number of FAD sets using vessel logbooks, and/or other information sources that it deems most appropriate and reliable for the purposes of this section.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–XD287

Fisheries of the Exclusive Economic Zone Off Alaska; Skates Management in the Bering Sea and Aleutian Islands Management Area; Habitat Areas of Particular Concern

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

ACTION: Notification of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 104 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). If approved, Amendment 104 to the FMP would designate six areas of skate egg concentration as Habitat Areas of Particular Concern (HAPC). Designating the six areas of skate egg concentration as HAPC in the Bering Sea and Aleutian Islands Management Area (BSAI) would highlight the importance of this essential fish habitat for conservation. 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: Written comments on Amendment 104 to the FMP must be received on or before 5 p.m., Alaska local time, on December 8, 2014.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2014–0059, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0059,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All Personal Identifying Information (for example, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 104 to the FMP and the Environmental Assessment (EA) prepared for this action are available from the Alaska Region NMFS Web site at *http://www.alaskafisheries.noaa.gov/regs/summary.htm.*

FOR FURTHER INFORMATION CONTACT: John V. Olson, 907–271–1508.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit proposed amendments to a fishery management plan to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that, upon receiving an FMP amendment, NMFS immediately publish in the **Federal Register** a notice that the amendment is available for public review and comment. This notice announces that proposed Amendment 104 to the FMP is available for public review and comment. This proposed amendment does not include regulatory language.

Amendment 104 to the FMP was unanimously adopted by the Council in February 2013. If approved by the Secretary, Amendment 104 to the FMP would amend: (1) Section 4.2.3.2 of the FMP to add six areas of skate egg concentration as HAPC; (2) section 3.5.2.4.2 of the FMP to note that fishing would not be prohibited within the HAPC; and (3) Appendix B of the FMP to include coordinates and maps that designate the HAPC.

Background

HAPC are geographic sites that fall within the distribution of EFH for federally managed species. HAPC are areas of special importance that may require additional protection from the adverse effects of fishing. Regulations implementing EFH provisions provide a means for the Council to identify HAPC in FMPs (50 CFR 600.815(a)(8)). The designation of HAPC does not require the implementation of regulations to limit fishing within HAPC unless such measures are determined to be necessary. Regulations implementing EFH provisions require that a Council and NMFS act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature (50 CFR 600.815(a)(2)(ii)). Because HAPC is a type of EFH, these regulatory provisions also apply to HAPC.

In 2007, the Council defined criteria to designate a specific type of EFH as HAPC. The Council determined that HAPC must be specific geographic sites that are rare (defined as uncommon habitat that occurs in discrete areas), and must meet at least one of three other considerations: Provide an important ecological function; be sensitive to human-induced degradation; or be stressed by development activities. These criteria are described in Section 4.2.3 of the FMP and are consistent with regulations that define the factors a Council should consider in designating HAPC (50 CFR 600.815(a)(8)). Based on these criteria, the Council defined a specific habitat type, areas of skate egg concentration, more commonly known as ''skate nurseries'', as an appropriate habitat type for possible designation as HAPC.

In 2010, the Council received a proposal from NMFS's Alaska Fisheries Science Center to designate several areas of skate egg concentration as HAPC in the BSAI. Skates are long-lived, slow to mature, and produce relatively few young (like other elasmobranch fish such as sharks). During each reproductive season, a reproducing skate deposits several egg cases. Depending on the species, a single egg case can hold from one to four individual skate embryos, and development can take up to 3 years. At sites where skate eggs are deposited, several year classes and species of skates can be present. Because the egg cases are deposited on the sea floor in soft substrates in small distinct sites, they may be vulnerable to impacts from

fishing activities that disturb the sea floor (e.g., non-pelagic trawl gear).

In 2011 and 2012, the Council reviewed geographic areas where skate egg concentrations occur for possible designation as HAPC. The Council also considered possible management measures that would limit fishing activities within these proposed HAPC. Sections 2.2, 2.4, and 2.5 of the EA describe the process the Council uses to designate HAPC, the proposed skate HAPC, and the methods used to defined the geographic boundaries of the skate HAPC considered by the Council (see **ADDRESSES**).

In February 2013, the Council unanimously adopted Amendment 104 to the FMP (Alternative 2 in the EA). Amendment 104 to the FMP would designate as HAPC six areas where relatively high concentrations of skate eggs occur in the eastern Bering Sea for several skate species (family *Rajidae*). The Council and NMFS determined that these areas of skate egg concentration met the definition of HAPC because they are rare and provide an important ecological function.

The six areas of skate egg concentration proposed as HAPC are rare, encompassing approximately 82 square nautical miles of habitat, or less than 0.1 percent of the total area of the BSAI. These proposed HAPC are discrete areas near the shelf/slope break with unique abiotic features (e.g., substrate composition) that serve as important spawning and embryonic development areas for skate species. At each of these six proposed HAPC, scientists repeatedly observed a relatively high occurrence of skate egg cases during stock assessment surveys and from fishery observer samples collected from vessels deploying fishing gear that contacted the sea floor (e.g., non-pelagic trawl gear). Section 3.4 of the EA provides additional detail on skate biology and the rarity of areas of skate egg concentrations. Section 3.4 of the EA describes the important ecological functions skates perform primarily as predators for a wide range of fish species, but also as prey for a variety of marine mammal and fish species.

Section 3.5.4 of the EA indicates areas of skate egg concentrations that may also be sensitive to human-induced degradation through the impact of fishing gear. However, the best available scientific information does not indicate that human-induced degradation (e.g., adverse effects from fishing) is occurring. Because human-induced degradation from fishing or other activities is not observed currently, the Council did not consider this HAPC designation criterion as having been met.

Amendment 104 would amend the FMP to designate six areas of skate egg concentration as HAPC without any additional associated regulatory measures. The Council considered an alternative (Alternative 3) that would limit fishing within the proposed HAPC before adopting Amendment 104. Section 2.3 of the EA summarizes the factors the Council considered in making its recommendation to adopt Amendment 104 to the FMP. The Council determined that Amendment 104 to the FMP would designate all six areas of skate egg concentrations that meet the Council's HAPC criteria. The Council also determined that designating these HAPC would provide additional focus for the review and consultation on proposed activities (e.g, drilling, laying cables, seismic exploration, as well as fishing activities) that occur within these HAPC and could potentially affect these important areas of skate habitat.

The Council did not recommend regulations to limit fishing in the proposed HAPC because there is no evidence of adverse effects from fishing on skate populations within these HAPC that would need to be addressed through regulation. Section 3.5 of the EA provides additional information supporting this recommendation. Section 3.5 of the EA explains that the type of fishing gear used in the proposed HAPC is expected to have a minimal and temporary impact on skate habitat. Section 3.5 of the EA explains that fishing effort is limited or does not occur in four of the six HAPC, continued commercial fishing at the current rate and intensity would not be expected to alter the capacity of EFH within these HAPC to support healthy populations of skates over the long term, and no new information exists that indicates that fishing activities are adversely affecting skate egg deposition within these HAPC.

The Council also recommended that NMFS monitor the HAPC sites for changes in skate egg density and other potential effects of fishing, and incorporate the research and monitoring of skate species into the Council's annual research priority list. These recommendations can be considered and adopted by NMFS without amending the FMP or implementing regulations. These Council's recommendations are noted here to notify the public and to describe how NMFS intends to address the Council's recommendations.

NMFS intends to monitor the proposed HAPC sites by analyzing data collected through existing data sources such as from stock assessment surveys and fishery observers. This monitoring would inform the Council and NMFS when there are major changes in fishing effort in the HAPC and if there are any potential impacts to skate habitat within these HAPC. The results from this monitoring could be reported in the annual Ecosystem Stock Assessment and Fishery Evaluation report and as part of the EFH 5-Year review process. If through this monitoring NMFS and the Council learn that skate recruitment or overall biomass of a species has changed due to fishing impacts within the HAPC, the Council could initiate further action to restrict fishing activities within the HAPC. Incorporating the research and monitoring of skate species into the Council's annual research priority list would provide additional research focus on these HAPC. The Council noted that this research could help improve the understanding of skate populations, the importance of areas of skate egg concentration, and skate ecology and habitat. Section 3.3.2 of the EA provides additional information on how NMFS intends to address the Council's monitoring and research recommendations.

Public comments are being solicited on proposed Amendment 104 to the FMP through the end of the comment period stated (see **DATES**). Public comments on the proposed amendment must be received by the end of the comment period on Amendment 104 to the FMP in order to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on Amendment 104 to the FMP will be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by close of business on the last day of the comment period.

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

Dated: October 3, 2014.

Samuel D. Rauch III,

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

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