

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 600**

[Docket No. 111014628-3329-01]

RIN 0648-BB54

**Magnuson-Stevens Act Provisions; Implementation of the Shark Conservation Act of 2010; Correction**

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

**ACTION:** Proposed rule; extension of comment period; correction.

**SUMMARY:** NMFS published a proposed rule on May 2, 2013, to implement provisions of the Shark Conservation Act of 2010 (SCA) that prohibit any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached. NMFS proposes this action to amend existing regulations and make them consistent with the SCA. The public comment period for the proposed rule ends on June 17, 2013. NMFS is extending the public comment period for an additional 21 days, to July 8, 2013, to provide additional time for various stakeholders and other members of the public to submit comments. Additionally, this action corrects technical errors found on page 25688 under the Classification section of the proposed rule.

**DATES:** The public comment period for the proposed rule published at 78 FR 25685, May 2, 2013, is extended from June 17, 2013, to July 8, 2013. Comments must be received no later than July 8, 2013.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2012-0092, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0092 in the keyword search. Locate the document you wish to comment on

from the resulting list and click on the "Submit a Comment" icon on the right of that line.

- *Mail:* Submit written comments to Erin Wilkinson, National Marine Fisheries Service (SF3), NOAA; 1315 East-West Highway, Silver Spring, MD 20910.

- *Fax:* 301-713-1193; *Attn:* Erin Wilkinson.

*Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. 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 or Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action are available on the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Erin Wilkinson, 301-427-8561; [sca.rulemaking@noaa.gov](mailto:sca.rulemaking@noaa.gov).

**SUPPLEMENTARY INFORMATION:** On May 2, 2013, NMFS published a proposed rule in the **Federal Register** (78 FR 25685) to implement provisions of the SCA that prohibit any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached. NMFS proposes this action to amend existing regulations and make them consistent with the SCA.

**Public Comment Extension**

The public comment period for the proposed rule ends on June 17, 2013.

Several environmental organizations have commented that the proposed rule should identify specific state and territorial shark fin laws, or provisions of those laws that are preempted by Federal law. Federal preemption is based on Congressional intent to preempt state law. Accordingly, the proposed rule set forth NMFS' understanding of Congressional intent with regard to Federal fisheries management under the MSA, which includes Federal shark fin measures in subsection 307(1)(P). As noted in the proposed rule, several states and territories have enacted shark fin laws, which vary, and preemption will depend in part on how states interpret their laws. States and territories are the authorities on the intent and interpretation of their state shark fin laws. NMFS is consulting with the states and territories regarding their laws, possible areas of conflict, and ways to avoid such conflict. See Section 4 of Executive Order 13132 (August 4, 1999) (setting forth special requirements for preemption).

Due to the public concern regarding this action, NMFS extends the public comment period for an additional 21 days until July 8, 2013. The extension of the comment period ensures that NMFS provides adequate time for stakeholders and members of the public to comment on the proposed rule to implement the provisions of the Shark Conservation Act of 2010. As provided in the proposed rule, states have until July 8, 2013, to notify NMFS if the proposed activity is consistent with the Coastal Zone Management Act of 1979, so granting an extension of 21 days does not delay the rule making process.

**Need for Correction**

Page 25688 of the proposed rule published in the **Federal Register** on May 2, 2013 included three technical errors.

In paragraph two of column one on page 25688, the preamble states: "In 2011, 243 commercial vessels had shark landings on the west coast and total ex-vessel revenue for west coast shark landings was \$349,634. Thus, in 2011, average ex-vessel revenue per vessel from shark landings was approximately \$1,450." This sentence contains incorrect landings data and needs to be corrected.

Paragraph three of column three on page 25688 states: "In 2011, about 620,256 west coast recreational trips (days) by party and charter boats retained about 16 metric tons of sharks." This sentence also contains incorrect data and needs to be corrected.

### Corrections

1. In the **Federal Register** of May 2, 2013, on page 25688, in the first column, second paragraph, the second sentence is corrected to read as follows:

“In 2011, 243 commercial vessels had shark landings on the west coast and total ex-vessel revenue for west coast shark landings was \$357,169. Thus, in 2011, average ex-vessel revenue per vessel from shark landings was approximately \$1,470.”

2. On page 25688, in the third column, third paragraph, the second sentence is corrected to read as follows:

“In 2011, about 620,256 west coast recreational trips (days) by party and charter boats retained about 11 metric tons of sharks.”

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

Dated: June 11, 2013.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Fisheries, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 120405263-3517-01]

RIN 0648-BB76

### Fisheries of the Exclusive Economic Zone Off Alaska; Tanner Crab Area Closure in the Gulf of Alaska and Gear Modification Requirements for the Gulf of Alaska and Bering Sea Groundfish Fisheries

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations that would implement Amendment 89 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) and that would revise current regulations governing the configuration of modified nonpelagic trawl gear. First, this proposed rule would establish a protection area in Marmot Bay, northeast of Kodiak Island, and close that area to fishing with trawl gear except for directed fishing for pollock with pelagic trawl gear. The proposed closure would reduce bycatch of Tanner

crab (*Chionoecetes bairdi*) in Gulf of Alaska (GOA) groundfish fisheries. Second, this proposed rule would require that nonpelagic trawl gear used in the directed flatfish fisheries in the Central Regulatory Area of the GOA be modified to raise portions of the gear off the sea floor. The proposed modifications to nonpelagic trawl gear used in these fisheries would reduce the unobserved injury and mortality of Tanner crab, and would reduce the potential adverse impacts of nonpelagic trawl gear on bottom habitat. Finally, this proposed rule would make a minor technical revision to the modified nonpelagic trawl gear construction regulations to facilitate gear construction for those vessels required to use modified nonpelagic trawl gear in the GOA and Bering Sea groundfish fisheries. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

**DATES:** Comments must be received by July 17, 2013.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2011-0294, 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-2011-0294](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2011-0294), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Address 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.

- **Fax:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.

**Instructions:** Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible.

Do not submit confidential business information, or otherwise sensitive or protected information. 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 or Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of Amendment 89, the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the Area Closures for Tanner Crab Protection in Gulf of Alaska Groundfish Fisheries (Area Closures EA/RIR/IRFA), and the EA/RIR/IRFA for Trawl Sweep Modification in the Flatfish Fishery in the Central Gulf of Alaska (Trawl Sweep EA/RIR/IRFA) are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Melanie Brown, 907-586-7006.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and under the FMP for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 et seq. Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

The Council submitted Amendment 89 for review by the Secretary of Commerce, and a notice of availability of Amendment 89 was published in the **Federal Register** on June 3, 2013, with comments invited through August 2, 2013. Comments may address Amendment 89 or this proposed rule, but must be received by 1700 hours, A.D.T. on August 2, 2013 to be considered in the approval/disapproval decision on Amendment 89. All comments received by that time, whether specifically directed to Amendment 89, or to this proposed rule, will be considered in the approval/disapproval decision on Amendment 89.

### Background

Since the implementation of the FMP for Groundfish of the GOA (GOA FMP) in 1978, the Council and NMFS have adopted various measures intended to control the catch of species taken