

requests for additional information from DOE, particularly regarding the WIPP waste inventory and groundwater (karst) issues.

EPA will now undertake a full technical evaluation on the complete 2009 CRA in determining whether the WIPP continues to comply with the radiation protection standards for disposal. EPA will also consider any additional public comments and other information relevant to WIPP's compliance. The Agency is most interested in whether new or changed information has been appropriately incorporated into performance assessment calculations for WIPP, and whether the potential effects of changes are properly characterized.

If EPA approves the application, it will set the parameters for how WIPP will be operated by DOE over the following five years. The approved CRA will then serve as the baseline for the next recertification. As required by the WIPP LWA, the Agency will make a final recertification decision within six months of issuing its completeness determination.

June 29, 2010

Honorable Dr. Steven Chu, Secretary U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Dear Mr. Secretary: Pursuant to Section 8(f) of the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act, as amended, and in accordance with the WIPP Compliance Criteria at 40 CFR 194.11, I hereby notify you that the U.S. Environmental Protection Agency (EPA or "the Agency") has determined that the U.S. Department of Energy's (DOE) 2009 Compliance Recertification Application (CRA) for WIPP is complete. This completeness determination is an administrative determination required under the WIPP Compliance Criteria, which implement the Agency's Final Radioactive Waste Disposal Regulations at Subparts B and C of 40 CFR Part 191. While the completeness determination initiates the six-month evaluation period provided for in Section 8(f)(2) of the Land Withdrawal Act, it does not have any generally applicable legal effect. Further, this determination does not imply or indicate that DOE's CRA demonstrates compliance with the Compliance Criteria and/or the Disposal Regulations.

Section 8(f) of the amended Land Withdrawal Act requires EPA to evaluate all changes in conditions or activities at WIPP every five years to determine if the facility continues to comply with EPA's disposal regulations. This second recertification process includes a review of all of the changes made at the WIPP facility since the initial 2004 CRA (and subsequent recertification decision, issued in 2006) was submitted by DOE.

Under the applicable regulations, EPA may recertify the WIPP only after DOE has submitted a "full" (or complete) application

(see 40 CFR 194.11). Upon receipt of the CRA on March 24, 2009, EPA immediately began its review to determine whether the application was complete. Shortly thereafter, the Agency began to identify areas of the 2009 CRA that required supplementary information and analyses. In addition, EPA received public comments and held public meetings on the application that identified areas where additional information was needed for EPA's review.

EPA identified completeness concerns in a series of letters/e-mails from the Agency to Dr. Dave Moody, Manager for DOE's Carlsbad Field Office, as well as his staff. This correspondence is detailed below:

- May 21, 2009—EPA requested additional information on the performance assessment and chemical portions of the CRA—2009.
- July 16, 2009—EPA requested additional information on waste inventory, performance assessment calculations/code documentation, human intrusion, and chemistry (including karst comments raised by stakeholders).
- October 19, 2009—EPA requested additional information on waste inventory, chemistry, features/events/processes (FEPs), and performance assessment parameters/codes.
- January 25, 2010 (addendum to 5/21/09 letter via e-mail)—EPA requested additional information conceptual models and modeling calculations.
- February 19, 2010—EPA requested additional information on repository chemistry issues.

DOE submitted the requested information with a series of 11 letters, which were sent on the following dates:

- August 24, 2009
- September 30, 2009
- November 25, 2009
- January 12, 2010
- February 22, 2010
- March 31, 2010
- April 12, 2010
- April 19, 2010
- May 26, 2010
- June 22, 2010
- June 28, 2010

All completeness-related correspondence was placed in our public docket (EDOCKET EPA-HQ-OAR-2009-0330) and on our website (<http://www.epa.gov/radiation/wipp>).

Based on the information provided by DOE, we conclude that the 2009 CRA is complete. Again, this is the initial, administrative step that indicates DOE has provided information relevant to each applicable provision of the WIPP Compliance Criteria and in sufficient detail for us to proceed with a full technical evaluation of the adequacy of the application. In accordance with Section 8(f)(2) of the amended Land Withdrawal Act, EPA will make its final recertification decision within six months of this letter.

To the extent possible, the Agency began conducting a preliminary technical review of the application upon its submittal by DOE, and has provided the Department with relevant technical comments on an ongoing basis. EPA will continue to conduct its technical review of the 2009 CRA as needed, and will convey further requests for

additional information and analyses. The Agency will issue its compliance recertification decision, in accordance with 40 CFR Part 194 and Part 191, Subparts B and C, after it has thoroughly evaluated the complete CRA and considered relevant public comments. The public comment period on our completeness determination will remain open for 30 days following the publication of this letter in the **Federal Register**.

Thank you for your cooperation during our review process. Should your staff have any questions regarding this request, they may contact Tom Peake at (202) 343-9765 or by e-mail at [peake.tom@epa.gov](mailto:peake.tom@epa.gov).

Sincerely,  
Michael P. Flynn,  
Director, Office of Radiation and Indoor Air.

Dated: July 7, 2010.

**Michael P. Flynn**,  
Director, Office of Radiation and Indoor Air.

[FR Doc. 2010-17141 Filed 7-15-10; 8:45 am]

**BILLING CODE 6560-50-P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0912231441-91445-01]

RIN 0648-AY48

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

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendments 95 and 96 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) and Amendment 87 to the FMP for Groundfish of the Gulf of Alaska (GOA), (collectively referred to as "the FMPs"). If approved, Amendment 95 would move skates from the "other species" category to the "target species" category in the FMP. 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” and “non-specified species” categories from the FMPs, establish an “ecosystem component” category, and describe the current practices for groundfish fisheries management in the FMPs, as required by the guidelines. The proposed rule would remove references to the “other species” category for purposes of the harvest specifications and would add skate species to the reporting codes for the BSAI groundfish fisheries. This proposed 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 must be received by August 30, 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 and 96 to the FMP for Groundfish of the BSAI, Amendment 87 to the FMP for Groundfish of the GOA, the Environmental Assessments (EAs), and the Regulatory Impact Review (RIR) prepared for this action are available from the Alaska Region website at <http://www.alaskafisheries.noaa.gov/regsum.htm>.

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

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

The Council has submitted Amendments 87, 95, and 96 for review by the Secretary of Commerce (Secretary), and a Notice of Availability of the FMP amendments was published in the **Federal Register** on July 2, 2010 (75 FR 38454), with comments on the FMP amendments invited through August 31, 2010.

Comments may address the FMP amendments, the proposed rule, or both, but must be received by 1700 hours, A.D.T. on August 31, 2101, to be considered in the approval/disapproval decision on the FMP amendments. All comments received by that time, whether specifically directed to the FMP amendments or to this proposed rule, will be considered in the approval/disapproval decision on the FMP amendments.

### Background

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

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 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” category in each FMP and place these groups in the “target species” category. The “other species” category would be completely 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 single 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). Implementation of these amendments will promote the goal of ending and preventing overfishing.

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 a vessel. If closing directed fishing for sharks and octopuses, together with applicable limits on retention, 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, while minimizing adverse 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 have been sold, information is available to estimate changes in potential revenue from the proposed action. The estimated

revenue for BSAI and GOA octopus is decreased \$110,000 to \$155,000 based on the retrospective harvest and inseason management methods. Increased costs may occur if 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 make it harder to deliver a quality product.

#### Proposed Regulatory Amendments

The Council recommended, and the Secretary proposes, the following regulatory revisions and additions to 50 CFR part 679 to implement Amendments 87, 95, and 96.

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

Section 679.20 would be revised by removing the term "other species category" in paragraphs related to harvest limits, reserves, harvest specifications, and fishery closures. This revision would ensure the regulations for harvest specifications and "target species" management are consistent with Amendments 96 and 87, which would remove "other species" from the FMP for purposes of harvest specifications and inseason management.

Section 679.25 would be revised to remove the "other species" category from the paragraph related to reopening an area to achieve TAC for a target species. This revision would ensure the regulations are consistent with removing "other species" from the FMP

for purposes of target species management.

Table 2a to part 679 would be revised to add whiteblotched, Alaska, and Aleutian skates, as well as the scientific names for individual skate species. Adding these individual skate species and the scientific names would facilitate the reporting of individual skate species taken during groundfish harvest and would provide more detailed information regarding skate harvests for stock assessments and fisheries management. This revision would ensure the regulations are consistent with Amendment 95, providing the species specific information to support managing skates as a target species group or as individual target species.

#### Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendments 87, 95, and 96, other provisions of the Magnuson-Stevens Act and other applicable laws, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

#### Factual Basis for Certification

##### *Description and Estimate of the Number of Small Entities to Which the Rule Applies*

For purposes of this analysis, a "small entity" is any entity that catches, or catches and processes, less than \$4.0 million gross ex-vessel value (or first wholesale gross product value) of groundfish per year.

The proposed regulatory changes for Amendments 96 and 87 do not impose, increase, relax, or remove substantive restrictions on any entity. This proposed regulatory action is not the only regulatory action that the agency will take to implement these amendments, and it does not give effect to these FMP amendments in a manner that will directly impact regulated entities. Because no entities will be directly regulated by the portion of the proposed rule for Amendments 96 and 87, no small entities will be directly regulated by the proposed action for Amendments 96 and 87. Therefore, the proposed action that implements Amendments 96

and 87 does not directly apply to any small entities.

The portion of the proposed rule to implement Amendment 95 may directly regulate small entities, although as noted below, the impacts would not be significant. The entities directly regulated by this action, if adopted, would be the Community Development Quota (CDQ) and non-CDQ fishing operations harvesting species in the “other species” complex in the BSAI, using hook-and-line, pot, or trawl gear. Vessels generally are harvesting skates and the remaining species in the “other species” category, incidentally to other targeted fishing operations; (e.g., fishing for Pacific cod); none of the species in the “other species” category are currently fished as a target. Because any hook-and-line, pot, or trawl operation in the BSAI may harvest the “other species” complex, the universe of potentially directly regulated operations includes all BSAI hook-and-line, pot, and trawl vessels.

In 2007, the universe of potentially directly regulated vessels that caught (or caught and processed) less than \$4.0 M gross ex-vessel value (or first wholesale gross product value) of groundfish or “other species,” totaled 212 vessels in the BSAI. This included 40 hook-and-line vessels, 71 pot vessels, and 103 trawlers. The portion of the proposed action to implement Amendment 95 potentially applies to all of these entities.

For RFA purposes, the entity size determination is based on operation gross annual revenues from groundfish fishing in and off Alaska. This likely “understates” the actual annual gross revenues earned by many of these operations, because income from non-groundfish commercial fishing activities is not included, owing to an absence of germane data. Moreover, data are not available to fully take account of affiliations between fishing operations and associated processors, or other associated fishing operations. For these reasons, these counts likely overstate the numbers of small entities potentially directly regulated by the proposed action. Average groundfish gross revenues, in 2007, for these small entities were estimated to be \$670,000 for hook-and-line catcher vessels, \$2.27 million for hook-and-line catcher processors, \$1,400,000 for pot catcher vessels, and \$1.91 million for trawl catcher vessels (AFSC did not report information for pot and trawl catcher-processors).

#### *Estimate of Economic Impact on Small Entities by Entity Size and Industry*

The impacts of this action have been evaluated in the accompanying RIR (See ADDRESSES). The proposed regulatory changes to accompany Amendments 96 and 87 do not impose, increase, relax, or remove substantive restrictions on any entity. Because this portion of the proposed action does not directly regulate any entities, this portion of the proposed action would not have any discernible impacts on small entities.

The proposed regulatory amendment for Amendment 95 would change the codes required for reporting skate catches, and to this extent would further restrict entity behavior. Vessel operators would need to learn how to identify three individual skate species and use the proposed species code from Table 2a to part 679 in their harvest reports. However, all skate harvest must currently be reported using a code from Table 2a to part 679. Once the operator learns how to identify the skate species and becomes familiar with the proposed codes, the expense of reporting skate harvests would be similar to that currently experienced. The RIR notes that this portion of the proposed action is expected to have *de minimis* costs. Because the costs are expected to be so small, the portion of the action to implement Amendment 95 is not expected to have a significant impact on any directly regulated small entities.

#### *Criteria Used to Evaluate Whether the Rule Would Impose “Significant Economic Impacts”*

The two criteria recommended to determine the significance of the economic impacts of the action are disproportionality and profitability.

As noted above, there are no economic impacts caused by the portion of the proposed action that implements Amendments 87 and 96. That portion of the proposed action will not result in disproportionate impacts nor impacts on profitability of regulated entities, and therefore will not impose significant economic impacts.

Because the impact of reporting skates under the portion of the proposed action that implements Amendment 95 would be a *de minimis* impact regardless of entity size, the proposed action would not place a substantial number of small entities at a disadvantage, relative to large entities. Any costs attributed to the proposed action are expected to be *de minimis* and thus would have a *de minimis* impact on profits. Because the impacts of the proposed action to implement Amendment 95 are expected to be *de minimis* in terms of

disproportionality and profitability, the economic impacts would not be significant.

#### *Criteria Used to Evaluate Whether the Rule Would Impose Impacts on “a Substantial Number” of Small Entities*

NMFS guidelines for economic review of regulatory actions explain that the term “substantial number” has no specific statutory definition and the criterion does not lend itself to objective standards applicable across all regulatory actions. Rather, a “substantial number” depends upon the context of the action, the problem to be addressed, and the structure of the regulated industry. The Small Business Administration casts “substantial” within the context of “more than just a few” or *de minimis* (“too few to care about”) criteria (See page 28 of NMFS Guidelines for Economic Review of National Marine Fisheries Service Regulatory Actions, available at <https://reefshark.nmfs.noaa.gov/ff/pds/publicsite/documents/procedures/01-111-05.pdf>).

As described above, the portion of the proposed action that implements Amendments 87 and 96 would not directly regulate any small entities, and therefore would not impose impacts on a “substantial number” of small entities.

Although a substantial number of small entities may be directly regulated by the portion of the proposed action to implement Amendment 95, the impacts are estimated to be *de minimis*. Because the impacts are *de minimis*, the proposed action to implement Amendment 95 would not impose significant impacts on a substantial number of directly regulated small entities, and meets the certification criteria under the RFA.

As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

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

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 12, 2010.

**Samuel D. Rauch III,**  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

For 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 § 679.2, revise paragraph (2) of the definition for "Groundfish", and the definitions of "License limitation groundfish", "Other species" and "Target species" to read as follows:

§ 679.2 Definitions.

\* \* \* \* \*

Groundfish means\* \* \*

(2) Target species specified annually pursuant to § 679.20(a)(2) (See also the definitions for: License limitation groundfish ; CDQ species ; and IR/IU species of this section).

\* \* \* \* \*

License limitation groundfish means target species specified annually pursuant to § 679.20(a)(2), except that demersal shelf rockfish east of 140 W. longitude, sablefish managed under the IFQ program, and pollock allocated to the Aleutian Islands directed pollock fishery and harvested by vessels 60 feet (18.3 m) LOA or less, are not considered license limitation groundfish.

\* \* \* \* \*

Other species is a category of target species for the purpose of MRA and PSC management that consists of groundfish species in each management area. These target species are managed as an other species group and identified in Tables 10 and 11 to this part pursuant to § 679.20(e).

\* \* \* \* \*

Target species are those species or species groups for which a TAC is specified pursuant to § 679.20(a)(2).

\* \* \* \* \*

3. In § 679.20, revise paragraphs (a)(1)(i) introductory text, (a)(2), (a)(3) introductory text, (a)(3)(i), (b)(1)(i), (b)(2) introductory text, (c)(1)(iii), (c)(1)(iv), (c)(3)(ii), (c)(3)(iii), (d)(1)(i), (d)(1)(iii)(B), and (d)(2) to read as follows:

§ 679.20 General limitations.

(a) \* \* \*

(1) \* \* \*

(i) BSAI and GOA. The OY for BSAI and GOA target species is a range or specific amount that can be harvested consistently with this part, plus the amounts of "nonspecified species" taken incidentally to the harvest of target species. The species categories are defined in Table 1 of the specifications as provided in paragraph (c) of this section.

\* \* \* \* \*

(2) TAC. NMFS, after consultation with the Council, will specify and apportion the annual TAC and reserves for each calendar year among the GOA and BSAI target species. TACs in the

target species category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (c) of this section. The sum of the TACs so specified must be within the OY range specified in paragraph (a)(1) of this section.

(3) Annual TAC determination. The annual determinations of TAC for each target species and the reapportionment of reserves may be adjusted, based upon a review of the following:

(i) Biological condition of groundfish stocks. Resource assessment documents prepared annually for the Council that provide information on historical catch trend; updated estimates of the MSY of the groundfish complex and its component species groups; assessments of the stock condition of each target species; assessments of the multispecies and ecosystem impacts of harvesting the groundfish complex at current levels, given the assessed condition of stocks, including consideration of rebuilding depressed stocks; and alternative harvesting strategies and related effects on the component species group.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) Nonspecified reserve. Fifteen percent of the BSAI TAC for each target species, except pollock, the hook-and-line and pot gear allocation for sablefish, and the Amendment 80 species, which includes Pacific cod, is automatically placed in the nonspecified reserve before allocation to any sector. The remaining 85 percent of each TAC is apportioned to the initial TAC for each target species that contributed to the nonspecified reserve. The nonspecified reserve is not designated by species or species group. Any amount of the nonspecified reserve may be apportioned to target species that contributed to the nonspecified reserve, provided that such apportionments are consistent with paragraph (a)(3) of this section and do not result in overfishing of a target species.

\* \* \* \* \*

(2) GOA. Initial reserves are established for pollock, Pacific cod, flatfish, squids, octopuses, sharks, and sculpins, which are equal to 20 percent of the TACs for these species or species groups.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) GOA. The proposed specifications will specify for up to two fishing years the annual TAC for each target species and apportionments thereof, halibut prohibited species catch

amounts, and seasonal allowances of pollock and Pacific cod.

(iv) BSAI. The proposed specifications will specify for up to two fishing years the annual TAC for each target species and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC (including pollock, Pacific cod, and Atka mackerel CDQ), and CDQ reserve amounts.

\* \* \* \* \*

(3) \* \* \*

(ii) GOA. The final specifications will specify for up to two fishing years the annual TAC for each target species and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock and Pacific cod.

(iii) BSAI. The final specifications will specify for up to two fishing years the annual TAC for each target species and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of pollock (including pollock, Pacific cod, and Atka mackerel CDQ), and CDQ reserve amounts.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) General. If the Regional Administrator determines that any allocation or apportionment of a target species specified under paragraph (c) of this section has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group.

\* \* \* \* \*

(iii) \* \* \*

(B) Retention of incidental species. Except as described in § 679.20(e)(3)(iii), if directed fishing for a target species or species group is prohibited, a vessel may not retain that incidental species in an amount that exceeds the maximum retainable amount, as calculated under paragraphs (e) and (f) of this section, at any time during a fishing trip.

\* \* \* \* \*

(2) Groundfish as prohibited species closure. When the Regional Administrator determines that the TAC of any target species specified under paragraph (c) of this section, or the share of any TAC assigned to any type of gear, has been or will be achieved prior to the end of a year, NMFS will publish notification in the Federal Register requiring that target species be treated in the same manner as a prohibited species, as described under § 679.21(b), for the remainder of the year.

\* \* \* \* \*

4. In § 679.25, revise paragraph (a)(2)(iii)(D) to read as follows:

**§ 679.25 Inseason adjustments.**

- (a) \* \* \*
- (2) \* \* \*
- (iii) \* \* \*

(D) Reopening of a management area or season to achieve the TAC or gear share of a TAC for any of the target species.

\* \* \* \* \*

5. Revise Table 2a to part 679 to read as follows:

**TABLE 2A TO PART 679 - SPECIES CODES: FMP GROUND FISH**

Species Description	Code
Atka mackerel (greenling)	193
Flatfish, miscellaneous (flatfish species without separate codes)	120
<b>FLOUNDER</b>	
Alaska plaice	133
Arrowtooth and/or Kamchatka	121
Starry	129
Octopus, North Pacific	870
Pacific cod	110
Pollock	270
<b>ROCKFISH</b>	
Aurora ( <i>Sebastes aurora</i> )	185
Black (BSAI) ( <i>S. melanops</i> )	142
Blackgill ( <i>S. melanostomus</i> )	177
Blue (BSAI) ( <i>S. mystinus</i> )	167
Bocaccio ( <i>S. paucispinis</i> )	137
Canary ( <i>S. pinniger</i> )	146
Chilipepper ( <i>S. goodei</i> )	178
China ( <i>S. nebulosus</i> )	149
Copper ( <i>S. caurinus</i> )	138

**TABLE 2A TO PART 679 - SPECIES CODES: FMP GROUND FISH—Continued**

Species Description	Code
Darkblotched ( <i>S. crameri</i> )	159
Dusky ( <i>S. variabilis</i> )	172
Greenstriped ( <i>S. elongatus</i> )	135
Harlequin ( <i>S. variegatus</i> )	176
Northern ( <i>S. polyspinis</i> )	136
Pacific Ocean Perch ( <i>S. alutus</i> )	141
Pygmy ( <i>S. wilsoni</i> )	179
Quillback ( <i>S. maliger</i> )	147
Redbanded ( <i>S. babcocki</i> )	153
Redstripe ( <i>S. proriger</i> )	158
Rosethorn ( <i>S. helvomaculatus</i> )	150
Rougheye ( <i>S. aleutianus</i> )	151
Sharpchin ( <i>S. zacentrus</i> )	166
Shortbelly ( <i>S. jordani</i> )	181
Shortraker ( <i>S. borealis</i> )	152
Silvergray ( <i>S. brevispinis</i> )	157
Splitnose ( <i>S. diploproa</i> )	182
Stripetail ( <i>S. saxicola</i> )	183
Thornyhead (all <i>Sebastes</i> species)	143
Tiger ( <i>S. nigrocinctus</i> )	148
Vermilion ( <i>S. miniatus</i> )	184
Widow ( <i>S. entomelas</i> )	156
Yelloweye ( <i>S. ruberrimus</i> )	145
Yellowmouth ( <i>S. reedi</i> )	175
Yellowtail ( <i>S. flavidus</i> )	155
Sablefish (blackcod)	710
Sculpins	160

**TABLE 2A TO PART 679 - SPECIES CODES: FMP GROUND FISH—Continued**

Species Description	Code
<b>SHARKS</b>	
Other (if salmon, spiny dogfish or Pacific sleeper shark - use specific species code)	689
Pacific sleeper	692
Salmon	690
Spiny dogfish	691
<b>SKATES</b>	
Whiteblotched ( <i>Bathyraja maculata</i> )	705
Aleutian ( <i>B. aleutica</i> )	704
Alaska ( <i>B. parmifera</i> )	703
Big ( <i>Raja binoculata</i> )	702
Longnose ( <i>R. rhina</i> )	701
Other (if Whiteblotched, Aleutian, Alaska, Big, or Longnose - use specific species code listed above)	700
<b>SOLE</b>	
Butter	126
Dover	124
English	128
Flathead	122
Petrale	131
Rex	125
Rock	123
Sand	132
Yellowfin	127
Squid, majestic	875
Turbot, Greenland	134

[FR Doc. 2010-17436 Filed 7-15-10; 8:45 am]

**BILLING CODE 3510-22-S**