

stratification of catch within a net or whether the pump housing, which is primarily designed to keep the net out of the pump, might also exclude some larger bodied species.

*Comment 4:* The ASMFC supported Alternative 1, but suggested NMFS periodically review this measure to determine if the level of data collection continues to be necessary and if the burden to the industry is justified.

*Response:* This rule may be reconsidered and even superseded by a future Council action modifying the catch monitoring program for the Atlantic herring fishery as a whole. If the Council does not choose to review and reevaluate the requirements for access to CA I, the regulations would still be subject to the normal periodic review process and could be changed to account for new information about the burden on the fishery if necessary or appropriate.

*Comment 5:* No commenter supported either Alternative 2 or Alternative 3. Representatives of the commercial herring midwater trawl industry, representatives of commercial groundfish industry, and environmental groups all criticized these proposed alternatives as being unworkable.

*Response:* As explained in the proposed rule, these alternatives were intended as examples of possible modification to the existing regulation. The limit on how much can be released in Alternative 2 would be difficult to estimate, and could put the observer in an enforcement role. Alternative 3 would require the vessel crew to re-cinch the net after pumping, which is one of the major hurdles to bringing the catch on board. In addition, raising the net out of the water does not address the question of catch composition within the net and may pose even more logistical problems than bringing the net and catch on board. Therefore, NMFS did not consider either of these as acceptable alternatives for this final rule.

*Comment 6:* Some commenters objected to the Council granting midwater trawl vessels access to CA I for various reasons, including that midwater trawl access to groundfish closed areas was authorized based on less research and analysis than was required for the establishment of the NE Multispecies CA I Hook Gear Haddock Special Access Program (SAP). These comments included opposition to all midwater trawling, requests that the 100 percent observer coverage requirements apply to all groundfish closed areas, questions on the use and enforcement of the Closed Area I Midwater Trawl Released Codend Affidavit, and

objections to the Council's requirement that in order to access CA I vessels targeting groundfish through the NE Multispecies CA I, Hook Gear Haddock Special Access Program had to meet a higher hurdle in terms of documenting bycatch than did midwater trawl vessels.

*Response:* These comments question the underlying provision of allowing midwater trawl vessels access to CA I, and other attendant requirements, which is beyond the scope of this rule, and, therefore not addressed in this final rule.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Herring and NE Multispecies FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. NMFS received no comments questioning or regarding this certification.

Dated: November 24, 2010.

**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 648 is amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

##### § 648.80 [Amended]

■ 2. In § 648.80, remove paragraph (d)(7)(ii)(D).

[FR Doc. 2010-30152 Filed 11-29-10; 8:45 am]

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 679

[Docket No. 0910131362-0087-02]

RIN 0648-XA066

##### Fisheries of the Exclusive Economic Zone Off Alaska; Big Skate in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting retention of big skate in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2010 total allowable catch (TAC) of big skate in the Central Regulatory Area of the GOA has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), November 24, 2010, through 2400 hrs, A.l.t., December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2010 TAC of big skate in the Central Regulatory Area of the GOA is 2,049 metric tons (mt) as established by the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2010 TAC of big skate in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that big skate caught in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA

(AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of big skate in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 22, 2010.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: November 24, 2010.

**Emily H. Menashes,**

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

[FR Doc. 2010-30144 Filed 11-24-10; 4:15 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910131362-0087-02]

RIN 0648-XA067

#### Fisheries of the Exclusive Economic Zone Off Alaska; Longnose Skate in the Western Regulatory Area of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting retention of longnose skate in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2010 total allowable catch (TAC) of longnose skate in the Western Regulatory Area of the GOA has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), November 24, 2010, through 2400 hrs, A.l.t., December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2010 TAC of longnose skate in the Western Regulatory Area of the GOA is 81 metric tons (mt) as established by the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2010 TAC of longnose skate in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that longnose skate caught in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant

Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of longnose skate in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 22, 2010.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: November 24, 2010.

**Emily H. Menashes,**

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

[FR Doc. 2010-30149 Filed 11-24-10; 4:15 pm]

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