

Both the proposed and final rules for Amendment 6 stated that the measures applicable to the experimental closed area "... will "sunset" after 10 years if not reauthorized by the Council." (59 FR 9721, March 1, 1994 and 59 FR 27242, May 26, 1994, respectively).

Measures applicable to the experimental closed area were intended to enhance stock stability and increase recruitment of South Atlantic snapper-grouper by providing an area where deepwater snapper-grouper species could grow and reproduce without being subjected to fishing mortality. The measures were based on the Council's concern that traditional fishery management measures, such as minimum size limits and quotas, might not be sufficient to protect fully the snapper-grouper resources. The Council believed the measures would provide protection for overfished species in the management unit while minimizing adverse impacts upon user groups.

Based on limited information, there appear to be some encouraging signs of positive biological impacts from the initial nine-year prohibition of fishing for snapper-grouper species within the experimental closed area since it was established in 1994. A study conducted in 2001 found that, in the few areas where habitat remained intact, there were more and larger groupers than observed in a 1995 study, and male gag and scamp were also common. The observation of male gag and scamp is particularly of interest because size, age, and proportion of males of these species have declined both in the Gulf of Mexico and South Atlantic regions. Other encouraging signs include the observation of juvenile speckled hind, which is a candidate species for listing under the Endangered Species Act. However, species in the management unit remain overfished and continued protection is required.

#### Proposed Actions

Amendment 13A proposes to continue the current measures applicable to the experimental closed area indefinitely. The Council would review the configuration and size of the experimental closed area within 3 years of the publication date of the final rule that would implement Amendment 13A and would re-evaluate all measures applicable to the area after 10 years.

The Council believes these actions provide the most biological, social, and economic benefits while allowing for adaptive management. Extending the prohibition on fishing for snapper-grouper species in the experimental closed area for an indefinite period will continue to protect snapper-grouper

populations and protect Oculina coral and associated habitat. Such extension will also provide a hedge against the high degree of scientific uncertainty associated with the status of snapper-grouper species and reduce the possibility that these populations may fall below sustainable levels. Economically it is expected that the long-term benefits, such as "insurance" against the uncertainty of stock assessments and the non-use benefits of extending the prohibitions on snapper-grouper fishing in the closed area, outweigh the short-term benefits of opening the area to harvest. These measures are also expected to provide the most long-term positive social impacts because they allow for adaptive management which can be seen as an assurance to the public that the area will be monitored and reviewed. Should the Council find after the 3-year review on size and configuration that the boundaries of the area are not appropriate, they can be changed at that time. In addition, the 10-year re-evaluation period will assure the public that the area will not be closed and forgotten.

Additional background and rationale for the measures discussed above are contained in Amendment 13A.

#### Proposed Rule

A proposed rule that would implement the measures in Amendment 13A has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

#### Consideration of Public Comments

Comments received by the end of the comment period of the notice of availability of the FMP, whether specifically directed to the FMP or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 13A. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 13A or the proposed rule during their respective comment periods will be addressed in the preamble of the final rule.

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

Dated: October 29, 2003.

**Bruce C. Morehead,**

*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

[Docket No. 031016262-3262-01; I.D. 100603E]

**RIN 0648-AR08**

#### Fisheries of the Exclusive Economic Zone off Alaska; Recordkeeping and Reporting

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

**ACTION:** Proposed rule.

**SUMMARY:** This action revises the descriptions of Gulf of Alaska (GOA) statistical and reporting areas 620 and 630 in Figure 3b to part 679 to include the entire Alitak/Deadman's/Portage Bay complex of Kodiak Island within area 620. This action is necessary to improve quota management and fishery enforcement in the GOA. This action is intended to meet the conservation and management requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and to further the goals and objectives of the GOA groundfish fishery management plan.

**DATES:** Comments must be received by December 4, 2003.

**ADDRESSES:** Comments should be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall, or delivered to the Federal Building, NMFS, 709 West 9th Street, Room 420, Juneau, AK 99801. Comments may be sent via facsimile to 907-586-7557. Comments will not be accepted if submitted by email or the Internet. Copies of the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared for this action may also be obtained from the same address, or by calling the Alaska Region, NMFS, at 907 586-7228.

#### FOR FURTHER INFORMATION CONTACT:

Patsy A. Bearden, 907-586-7008 or [patsy.bearden@noaa.gov](mailto:patsy.bearden@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. groundfish fisheries of the GOA in the

exclusive economic zone (EEZ) are managed by NMFS under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act and is implemented by regulations at 50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

### Background and Need for Action

The boundary between GOA statistical and reporting areas 620 and 630 near Kodiak Island, Alaska, is 154°W. longitude from the south side of the Alaska Peninsula, southward to the limits of the EEZ off Alaska. On Kodiak Island, this line of longitude bisects Alitak/Deadman's/Portage Bay complex, a large, deep bay on the south end of the island. Frequently, substantial pollock fishing takes place in this bay.

This division of the bay into two separate reporting areas is impractical for quota management and enforcement purposes. When either of the two areas is open to pollock fishing, and the other area is closed, vessels will fish in the bay on the "open" side of the line. The area of the Alitak/Deadman's/Portage Bay complex of Kodiak Island would be much more efficiently enforced if the bay were either all open or all closed.

In addition, because the mouth of the bay is totally contained in area 620, the waters within the bay logically should be included in area 620.

This action revises the description of statistical and reporting areas 620 and 630 in Figure 3b by including all waters of the Alitak/Deadman's/Portage Bay complex of Kodiak Island within area 620 and excluding all such waters from area 630.

### Classification

At this time, NMFS has not determined whether the amendment that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This proposed rule does not duplicate, overlap, or conflict with other Federal regulations.

NMFS prepared an IRFA that describes the impact this action may have on small entities. The need, justification, and economic impacts for

the actions in this proposed rule, as well as impacts of the alternatives considered, were analyzed in the RIR/IRFA prepared for this action (see **ADDRESSES**). A summary appears below.

The RIR/IRFA evaluates a regulatory amendment to consolidate all waters in the Alitak/Deadman's/Portage Bay complex on southwestern Kodiak Island within Federal groundfish statistical and reporting area 620.

The current division of the bay complex between areas 620 and 630 means that different parts of the bay open and close on different schedules. Openings and closures in the lower part of the bay complex are driven by Area 620 openings and closures, while openings and closures in the upper part, including Deadman's and Portage Bays, are driven by openings and closures in Area 630. The part of the bay in Area 620 has tended to be open more days per year in recent years.

Deadman's Bay has deep water that is suitable for pollock mid-water trawling. The waters are relatively protected, and suitable for small vessels. The deep water in Area 620 is relatively constricted and dotted with pinnacles, making these waters less suitable for pollock fishing. This action would place the pollock grounds in Deadman's Bay under the Area 620 openings and closing schedule, and should give fishermen more days of access to them in a typical year.

A Regulatory Impact Review was prepared to address the requirements of E.O. 12866 which requires an evaluation of the costs and benefits, and of the significance, of regulatory actions.

The proposed regulatory amendment will reduce fishing costs. Fishermen will have increased opportunities to fish in Deadman's Bay in most years. The increase in the number of fishing days available in Deadman's Bay will not be offset by reductions in fishing days anywhere else. Additional fishing days will increase the choices available to fishermen. This should not increase their costs, since they would not take advantage of the new opportunities if it did so. They will take advantage of the opportunities if these decrease their costs.

The amendment will have minor benefits for fisheries management. All of this area is currently surveyed as part of Area 620. Thus, it will be biologically appropriate to add Deadman's and Portage Bays to Area 620. Moreover, this action will simplify the boundary between Areas 620 and 630 and make enforcement somewhat easier.

Since there are positive benefits, and no identifiable costs, this regulatory amendment is expected to have positive

net benefits. This action is not expected to be significant under the criteria specified in E.O. 12866.

An IRFA was prepared to address the requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Fairness Act of 1996 (50 CFR 603). The RFA requires an evaluation of the impact of certain Federal actions on small businesses, government jurisdictions, and non-profit organizations.

The directly regulated entities in this action are groundfish catcher vessels targeting pollock with pelagic trawls in Alitak and Deadman's Bays. The number of vessels active in this fishery over the period from 1999 through 2002 ranged between 0 in 2000, and 30 in 1999. All of these are believed to have been small entities under the Small Business Administration (SBA) criteria NMFS uses to make these determinations for regulatory flexibility analyses. Average GOA trawl catcher vessel groundfish revenues were about \$350,000 in 2001. Average ex-vessel revenues from targeted pollock trawling activity in the Alitak/Deadman's/Portage Bay complex were about \$15,000 in 1998, about \$18,000 in 1999, nothing in 2000, and about \$15,000 in 2001.

The analysis did not reveal any adverse economic impacts on the directly regulated small pelagic trawling operations. This analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

This analysis did not identify any alternatives to the preferred action that accomplished the objectives of the Magnuson-Stevens Act and that were better for small entities. Two alternatives were identified: (1) the status quo and (2) the reassignment of waters in the upper bay complex from Area 630 to Area 620. The status quo alternative did not make any changes that would increase the flexibility or reduce the fishing costs of the small fishing operations active in the area, while alternative 2, by increasing fishing time in Deadman's Bay in most years, did so. The status quo alternative neither meets the objectives of the proposed action nor increases the fishing opportunities available to fishermen. Alternative 2, the preferred alternative, does both.

This action does not impose new reporting, recordkeeping or other compliance requirements on regulated small entities.

This action does not have any adverse impacts on regulated small entities.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 28, 2003.

**Rebecca Lent,**

*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 to read 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.*; Title II of Division C, Pub. L. 105-277; Sec 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

**Figure 3b to Part 679—[Amended]**

2. Figure 3b to Part 679 is revised as follows:

**FIGURE 3 TO PART 679. GULF OF ALASKA STATISTICAL AND REPORTING AREAS (UPDATED OCTOBER 2003) B. COORDINATES**

Code	Description
610	<p><i>Western GOA Regulatory Area, Shumagin District.</i> Along the south side of the Aleutian Islands, including those waters south of Nichols Point (54°51' 30" N lat) near False Pass, and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed:</p> <p>52°49.18' N, 169°40.47' W;      52°49.24' N, 169°07.10' W;      53°23.13' N, 167°50.50' W;      53°18.95' N, 167°51.06' W;      53°58.97' N, 166°16.50' W;      54°02.69' N, 166°02.93' W;      54°07.69' N, 165°39.74' W;      54°08.40' N, 165°38.29' W;      54°11.71' N, 165°23.09' W;      54°23.74' N, 164°44.73' W;      and      southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170°00' W long and 159°00' W long.</p> <p><i>Central GOA Regulatory Area, Chirikof District.</i> Along the south side of the Alaska Peninsula, between 159°00' W long and 154°00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass) except that all waters of the Alitak/Deadman's/Portage Bay complex of Kodiak Island are included in this area.</p>
620	

**FIGURE 3 TO PART 679. GULF OF ALASKA STATISTICAL AND REPORTING AREAS (UPDATED OCTOBER 2003) B. COORDINATES—Continued**

Code	Description
630	<p><i>Central GOA Regulatory Area, Kodiak District.</i> Along the south side of continental Alaska, between 154°00' W long and 147°00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), excluding all waters of the Alitak/Deadman's/Portage Bay complex of Kodiak Island and Area 649.</p>
640	<p><i>Eastern GOA Regulatory Area West Yakutat District.</i> Along the south side of continental Alaska, between 147°00' W long and 140°00' W long, and southward to the limits of the US EEZ, as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.</p>
649	<p><i>Prince William Sound.</i> Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200.</p>
650	<p><i>Eastern GOA Regulatory Area, Southeast Outside District.</i> East of 140°00' W long and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 659.</p>
659	<p><i>Eastern GOA Regulatory Area, Southeast Inside District.</i> As specified in Alaska State regulations at 5 AAC 28.105 (a)(1) and (2).</p>
660	<p><i>GOA outside the U.S. EEZ</i> as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).</p>

**Note:** A statistical area is the part of a reporting area contained in the EEZ.

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