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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200413-0111]

RIN 0648-BJ49

Fisheries of the Exclusive Economic Zone Off Alaska; Reclassifying Sculpin Species in the Groundfish Fisheries of the Bering Sea and Aleutian Islands and the 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 Amendment 121 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands (BSAI) Management Area (BSAI FMP) and Amendment 110 to the FMP for Groundfish of the Gulf of Alaska (GOA) (GOA FMP), collectively referred to as Amendments 121/110. If approved, this proposed rule would prohibit directed fishing for sculpins by federally permitted groundfish fishermen and specify a sculpin retention limit in the GOA and BSAI groundfish fisheries. This action is necessary to properly classify sculpins in the BSAI and GOA FMPs. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Amendments 121/110, the BSAI and GOA FMPs, and other applicable laws.

DATES: Submit comments on or before [*INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2020-0004, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2020-0004*, 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: Records Office. 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 (*e.g.*, 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).

Electronic copies of the draft Environmental Assessment and the Regulatory Impact Review (collectively referred to as the “Analysis”) prepared for this proposed rule may be obtained from *www.regulations.gov*.

Electronic copies of the Initial Regulatory Flexibility Analyses for the BSAI and GOA Groundfish Harvest Specifications for 2020-2021 may be obtained from *www.regulations.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS at the above address; and by e-mail to *OIRA_Submission@omb.eop.gov* or by fax to 202-395-5806.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the BSAI and GOA under the BSAI and GOA FMPs (the FMPs), respectively. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the BSAI and GOA FMPs appear at 50 CFR parts 600 and 679.

This proposed rule would implement Amendments 121/110 to the BSAI and GOA FMPs, respectively. The Council submitted Amendments 121/110 for review by the Secretary of Commerce (Secretary), and a Notice of Availability (NOA) of Amendments 121/110 was published in the **Federal Register** on March 23, 2020, with comments invited through May 22, 2020. Comments submitted on this proposed rule by the end of the comment period (See **DATES**) will be considered by NMFS and addressed in the response to comments in the final rule. Comments submitted on this proposed rule

may also address Amendments 121/110. However, all comments addressing Amendments 121/110 must be received by May 22, 2020 to be considered in the approval/disapproval decision on Amendments 121/110. Commenters do not need to submit the same comments on both the NOA and this proposed rule. All relevant written comments received by May 22, 2020, whether specifically directed to the FMP amendments, this proposed rule, or both, will be considered by NMFS in the approval/disapproval decision for Amendments 121/110 and addressed in the response to comments in the final rule.

Background

In October 2019, the Council voted to recommend Amendments 121/110 to reclassify sculpins as non-target ecosystem component (EC) species, not in need of conservation and management. Sculpins are currently classified as target species in the FMPs, though as discussed below, sculpins are currently only caught incidental to other target fisheries. To implement amendments 121/110, NMFS proposes regulations to prohibit directed fishing for sculpins by federally permitted groundfish fishermen and to specify a sculpin retention limit in the GOA and BSAI groundfish fisheries. The following sections of this preamble provide 1) groundfish stock classification in the FMPs and a brief history of this proposed action; 2) the National Standards (NS) guidance for determining which species require conservation and management; 3) a description of Amendments 121/110; and 4) the regulatory changes made by this proposed rule.

Stock Classification in FMPs and a Brief History of this Proposed Action

Among other requirements, FMPs must comply with the Magnuson-Stevens Act

NS (16 U.S.C. 1851). NMFS has implemented regulations to provide guidance on the interpretation and application of these NS. Relevant to this proposed rule, the NS guidelines at 50 CFR 600.305(d)(11), (12) and (13) define three classifications for stocks in an FMP: 1) target stocks in need of conservation and management that fishers seek to catch; 2) non-target stocks in need of conservation and management that are caught incidentally during the pursuit of target stocks; and 3) EC species that do not require conservation and management, but may be listed in an FMP in order to achieve ecosystem management objectives.

Under the groundfish FMPs, and harvest limit regulations at § 679.20, NMFS must establish an overfishing level (OFL), an acceptable biological catch (ABC) and a total allowable catch (TAC) for each stock or stock complex (*i.e.*, species or species group) that is assigned a target or a non-target species category classification. Overfishing occurs when the amount of catch of a stock or stock complex jeopardizes the capacity of the stock or stock complex to produce the maximum sustainable yield on a continuing basis. NMFS manages fisheries in an effort to ensure that no OFLs are exceeded in any year. Regulations at §§ 679.20(d)(1) through (3) define the process NMFS uses to limit or prohibit fishing to prevent overfishing and maintain total catch at or below the OFL. The FMPs define the ABC as the level of a species or species group's annual catch that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. Regulations at §§ 679.20(d)(1) and (2) describe the range of management measures that NMFS uses to maintain total catch at or below the ABC. The FMPs define the TAC as the annual catch target for a species or species group, derived from the ABC by considering social and economic factors and management uncertainty.

The TAC must be set lower than or equal to the ABC. Regulations at §§ 679.20(d)(1) and (2) describe the range of management measures that NMFS uses to maintain total catch at or below the TAC.

NMFS establishes the OFL, ABC, and TAC for each species or species group through the annual harvest specification process. For the most recent example of the annual harvest specifications, please see the proposed 2020/2021 annual harvest specifications (84 FR 66129, December 3, 2019 and 84 FR 66109, December 3, 2019).

In 2010, Amendments 96/87 to the BSAI and GOA FMPs, respectively, established the EC category and designated prohibited species (salmon, steelhead trout, crab, halibut, and herring) and forage fish species (as defined in Table 2c to 50 CFR part 679 and § 679.20(i)) as EC species in the groundfish FMPs (75 FR 61639, October 6, 2010). Under Federal regulation at 50 CFR 600.310(d)(1), EC species are identified as non-target species for which catch specifications (*i.e.*, an OFL, ABC, or TAC) are not required. For these EC species, NMFS maintained regulations that (1) prohibited directed fishing for forage fish, and (2) established a limit, known as the maximum retainable amount (MRA), on the amount of incidental harvest of forage fish while directed fishing for other groundfish species. Regulations at 50 CFR 679.2 define the term “directed fishing.” Regulations at § 679.20(e) describe the application and calculation of MRAs.

In 2015, NMFS implemented Amendments 100/91 to the BSAI and GOA FMPs, respectively, to add grenadiers (family *Macrouridae*) to the EC category (80 FR 11897, March 5, 2015). The Council and NMFS added grenadiers to the FMPs in the EC category because grenadiers did not require conservation and management, but the

Council acknowledged their role in the ecosystem and limited the groundfish fisheries' potential impact on grenadiers. Adding grenadiers to the EC category allowed for improved data collection and catch monitoring appropriate for grenadiers given their abundance, distribution, and catch. Additional detail is provided in the final rule implementing Amendments 100/91 (80 FR 11897, March 5, 2015).

In 2018, NMFS implemented Amendments 117/106 to the BSAI and GOA FMPs, respectively, to add squid species to the EC category (83 FR 31460, July 6, 2018). The Council and NMFS moved squid from the target category in the FMPs to the EC category after making a determination that squid did not require conservation and management, but, similar to grenadiers, still acknowledged their role in the ecosystem and established an MRA to limit groundfish fisheries' potential impact on squid. Recordkeeping and reporting requirements were retained to monitor bycatch of squid. Additional detail is provided in the final rule implementing Amendments 117/106 (83 FR 31460, July 6, 2018).

Sculpins are currently classified as target species in the groundfish FMPs and directed fishing for sculpins is allowed. However, sculpins are not a target species for any groundfish fishery in the BSAI or GOA. Sculpins are only caught incidentally to other target groundfish species. Sculpins are incidentally caught primarily in the BSAI by vessels using trawl gear directed fishing for yellowfin sole, rock sole, and Atka mackerel, as well as by vessels directed fishing for Pacific cod with hook-and-line, pot, and trawl gear (Table 3-4 and Table 3-5 of the Analysis). Sculpins are caught primarily in the GOA by vessels in the Pacific cod and shallow-water flatfish directed fisheries, and IFQ halibut fisheries (Table 3-6 of the Analysis).

For both the BSAI and GOA, sculpins are managed as a Tier 5 species, which is the least preferred method of specifying an overfishing limit when limited biological reference points are available. Only Tier 6 species, for which no biological reference points are available, are below Tier 5 in terms of limited information available. Nonetheless, specification of OFL for Tier 5 species reflects the best estimate possible for sculpins with the available data. As described in Section 3.2.3 of the Analysis, model estimates of sculpin abundance in the BSAI and GOA have been fairly stable over the years with no conservation concerns apparent.

Stock assessments provide the scientific basis for determining whether a stock is experiencing overfishing (*i.e.*, when a stock's recent harvest rate exceeds sustainable levels) or overfished (*i.e.*, already depleted), and for calculating a sustainable harvest rate and forecasting catches that correspond to that rate. For stocks in Tiers 4-6, no determination can be made of overfished status or approaching an overfished condition as information is insufficient to estimate the Maximum Sustainable Yield (MSY) stock level. Therefore, it is not possible to determine whether the sculpin complex is overfished or whether it is approaching an overfished condition because it is managed under Tier 5. However, in the absence of directed fishing, they are very unlikely to be overfished. Sculpins, in general, are not retained. As noted in Section 3.2.2 of the Analysis, sculpin catch has been substantially below ABC and OFL, and has been a small proportion of the biomass each year.

Determining which Species Require Conservation and Management

Section 302(h)(1) of the Magnuson-Stevens Act requires a council to prepare an FMP for each fishery under its authority that is in need of conservation and management.

“Conservation and management” is defined in section 3(5) of the Magnuson-Stevens Act. The NS guidelines at § 600.305(c) (revised on October 18, 2016, 81 FR 718585) provide direction for determining which stocks will require conservation and management and provide direction to regional councils and NMFS for how to consider these factors in making this determination. Specifically, the guidelines direct regional councils and NMFS to consider a non-exhaustive list of ten factors when deciding whether stocks require conservation and management.

Section 2.2.1 in the Analysis considers each of the 10 factors’ relevance to sculpins. The analysis shows that while sculpins are currently classified as a target species in the FMPs, there has been no directed fishing for sculpins since they were included in the FMPs. Sculpins are not important to commercial, recreational, or subsistence users, nor are they important to the National or regional economy. There are no developing fisheries for sculpins in the EEZ off Alaska nor in waters of the State of Alaska. Because there is no directed fishing and incidental fishing-related mortality is low, there is very little probability that sculpins will become overfished. Sculpins are very unlikely to be in need of rebuilding, and are not targeted as a major food product in Alaska. There are no conservation concerns for sculpins since they are not targeted, are rarely retained, and future uses of sculpins remain available. Maintaining sculpins as a target species in the BSAI and GOA FMPs is not likely to change stock condition.

Amendments 121/110

In October of 2019, the Council recommended, and NMFS now proposes, Amendments 121/110 to reclassify sculpins as EC category species in the FMPs. Based on a review of the best available scientific information, and after considering NS

guidelines, the Council and NMFS determined that sculpins are not in need of conservation and management, and that classifying sculpins in the EC category is an appropriate action. While the Council determined that sculpins are not in need of conservation and management as defined by the Magnuson-Stevens Act, and after considering the revised NS guidelines, the Council and NMFS determined that there are benefits to retaining sculpins as an EC species complex in the FMPs because they are a component of the ecosystem as benthic predators.

Amendments 121/110 would establish the sculpins EC species complex in the groundfish FMPs to clarify that they are non-target species and not in need of conservation and management. Recordkeeping and reporting requirements would be maintained to monitor the effects of incidental catch of sculpins in the groundfish fisheries. Amendments 121/110 would allow NMFS to prohibit directed fisheries for sculpins and limit the retention and commercial sale of sculpins. Commercial sale of retained sculpins would be allowed, subject to MRAs, only if the retained catch is processed into fishmeal, in accordance with current Federal regulations at § 679.20(i)(5). The limitation on processing and sale of EC species as anything other than fishmeal is status quo for all species moved to the EC; however, the Council is considering changing this limitation for squid and may also consider it for sculpin species to allow them to be processed and sold in other product forms, and that would be addressed with a subsequent action. By virtue of being classified as EC species, catch specifications for sculpins (*i.e.*, OFLs, ABCs, and TACs) would no longer be required.

Though the Council determined, and NMFS concurs, that sculpins are not in need of conservation and management, sculpin population status and bycatch should be

monitored to continually assess vulnerability of sculpins to the groundfish fisheries. Therefore, the proposed rule retains recordkeeping and reporting requirements for sculpin bycatch. The proposed rule would prohibit directed fishing for sculpins to meet the intent of Amendments 121/110 that sculpins are not a target species complex. Because the definition of directed fishing at § 679.2 is based on a MRA, the proposed rule would specify a retention limit for sculpins so that NMFS could implement the prohibition on directed fishing to meet the intent of Amendments 121/110.

Proposed Rule

In addition to classifying sculpins as an EC species in the FMPs under Amendments 121/110, the Council recommended and NMFS proposes regulations to limit and monitor the incidental catch of sculpins. This proposed rule would—

- prohibit directed fishing for sculpins in the BSAI and GOA groundfish fisheries;
- maintain recordkeeping and reporting of sculpins in the BSAI and GOA groundfish fisheries, but modify the regulations for clarity; and
- specify a sculpins retention limit, or MRA, of 20 percent in the BSAI and GOA Federal groundfish fisheries.

To prohibit directed fishing, this proposed rule would revise §§ 679.20(i) and 679.22(i) to prohibit directed fishing for sculpins at all times in the BSAI and GOA groundfish fisheries. This prohibition is consistent with the regulations and management approach for other EC species. NMFS prohibits directed fishing for forage fish, grenadiers, and squids.

To clarify definitions, this proposed rule would add a definition for sculpins at § 679.2. Recordkeeping and reporting requirements at § 679.5 would not be modified by this proposed rule and would continue to require a vessel operator or manager in a BSAI or GOA groundfish fishery to record and report retained and discarded sculpins in logbooks, landing reports, and production reports. However, this proposed rule would clarify the recordkeeping and reporting requirements by adding an instruction to § 679.5 to use the sculpin species code in Table 2c to 50 CFR part 679 (Table 2c) to record and report sculpin catch. Table 2c lists the species reporting codes for non-target EC groundfish FMP species. NMFS would modify Table 2c to add one sculpin species code and remove the existing sculpin species code from Table 2a to 50 CFR part 679 (species reporting codes for target groundfish FMP species) because sculpins would be removed as a target species in the groundfish FMPs. These revisions would maintain NMFS' ability to monitor the catch, retention, and discard of sculpins.

Section 679.20 provides the general limitations for the BSAI and GOA groundfish fisheries. Because a TAC would no longer be specified for sculpins, this proposed rule would remove sculpins from § 679.20(b)(2), which specifies the amount of the TAC that is reserved for inseason management flexibility.

The MRA is the proportion or percentage of retained catch of a species closed for directed fishing (incidental catch species) to the retained catch of a species open for directed fishing (basis species). This proposed rule would move sculpins out of the basis species category and into the incidental catch species category consistent with the prohibition on directed fishing for sculpins under this proposed rule. In the GOA, sculpins are included in the "other species" category (along with octopuses and sharks)

for MRA purposes under the existing regulations. To specify a separate MRA for sculpins in the GOA, this proposed rule would remove sculpins from footnote 6, “other species” in Table 10 to 50 CFR part 679 and add sculpins as an incidental catch species with an MRA of 20 percent. This proposed rule would similarly revise Table 11 to 50 CFR part 679 to remove sculpins as a basis species in the BSAI and add sculpins to footnote 7 to indicate that forage fish, grenadiers, squids, and sculpins are all defined in Table 2c.

In developing this proposed rule, the Council and NMFS considered a range of sculpins MRA percentages: 2 percent, 10 percent, and 20 percent. Sculpins, in general, are not retained, and fishery observer data indicate that the retention rate has been below 10 percent in the BSAI and below 20 percent in the GOA. The Analysis (Table 3-7) shows that since 2013, the retention rate has been below 5 percent in both the BSAI and GOA. Table 3-8 in the Analysis shows the low percentage of retained sculpins compared to the total retained groundfish. In the BSAI, the proportion of retained sculpins relative to retained groundfish ranges from a low of 0.00 percent to a high of 0.02 percent. In the GOA, the percent of retained sculpins relative to groundfish ranges from a low of 0.00 percent to a high of 0.04 percent. As noted in Section 3.2.2 of the Analysis, sculpin catch has been substantially below ABC and OFL, and has been a small proportion of the biomass each year. Section 2.3.1 of the Analysis discusses the rationale for selecting an MRA of 20 percent. A MRA of 20 percent relative to all basis species discourages targeting of sculpins and minimizes regulatory discards. Because there are no conservation concerns for sculpins and retention of sculpins has been low, a lower MRA would not further discourage targeting, but may result in increased regulatory discards of

sculpins. Therefore, the Council recommended and NMFS proposes specifying a MRA for sculpins of 20 percent in both the BSAI and GOA groundfish fisheries.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendments 121/110, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment period.

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

This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Regulatory Impact Review (RIR)

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). NMFS is recommending Amendments 121/110 and the regulatory revisions in this proposed rule based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the Initial Regulatory Flexibility Analysis section.

Initial Regulatory Flexibility Analysis (IRFA)

This IRFA was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), to describe the economic impact this proposed rule, if adopted, would have on small entities. An IRFA describes why this action is being proposed; the objectives and legal basis for the proposed rule; the number

of small entities to which the proposed rule would apply; any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; any overlapping, duplicative, or conflicting Federal rules; and any significant alternatives to the proposed rule that would accomplish the stated objectives, consistent with applicable statutes, and that would minimize any significant adverse economic impacts of the proposed rule on small entities. Descriptions of this proposed rule, its purpose, and the legal basis are contained earlier in this preamble and are not repeated here.

Number and Description of Small Entities Regulated by This Proposed Rule

This proposed rule would directly regulate any vessel operator harvesting sculpins in the federally managed groundfish fisheries in the BSAI and GOA. The thresholds applied to determine if an entity or group of entities are “small” under the RFA depend on the industry classification for the entity or entities. Businesses classified as primarily engaged in commercial fishing are considered small entities if they have combined annual gross receipts not in excess of \$11.0 million for all affiliated operations worldwide (50 CFR 200.2). The most recent estimates of the number of fishing vessels participating in the BSAI and GOA groundfish fisheries that are small entities are provided in Table 2 in the IRFAs for the BSAI and GOA Harvest Specifications for 2020-2021 (see **ADDRESSES**). In 2018, there were 182 catcher vessels and 3 catcher/processors in the BSAI, and 756 catcher vessels and 3 catcher/processors in the GOA. These estimates likely overstate the number of small entities in the groundfish fisheries off Alaska because some of these vessels are affiliated through common ownership or membership in a cooperative and the affiliated vessels together would exceed the \$11.0 million annual gross receipts threshold for small entities.

For operators of vessels currently participating in these fisheries, the economic impacts of this proposed rule are primarily beneficial or neutral. Removing sculpins from the BSAI target species category would remove the sculpins TAC from inclusion in the 2 million metric ton optimum yield (OY) cap in the BSAI. The amount of the OY cap that has been reserved for sculpins would be available to increase the TAC limit or limits for other BSAI target species. This effect would benefit participants in the BSAI fisheries that experience TAC increases relative to what the TACs would have been without this proposed rule. Some of the entities that experience benefits from increased TACs in the future may be small entities. The effects on target species TACs would be neutral for the GOA fisheries, as the OY has not constrained TACs in the GOA to date. Therefore, removing the sculpins TAC in the GOA will not allow for an increase in the TAC for another target species.

The only potential adverse economic impact that has been identified for this proposed rule is that vessel owners or operators who may wish to conduct directed fishing for sculpins in the future, and who would wish to retain more sculpins than they would be allowed to retain under the 20 percent MRA, would not be able to do so. This potential adverse impact would not affect any current participants relative to opportunities available to them because there has been no directed fishing for sculpins. Therefore, no current participants would lose an economic opportunity that is available to them today or has been available to them.

Recordkeeping, Reporting, and Other Compliance Requirements

Under this proposed rule, requirements for recording and reporting the catch and discard of sculpins in logbooks or on catch or production reports will be maintained as

they are in existing regulations. The proposed rule would make only minor modifications to clarify the recordkeeping and reporting requirements in § 679.5, Table 2a to 50 CFR part 679, and Table 2c to 50 CFR part 679. Therefore, moving sculpins from the target species category to the EC category will not change recordkeeping and reporting costs for fishery participants or impose any additional or new costs on participants.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this proposed rule and existing Federal rules has been identified.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

The Council and NMFS considered two alternatives. Among the two alternatives, Alternative 2 Option 3 (the preferred alternative) provides the most economic benefits to current participants in the BSAI and GOA groundfish fisheries. The primary economic benefit of this proposed rule is to reduce the potential constraints imposed by the OFLs, ABCs, and TACs for sculpins on BSAI and GOA groundfish fisheries. Among the three options considered for the sculpins MRA (2 percent, 10 percent, and 20 percent), the 20 percent MRA that was selected minimizes the economic impact on any fishing vessel that is a small entity because it provides the greatest opportunity to retain sculpins as incidental catch in other groundfish fisheries.

Alternative 1 is the no action alternative and would continue to classify sculpins as target species in the groundfish FMPs. OFLs, ABCs, and TACs would continue to be set for sculpins as a species group in both the BSAI and GOA. Relative to Alternative 2, Alternative 1 could be considered less beneficial to small entities because all catch specifications would need to be maintained, and current constraints on the BSAI and

GOA groundfish fisheries would continue. However, Alternative 2 (the preferred alternative) also could be considered more restrictive to small entities than Alternative 1 if the prohibition on directed fishing for sculpins under the proposed rule limits future participants' ability to conduct directed fishing for sculpins more so than would occur under the status quo. Alternative 1 allows NMFS to determine annually whether to open a directed fishery for sculpins.

Alternative 2 would classify sculpins in the BSAI and GOA in the EC category and implement a regulation prohibiting directed fishing for sculpins that could only be revised through subsequent rulemaking. However, the Council recommended and NMFS proposes that the benefits of the proposed rule to current fishery participants, including small entities, outweigh the potential future adverse impacts of the prohibition against directed fishing for sculpins. In addition, this provision can be re-evaluated by the Council and NMFS in the future if fishery participants want to develop directed fisheries for sculpins.

Collection-of-Information Requirements

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval under OMB Control Numbers 0648-0213 and 0648-0515. This proposed rule would make minor revisions to the information collection requirements to clarify the location of the species code for sculpins in the tables to 50 CFR part 679 to note that sculpins should be reported as non-target EC species rather than target species. The requirements for recording and reporting the catch and discard of sculpins in logbooks or

on catch or production reports will not change. These minor revisions do not change the public reporting burden or costs.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS Alaska Region (see **ADDRESSES**), by email to *OIRA_Submission@omb.eop.gov*, or by fax to (202) 395-5806.

Notwithstanding any other provision of law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *<http://www.reginfo.gov/public/do/PRASearch#>*.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 14, 2020.

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;
Pub. L. 111-281.

2. In § 679.2, add a definition for “Sculpins” in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Sculpins (see Table 2c to this part and § 679.20(i)).

* * * * *

3. In § 679.5, revise paragraph (a)(3) introductory text, and paragraphs (c)(3)(vi)(F), and (c)(4)(vi)(E) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

(a) * * *

(3) *Fish to be recorded and reported.* The operator or manager must record and report the following information (see paragraphs (a)(3)(i) through (iv) of this section) for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), grenadiers (see Table 2c to this part), squids (see Table 2c to this part), and sculpins (see Table 2c to this part). The operator or manager may record and report the following information (see paragraphs (a)(3)(i) through (iv) of this section) for non-groundfish (see Table 2d to this part):

* * * * *

(c) * * *

(3) * * *

(vi) * * *

(F) *Species codes.* The operator must record and report required information for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), grenadiers (see Table 2c to this part), squids (see Table 2c to this part), and sculpins (see Table 2c to this part). The operator may record and report information for non-groundfish (see Table 2d to this part).

* * * * *

(4) * * *

(vi) * * *

(E) *Species codes.* The operator must record and report required information for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part),

forage fish (see Table 2c to this part), grenadiers (see Table 2c to this part), squids (see Table 2c to this part), and sculpins (see Table 2c to this part). The operator may record and report information for non-groundfish (see Table 2d to this part).

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4. In § 679.20, revise paragraph (b)(2) introductory text, paragraph (i) heading, and paragraphs (i)(3) through (5) to read as follows:

§ 679.20 General limitations.

* * * * *

(b) * * *

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

* * * * *

(i) *Forage fish, grenadiers, squids, and sculpins*.

* * * * *

(3) *Closure to directed fishing*. Directed fishing for forage fish, grenadiers, squids, and sculpins is prohibited at all times in the BSAI and GOA.

(4) *Limits on sale, barter, trade, and processing*. The sale, barter, trade, or processing of forage fish, grenadiers, squids, and sculpins is prohibited, except as provided in paragraph (i)(5) of this section.

(5) *Allowable fishmeal production*. Retained catch of forage fish, grenadiers, squids, or sculpins not exceeding the maximum retainable amount may be processed into fishmeal for sale, barter, or trade.

* * * * *

5. In § 679.22, revise paragraph (i) to read as follows:

§ 679.22 Closures.

* * * * *

(i) *Forage fish, grenadiers, squids, and sculpins closures. See § 679.20(i)(3).*

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

Table 2a to Part 679 – Species Codes: FMP Groundfish

Species description		Code
Atka mackerel (greenling)		193
Flatfish, miscellaneous (flatfish species without separate codes)		120
FLOUNDER		
	Alaska plaice	133
	Arrowtooth	121
	Bering	116
	Kamchatka	117
	Starry	129
Octopuses		870
Pacific cod		110
Pollock		270
ROCKFISH		
	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
	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
SHARKS		
	Other (if salmon, spiny dogfish or	689

	Pacific sleeper shark – use specific species code)	
	Pacific sleeper	692
	Salmon	690
	Spiny dogfish	691
SKATES		
	Alaska (<i>Bathyraja parmifera</i>)	703
	Aleutian (<i>B. aleutica</i>)	704
	Whiteblotched (<i>B. maculate</i>)	705
	Big (<i>Raja binoculata</i>)	702
	Longnose (<i>R. rhina</i>)	701
	Other (if Alaska, Aleutian, whiteblotched, big, or longnose skate – use specific species code)	700
SOLE		
	Butter	126
	Dover	124
	English	128
	Flathead	122
	Petrale	131
	Rex	125
	Rock	123
	Sand	132
	Yellowfin	127
	Turbot, Greenland	134

7. Revise Table 2c to part 679 to read as follows:

Table 2c to Part 679 – Species Codes: FMP Forage Fish Species (All Species of the Following Families), Grenadier Species, Squids, and Sculpins.

Species Identification	Code
FORAGE FISH	
Bristlemouths, lightfishes, and anglemouths (family <i>Gonostomatidae</i>)	209
Capelin smelt (family <i>Osmeridae</i>)	516
Deep-sea smelts (family <i>Bathylagidae</i>)	773
Eulachon smelt (family <i>Osmeridae</i>)	511
Gunnels (family <i>Pholidae</i>)	207
Krill (order <i>Euphausiacea</i>)	800
Lanternfishes (family <i>Myctophidae</i>)	772
Pacific Sand fish (family <i>Trichodontidae</i>)	206
Pacific Sand lance (family <i>Ammodytidae</i>)	774
Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family <i>Stichaeidae</i>)	208
Surf smelt (family <i>Osmeridae</i>)	515
GRENADIERS	
Giant Grenadiers (<i>Albatrossia pectoralis</i>)	214
Other Grenadiers	213
SQUID	
Squids	875
SCULPINS	
Sculpins	160

8. Revise Table 10 to part 679 to read as follows:

Table 10 to Part 679—Gulf of Alaska Retainable Percentages.

BASIS SPECIES		INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j) ⁶)																	
Code	Species	Pollock	Pacific cod	DW Flat ⁽²⁾	Rex sole	Flathead sole	SW Flat ⁽³⁾	Arrow-tooth	Sablefish	Aggregated rockfish ⁽⁷⁾	SR/RE ERA ⁽¹⁾	DSR SEO (C/Ps only) ⁽⁵⁾	Atka mackerel	Aggregated forage fish ⁽⁹⁾	Skates ⁽¹⁰⁾	Other species ⁽⁶⁾	Grenadiers ⁽¹²⁾	Squids	Sculpins
110	Pacific cod	20	n/a ⁽⁹⁾	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	5	20	8	20	20
121	Arrowtooth	5	5	20	20	20	20	n/a	1	5	0	0	20	2	5	20	8	20	20
122	Flathead sole	20	20	20	20	n/a	20	35	7	15	7	1	20	2	5	20	8	20	20
125	Rex sole	20	20	20	n/a	20	20	35	7	15	7	1	20	2	5	20	8	20	20
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
152/ 151	Shortraker/ rougheye ⁽¹⁾	20	20	20	20	20	20	35	7	15	n/a	1	20	2	5	20	8	20	20
193	Atka mackerel	20	20	20	20	20	20	35	1	5	⁽¹⁾	10	n/a	2	5	20	8	20	20
270	Pollock	n/a	20	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	5	20	8	20	20
710	Sablefish	20	20	20	20	20	20	35	n/a	15	7	1	20	2	5	20	8	20	20
	Flatfish, deep-water ⁽²⁾	20	20	n/a	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
	Flatfish, shallow-water ⁽³⁾	20	20	20	20	20	n/a	35	1	5	⁽¹⁾	10	20	2	5	20	8	20	20
	Rockfish, other ⁽⁴⁾	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
172	Dusky rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
	Rockfish, DSR-SEO ⁽⁵⁾	20	20	20	20	20	20	35	7	15	7	n/a	20	2	5	20	8	20	20
	Skates ⁽¹⁰⁾	20	20	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	n/a	20	8	20	20
	Other species ⁽⁶⁾	20	20	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	5	n/a	8	20	20
	Aggregated amount of non-groundfish species ⁽¹¹⁾	20	20	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	5	20	8	20	20

Notes to Table 10 to Part 679				
1	Shortraker/rougheye rockfish			
	SR/RE	<i>Sebastes borealis</i> (shortraker) (152)		
		<i>S. aleutianus</i> (rougheye) (151)		
	SR/RE ERA	Shortraker/rougheye rockfish in the Eastern Regulatory Area (ERA).		
Where an MRA is not indicated, use the MRA for SR/RE included under Aggregated Rockfish				
2	Deep-water flatfish	Dover sole (124), Greenland turbot (134), Kamchatka flounder (117), and deep-sea sole		
3	Shallow-water flatfish	Flatfish not including deep-water flatfish, flathead sole (122), rex sole (125), or arrowtooth flounder (121)		
4	Other rockfish	Western Regulatory Area	means other rockfish and demersal shelf rockfish	
		Central Regulatory Area		
		West Yakutat District		
		Southeast Outside District		means other rockfish
	Other rockfish			
		<i>S. aurora</i> (aurora) (185)	<i>S. variegates</i> (harlequin)(176)	<i>S. brevispinis</i> (silvergrey)(157)
		<i>S. melanostomus</i> (blackgill)(177)	<i>S. wilsoni</i> (pygmy)(179)	<i>S. diploproa</i> (splitnose)(182)
		<i>S. paucispinis</i> (bocaccio)(137)	<i>S. babcocki</i> (redbanded)(153)	<i>S. saxicola</i> (stripetail)(183)
		<i>S. goodei</i> (chilipepper)(178)	<i>S. proriger</i> (redstripe)(158)	<i>S. miniatus</i> (vermilion)(184)
		<i>S. crameri</i> (darkblotch)(159)	<i>S. zacentrus</i> (sharpchin)(166)	<i>S. reedi</i> (yellowmouth)(175)
	<i>S. elongatus</i> (greenstriped)(135)	<i>S. jordani</i> (shortbelly)(181)		
	<i>S. entomelas</i> (widow)(156)	<i>S. flavidus</i> (yellowtail)(155)		
In the Eastern Regulatory Area only, Other rockfish also includes <i>S. polyspinis</i> (northern)(136)				
5	Demersal shelf rockfish (DSR)	<i>S. pinniger</i> (canary)(146)	<i>S. maliger</i> (quillback)(147)	<i>S. ruberrimus</i> (yelloweye)(145)
		<i>S. nebulosus</i> (china)(149)	<i>S. helvomaculatus</i> (rosethorn)(150)	
		<i>S. caurinus</i> (copper)(138)	<i>S. nigrocinctus</i> (tiger)(148)	
	DSR-SEO = Demersal shelf rockfish in the Southeast Outside District (SEO). Catcher vessels in the SEO have full retention of DSR (see § 679.20(j)).			
6	Other species	Octopuses (870)	Sharks (689)	
7	Aggregated rockfish	Aggregated rockfish (see § 679.2) means any species of the genera <i>Sebastes</i> or <i>Sebastolobus</i> except <i>Sebastes ciliates</i> (dark rockfish), <i>Sebastes melanops</i> (black rockfish), and <i>Sebastes mystinus</i> (blue rockfish), except in:		
		Southeast Outside District	where DSR is a separate species group for those species marked with an MRA	
		Eastern Regulatory Area	where SR/RE is a separate species group for those species marked with an MRA	
8	n/a	Not applicable		

Notes to Table 10 to Part 679			
9	Aggregated forage fish (all species of the following taxa)	Bristlemouths, lightfishes, and anglemouths (family <i>Gonostomatidae</i>)	209
		Capelin smelt (family <i>Osmeridae</i>)	516
		Deep-sea smelts (family <i>Bathylagidae</i>)	773
		Eulachon smelt (family <i>Osmeridae</i>)	511
		Gunnels (family <i>Pholidae</i>)	207
		Krill (order <i>Euphausiacea</i>)	800
		Laternfishes (family <i>Myctophidae</i>)	772
		Pacific Sand fish (family <i>Trichodontidae</i>)	206
		Pacific Sand lance (family <i>Ammodytidae</i>)	774
		Pricklebacks, war-bonnets, eelblennys, cockscombs and shannys (family <i>Stichaeidae</i>)	208
		Surf smelt (family <i>Osmeridae</i>)	515
10	Skates Species and Groups	Alaska (<i>Bathyraja. Parmifera</i>)	703
		Aleutian (<i>B. aleutica</i>)	704
		Whiteblotched (<i>Raja binoculata</i>)	705
		Big Skates (<i>Raja binoculata</i>)	702
		Longnose Skates (<i>R. rhina</i>)	701
		Other Skates (<i>Rathyraja</i> and <i>Raja spp.</i>)	700
11	Aggregated non-groundfish	All legally retained species of fish and shellfish, including IFQ halibut, that are not listed as FMP groundfish in Tables 2a and 2c to this part.	
12	Grenadiers	Giant grenadiers (<i>Albatrossia pectoralis</i>)	214
		Other grenadiers (all grenadiers that are not Giant grenadiers)	213

9. Revise Table 11 to part 679 to read as follows:

Table 11 to Part 679—BSAI Retainable Percentages.

BASIS SPECIES		INCIDENTAL CATCH SPECIES																		
Code	Species	Pollock	Pacific cod	Atka mackerel	Alaska plaice	Arrowtooth	Kamchatka	Yellow fin sole	Other flatfish ²	Rock sole	Flathead sole	Greenland turbot	Sablefish ¹	Short-raker/rougheye	Aggregated rockfish ⁶	Squids ⁷	Aggregated forage fish ⁷	Other species ⁴	Grenadiers ⁷	Sculpins ⁷
110	Pacific cod	20	na ⁵	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20
121	Arrowtooth	20	20	20	20	na	20	20	20	20	20	7	1	2	5	20	2	3	8	20
117	Kamchatka	20	20	20	20	20	na	20	20	20	20	7	1	2	5	20	2	3	8	20
122	Flathead sole	20	20	20	35	35	35	35	35	35	na	35	15	7	15	20	2	20	8	20
123	Rock sole	20	20	20	35	35	35	35	35	na	35	1	1	2	15	20	2	20	8	20
127	Yellowfin sole	20	20	20	35	35	35	na	35	35	35	1	1	2	5	20	2	20	8	20
133	Alaska Plaice	20	20	20	na	35	35	35	35	35	35	1	1	2	5	20	2	20	8	20
134	Greenland turbot	20	20	20	20	35	35	20	20	20	20	na	15	7	15	20	2	20	8	20
136	Northern	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8	20
141	Pacific Ocean perch	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8	20
152/ 151	Shortraker/ Rougheye	20	20	20	20	35	35	20	20	20	20	35	15	na	5	20	2	20	8	20
193	Atka mackerel	20	20	na	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20
270	Pollock	na	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20
710	Sablefish ¹	20	20	20	20	35	35	20	20	20	20	35	na	7	15	20	2	20	8	20
Other flatfish ²		20	20	20	35	35	35	35	na	35	35	1	1	2	5	20	2	20	8	20
Other rockfish ³		20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8	20
Other species ⁴		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	na	8	20
Aggregated amount non-groundfish species ⁸		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20

¹ **Sablefish:** for fixed gear restrictions, see § 679.7(f)(3)(ii) and (f)(11).

² **Other flatfish** includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Alaska plaice, arrowtooth flounder and Kamchatka flounder.

³ **Other rockfish** includes all “rockfish” as defined at § 679.2, except for Pacific ocean perch; and northern, shortraker, and rougheye rockfish.

⁴ The **Other species** includes sharks, skates, and octopuses.

⁵ **na** = not applicable

⁶ **Aggregated rockfish** includes all “rockfish” as defined at § 679.2, except shortraker and rougheye rockfish.

⁷ **Forage fish, grenadiers, squids, and sculpins** are all defined at Table 2c to this part.

⁸ All legally retained species of fish and shellfish, including CDQ halibut and IFQ halibut that are not listed as FMP groundfish in Tables 2a and 2c to this part.

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