage fish using arrowtooth flounder as a basis species) would not be changed.

The proposed MRAs are higher than the percentages of the groundfish catch from 2003 to 2006 associated with the directed arrowtooth flounder fishery for Atka mackerel, deep-water flatfish, flathead sole, rex sole, shallow-water flatfish, and skates, and lower for aggregated rockfish. Because the proposed MRAs are higher than the previously reported incidental catch amounts, this action would allow some increased catch of Atka mackerel, deep-water flatfish, flathead sole, rex sole, shallow-water flatfish, and rockfish without exceeding the TAC amounts established for these species.

The draft Environmental Assessment prepared for this action concluded that the proposed increase of the MRAs for selected species of groundfish using arrowtooth as a basis species would not affect any groundfish stock or any other component of the physical or biological environment. Under this proposed action, the MRAs for groundfish in the arrowtooth flounder fishery would be increased from current levels and greater amounts of groundfish closed to directed fishing could be retained in the arrowtooth flounder fishery instead of discarded. However, even though the amounts of groundfish retained in the arrowtooth flounder fishery would increase, total removals of each species would still be within the TAC levels for each species and would be further constrained by halibut PSC limitations that often close directed fishing for groundfish by vessels using trawl gear. The impacts of the harvest strategies and resulting TAC amounts were analyzed in the 2007 Alaska Groundfish Harvest Final Specifications Environmental Impact Statement available at <http://www.fakr.noaa.gov>.

The proposed rule would revise § 679.20(f)(2) to remove the requirement that arrowtooth flounder may not be used as a basis species to calculate retainable amounts of other groundfish species.

Minor editorial revisions would be made to Table 10 to part 679. The words "shallow water" and "deep water"

would be revised to "shallow-water" and "deep-water" to standardize the preferred spelling of these terms.

In note 1 to Table 10, the term "shortraker/rougheye" (171) would be removed because NMFS no longer has a species category or code in Table 2a to part 679 for the combination of shortraker and rougheye rockfish.

Note 10 to Table 10 lists the species included in the aggregated forage fish category. The word "families" in the parentheses following the term "Aggregated forage fish" would be replaced with the word "taxa" because all species of the order Euphausiacea (krill) also are included in the list of aggregated forage fish. The word taxa refers to more general groupings of similar organisms and includes taxonomic families and orders.

Classification

Pursuant to section 304 (b)(1)(A) and 305 (d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the EA/RIR/IRFA analysis is available from NMFS (see **ADDRESSES**).

The Small Business Administration has defined all fish-harvesting or hatchery businesses that are independently owned and operated, not dominant in their field of operation, and have annual receipts less than \$4.0 million as small businesses. In addition, seafood processors with 500 employees or fewer, wholesale industry members with 100 employees or fewer, not-for-profit-enterprises, and government jurisdictions with a population of 50,000 or less are considered small entities. NMFS has determined that a "substantial number" of small entities would generally be 20 percent of the total universe of small entities affected by the regulation. A regulation would have a "significant negative impact" on these small entities if it reduced annual

gross revenues by more than 5 percent, increased total costs of production by more than 5 percent or resulted in compliance costs for small entities by at least 10 percent compared with compliance costs as a percent of sales for large entities.

The IRFA estimated that 18 trawl catcher vessels participating in the arrowtooth flounder fishery qualify as "small entities" for purposes of the Regulatory Flexibility Act. None of the catcher/processors participating in the arrowtooth flounder fishery qualify as small entities.

Three alternatives were analyzed for their impact. Alternative 1, the status quo or no action alternative, would leave the MRAs for groundfish in the arrowtooth flounder fishery unchanged from current levels, and would continue to require fishermen to discard otherwise marketable groundfish. Alternative 2, the Council's preferred alternative brought forward as a proposal from the industry, would increase the MRAs for some species of groundfish in the arrowtooth flounder fishery in order to reduce discards of otherwise marketable fish without raising allocation concerns with respect to pollock, Pacific cod, rockfish, and sablefish. Alternative 3, developed by NMFS and Council staff, would increase

the MRAs for groundfish species caught in the arrowtooth flounder fishery to levels estimated to cover incidental catch of these species. Under Alternative 3 the MRAs for deep-water flatfish (5 percent), rex sole (10 percent), flathead sole (15 percent), shallow-water flatfish (5 percent), Atka mackerel (5 percent), and skates (10 percent) would be lower than the 20 percent proposed under Alternative 2. Alternatives 2 and 3 would provide an opportunity to retain additional, economically valuable groundfish species in the arrowtooth flounder directed fishery. This would be beneficial to the affected small entities. The benefits to small entities under Alternative 2, the preferred alternative, would be slightly greater than under Alternative 3. No negative impacts on small entities are associated with either Alternative 2 or 3.

This proposed rule contains no additional collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act.

The analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: November 20, 2008.

Samuel D. Rauch III

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

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be 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.*; 3631 *et seq.*; Pub. L. 108-447.

2. In § 679.20, revise the first sentence of paragraph (f)(2) to read as follows:

§ 679.20 General limitations.

* * * * *

(f) * * *

(2) *Retainable amounts.* Any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species. * * *

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3. Revise Table 10 to 50 CFR part 679 to read as follows:

BILLING CODE 3510-22-S

Table 10 to Part 679--Gulf of Alaska Retainable Percentages

Code	BASIS SPECIES		INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j) ⁵)													
	Species		Pollock	Pacific cod	DW flat ⁽²⁾	Rex sole	Flathead sole	SW Flat ⁽³⁾	Arrowtooth	Sablefish	Aggregated rockfish ⁽⁸⁾	SR/RE ERA ⁽¹⁾	DSR SEO (C/Ps only) ⁽⁶⁾	Atka mackerel	Aggregated forage fish ⁽¹⁰⁾	Skates ⁽¹¹⁾
110	Pacific cod	20	na ⁹	20	20	20	20	35	1	5	(1)	10	20	2	20	20
121	Arrowtooth	5	5	20	20	20	na ⁹	na ⁹	1	5	0	0	20	2	20	20
122	Flathead sole	20	20	20	20	na ⁹	20	35	7	15	7	1	20	2	20	20
125	Rex sole	20	20	20	na ⁹	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
152/151	Shortraker/rougheye ⁽¹⁾	20	20	20	20	20	20	35	7	15	na ⁹	1	20	2	20	20
193	Atka mackerel	20	20	20	20	20	20	35	1	5	(1)	10	na ⁹	2	20	20
270	Pollock	na ⁹	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20
710	Sablefish	20	20	20	20	20	20	35	na ⁹	15	7	1	20	2	20	20
	Flatfish, deep-water ⁽²⁾	20	20	na ⁹	20	20	20	35	7	15	7	1	20	2	20	20
	Flatfish, shallow-water ⁽³⁾	20	20	20	20	20	na ⁹	35	1	5	(1)	10	20	2	20	20
	Rockfish, other ⁽⁴⁾	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20
	Rockfish, pelagic ⁽⁵⁾	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20
	Rockfish, DSR-SEO ⁽⁶⁾	20	20	20	20	20	20	35	7	15	7	na ⁹	20	2	20	20
	Skates ⁽¹¹⁾	20	20	20	20	20	20	35	1	5	(1)	10	20	2	na ⁹	20
	Other species ⁽⁷⁾	20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	na ⁹
	Aggregated amount of non-groundfish species	20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20

Notes to Table 10 to Part 679	
1	<p>Shortraker/rougheye rockfish</p> <p>SR/RE</p> <p>SR/RE ERA</p> <p>shortraker rockfish (152)</p> <p>rougheye rockfish (151)</p> <p>shortraker/rougheye rockfish in the Eastern Regulatory Area.</p> <p>Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish</p> <p>2 Deep-water flatfish</p> <p>Dover sole, Greenland turbot, and deep-sea sole</p> <p>3 Shallow-water flatfish</p> <p>Flatfish not including deep-water flatfish, flathead sole, rex sole, or arrowtooth flounder</p> <p>4</p> <p>Western Regulatory Area</p> <p>Central Regulatory Area</p> <p>West Yakutat District</p> <p>Southeast Outside District</p> <p>means slope rockfish and demersal shelf rockfish</p> <p>means slope rockfish</p> <p>Other rockfish</p> <p><i>S. aurora</i> (aurora)</p> <p><i>S. melanostomus</i> (blackgill)</p> <p><i>S. paucispinis</i> (bocaccio)</p> <p><i>S. goodiei</i> (chilipepper)</p> <p><i>S. crameri</i> (darkblotch)</p> <p><i>S. elongatus</i> (greenstriped)</p> <p><i>S. variegatus</i> (harlequin)</p> <p><i>S. wilsoni</i> (pygmy)</p> <p><i>S. babcocki</i> (redbanded)</p> <p><i>S. proriger</i> (redstripe)</p> <p><i>S. zacentrus</i> (sharpchin)</p> <p><i>S. jordani</i> (shortbelly)</p> <p>Slope rockfish</p> <p><i>S. brevispinis</i> (silvergrey)</p> <p><i>S. diploproa</i> (splitnose)</p> <p><i>S. saxicola</i> (stripetal)</p> <p><i>S. miniatus</i> (vermillion)</p> <p><i>S. reedi</i> (yellowmouth)</p> <p>In the Eastern GOA only, <i>S. polyspinus</i>, (Northern)</p> <p><i>S. entomelas</i> (widow)</p> <p><i>S. maliger</i> (quillback)</p> <p><i>S. helvomaculatus</i> (rosethorn)</p> <p><i>S. nigrocinctus</i> (tiger)</p> <p>5 Pelagic shelf rockfish</p> <p><i>S. ciliatus</i> (dusky)</p> <p><i>S. pinniger</i> (canary)</p> <p><i>S. nebulosus</i> (china)</p> <p><i>S. caurinus</i> (copper)</p> <p>6 Demersal shelf rockfish (DSR)</p> <p>DSR-SEO = Demersal shelf rockfish in the Southeast Outside District</p> <p>The operator of a catcher vessel that is required to have a Federal fisheries permit, or that harvests IFQ halibut with hook and line or jig gear, must retain and land all DSR that is caught while fishing for groundfish or IFQ halibut in the SEO. Limits on sale and requirements for disposal of DSR are set out at § 679.20 (f).</p> <p>7 Other species</p> <p>sculpins</p> <p>octopus</p> <p>sharks</p> <p>squid</p> <p>8 Aggregated rockfish</p> <p>Means rockfish of the genera <i>Sebastes</i> and <i>Sebastolobus</i> defined at § 679.2 except in:</p> <p>Southeast Outside District (SEO) where DSR is a separate category for those species marked with a numerical percentage</p> <p>Eastern Regulatory Area (ERA) where SR/RE is a separate category for those species marked with a numerical percentage</p>

Notes to Table 10 to Part 679		
9	N/A not applicable Aggregated forage fish (all species of the following taxa)	
10	Bristlemouths, lightfishes, and anglemouths (family <u>Gonostomatidae</u>)	209
	Capelin smelt (family <u>Osmeridae</u>)	516
	Deep-sea smelts (family <u>Bathylagidae</u>)	773
	Eulachon smelt (family <u>Osmeridae</u>)	511
	Gunnels (family <u>Pholidae</u>)	207
	Krill (order <u>Euphausiacea</u>)	800
	Laternfishes (family <u>Myctophidae</u>)	772
	Pacific herring (family <u>Clupeidae</u>)	235
	Pacific sand fish (family <u>Trichodontidae</u>)	206
	Pacific sand lance (family <u>Ammodytidae</u>)	774
	Pricklebacks, war-bonnets, celblennys, cockscombs, and Shannys (family <u>Stichaeidae</u>)	208
	Surf smelt (family <u>Osmeridae</u>)	515
	11	Skates Species and Groups
Big Skates		702
Longnose Skates		701
	Other Skates	700