

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 071106673-8011-02]

RIN 0648-XJ95

**Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Temporary rule; prohibition of retention.

**SUMMARY:** NMFS is prohibiting retention of Greenland turbot in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2008 total allowable catch (TAC) of Greenland turbot in the Bering Sea subarea of the BSAI has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 19, 2008, though 2400 hrs, A.l.t., December 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 2008 Greenland turbot TAC in the Bering Sea subarea of the BSAI is 1,563 metric tons (mt) as established by the 2008 and 2009 final harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008) and the reallocation on July 14, 2008 (73 FR 40193).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2008 TAC of Greenland turbot in the Bering Sea subarea of the BSAI has been reached. Therefore, NMFS is requiring that Greenland turbot caught in the Bering Sea subarea of the BSAI 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 the prohibition of retention of Greenland turbot in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 18, 2008.

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 is exempt from review under Executive Order 12866.

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

Dated: August 19, 2008.

**Emily H. Menashes,**

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

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

RIN 0648-XH70

**Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries in the Gulf of Alaska**

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

**ACTION:** Final rule; agency decision.

**SUMMARY:** NMFS announces the Commerce Secretary's approval of Amendment 79 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Amendment 79 amends the FMP and requires the North Pacific Fishery Management Council (Council) to recommend an aggregate

overfishing level and acceptable biological catch for the "other species" category in the Gulf of Alaska as part of the annual groundfish harvest specifications process. The "other species" category in the Gulf of Alaska consists of sharks, sculpins, squid, and octopus. Amendment 79 is necessary to allow the Council and NMFS to incorporate the best and most recent scientific and socioeconomic information for the specification of the "other species" total allowable catch, acceptable biological catch, and overfishing level. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** This agency decision is effective on August 20, 2008.

**ADDRESSES:** Copies of Amendment 79 and the Environmental Assessment (EA) for this action may be obtained from the NMFS Alaska Region at 709 West 9th Street, Room 420A, Juneau, AK 99802, or from the Alaska Region website at <http://alaskafisheries.noaa.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

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

The Council submitted Amendment 79 to NMFS on May 19, 2008. The notice of availability for Amendment 79 was published in the **Federal Register** on May 29, 2008 (73 FR 30875). The public comment period closed on July 28, 2008. NMFS received no comments on the proposed amendment.

In April 2008, the Council unanimously recommended Amendment 79 to the FMP. The purpose of Amendment 79 is to provide a sound biological basis for the setting of the "other species" total allowable catch (TAC) and to provide for an annual review of the stock status of the "other species" category to further reduce the risk of overfishing the species in this category. Amendment 79

authorizes the Council to recommend an aggregate overfishing level (OFL) and acceptable biological catch (ABC) for the “other species” category in the Gulf of Alaska as part of the annual groundfish harvest specifications process. The revised process allows the Council to incorporate the best and most recent scientific and socioeconomic information and public testimony in its recommendation for an annual “other species” TAC. Amendment 79 is

intended to comply with the Magnuson-Stevens Act, particularly National Standard 1 and section 303(a), and other applicable laws.

An EA was prepared for Amendment 79 that describes the management background, the purpose and need for action, the management alternatives, and the environmental and socioeconomic impacts of the alternatives (see **ADDRESSES**). The aggregate overfishing level, acceptable

biological catch, and total allowable catch for the “other species” category will be presented in the proposed 2009 and 2010 harvest specifications.

Dated: August 20, 2008.

**Samuel D. Rauch III,**

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

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