

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679****RIN 0648-AR72****Fisheries of the Exclusive Economic Zone Off Alaska; Improved Retention/Improved Utilization**

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

ACTION: Final rule; agency decision.

SUMMARY: NMFS announces the approval of Amendment 72 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. Amendment 72 amends the FMP to state that the Council will annually review information on the discard of shallow-water flatfish in Gulf of Alaska groundfish fisheries. After review of this annual information, the Council may recommend revisions to retention and utilization requirements if the discard rate for shallow-water flatfish falls above or below a specified threshold. This action is necessary to support the Council's initiatives to monitor and reduce bycatch in the Gulf of Alaska groundfish fisheries. The intended effect of this action is to conserve and manage the groundfish resource in the Gulf of Alaska in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: This agency decision is effective on August 25, 2008.

ADDRESSES: Copies of Amendment 72 and the Categorical Exclusion for this

action may be obtained from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907-586-7442.

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 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 72 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) to NMFS on May 15, 2008. The notice of availability (NOA) for Amendment 72 was published in the **Federal Register** on May 28, 2008 (73 FR 30598). The public comment period closed on July 28, 2008. NMFS received one public comment and considered this comment in determining whether to approve this FMP amendment. NMFS has summarized and responded to the public comment received in this notice under Response to Public Comments, below.

In April 2003, the Council unanimously recommended Amendment 72 to the GOA FMP. The purpose of Amendment 72 is to annually provide the best available data to the Council on discards of shallow-

water flatfish as a percentage of total groundfish catch by area and target fishery. Based on that data, the Council could review the effectiveness of existing Improved Retention/Improved Utilization (IR/IU) regulations for shallow-water flatfish, or consider recommendations to change IR/IU regulations for shallow-water flatfish.

A Categorical Exclusion was prepared for Amendment 72 concluding that the amendment will not result individually or cumulatively in significant impacts on the quality of the human environment (see **ADDRESSES**).

Response to Public Comments

Comment 1: The commenter supports approval of Amendment 72, but notes an error in the NOA. The NOA incorrectly states that the shallow-water flatfish species group in the GOA includes flathead sole, which incorrectly implies that IR/IU requirements in the GOA apply to flathead sole.

Response: NMFS agrees. Flathead sole is not included in the shallow-water flatfish species group, is not subject to IR/IU, and would not be included in a shallow-water flatfish discard data report to the Council. No change to the FMP amendment text is necessary because it does not list individual species in the shallow-water flatfish group.

Dated: August 25, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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