

Dated: February 27, 2015.

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[FR Doc. 2015-05084 Filed 3-4-15; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 140218151-5171-02]**

**RIN 0648-BD98**

**Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands Off Alaska**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 100 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 91 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). This final rule adds regulations to improve reporting of grenadiers, limit retention of grenadiers, and prevent direct fishing for grenadiers by federally permitted groundfish fishermen. This final rule is necessary to limit and monitor the incidental catch of grenadiers in the groundfish fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable law.

**DATES:** Effective April 6, 2015.

**ADDRESSES:** Electronic copies of Amendment 100 to the BSAI FMP, Amendment 91 to the GOA FMP, and the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (IRFA) (collectively, Analysis) prepared for this action are available from [www.regulations.gov](http://www.regulations.gov) or from the NMFS Alaska Region Web site at [alaskafisheries.noaa.gov](http://alaskafisheries.noaa.gov). The 2012 Assessment of the Grenadier Stock Complex in the Gulf of Alaska, Eastern Bering Sea, and Aleutian Islands (2012

stock assessment) is available on the NMFS Web site at <http://www.afsc.noaa.gov/REFM/Docs/2012/GOAgrenadier.pdf>. The 2014 Assessment of the Grenadier Stock Complex in the Gulf of Alaska, Eastern Bering Sea, and Aleutian Islands (2014 stock assessment) is available on the NMFS Web site at <http://www.afsc.noaa.gov/REFM/Docs/2014/BSAIgrenadier.pdf>.

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, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov); or fax to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Harrington, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** This final rule implements Amendment 100 to the BSAI FMP and Amendment 91 to the GOA FMP, collectively Amendments 100/91. NMFS published a notice of availability for Amendments 100/91 on May 5, 2014 (79 FR 25558). The comment period on Amendments 100/91 ended on July 7, 2014. NMFS published a proposed rule to implement Amendments 100/91 on May 14, 2014 (79 FR 27557). The comment period on the proposed rule ended on June 13, 2014. NMFS approved Amendments 100/91 on August 4, 2014. Additional detail on this action is provided in the notice of availability for Amendment 100/91 (79 FR 25558, May 5, 2014) and the proposed rule (79 FR 27557, May 14, 2014). NMFS received three comment letters on Amendments 100/91 and the proposed rule.

NMFS manages groundfish fisheries in the exclusive economic zone off Alaska under the BSAI FMP and GOA FMP. 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.

**Background**

The groundfish fisheries in the BSAI and GOA incidentally catch grenadiers (family *Macrouridae*) while harvesting other groundfish species. Grenadiers caught off Alaska are comprised of three species: Giant grenadiers (*Albatrossia pectoralis*), Pacific grenadiers

(*Coryphaenoides acrolepis*), and popeye grenadiers (*Coryphaenoides cinereus*). More than 90 percent of all grenadiers incidentally caught or obtained in surveys are giant grenadiers. Pacific grenadiers and popeye grenadiers typically occur at depths greater than most commercial fisheries or surveys and are rarely encountered (see Section 3.2 of the Analysis for additional detail).

For many years, the Council has considered how best to classify grenadiers in the FMPs. As explained in Section 1.2 of the Analysis (see **ADDRESSES**), from 1980 to 2010, grenadiers were included in the FMPs in the nonspecified species category. Nonspecified species were defined as a residual category of species and species groups which had no current or foreseeable economic value or ecological importance, which were taken in the groundfish fishery as incidental catch and were in no apparent danger of depletion, and for which virtually no data existed that would allow population assessments.

In 2010, the Council recommended and NMFS removed the nonspecified species category from the FMPs when the FMPs were revised to meet the requirements of the Magnuson-Stevens Act as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2007 (Pub. L. 109-479). The amended Magnuson-Stevens Act required NMFS and the Council to establish annual catch limits (ACLs) and accountability measures (AMs) for fisheries in the FMP. The Council recommended and NMFS implemented Amendment 96 to the BSAI FMP and Amendment 87 to the GOA FMP to meet these requirements (Amendments 96/87, 75 FR 61639, October 6, 2010). The nonspecified species, including grenadiers, were removed from the FMPs because these species were too poorly understood to set ACLs and AMs or to develop a management regime.

Amendments 96/87 also amended the FMPs to organize the species remaining in the FMPs according to the National Standard 1 guidelines (§ 600.310). In the National Standard 1 guidelines, NMFS recommends two categories for species in an FMP: “Stocks in the fishery” and “ecosystem component (EC) species.”

“Stocks in the fishery” are defined in the National Standard 1 guidelines (§ 600.310(d)(2)). “Stocks in the fishery” include (1) stocks that are targeted, and retained for sale or personal use; (2) stocks that are not directly targeted but are taken incidentally in other directed fisheries, and are retained for sale or personal use; and (3) stocks not targeted or retained but are taken as incidental

catch and for which overfishing or overfished status may be a concern.

NMFS created the EC species category to encourage ecosystem approaches to management and to incorporate ecosystem considerations for species that are not “stocks in the fishery” (74 FR 3178, January 16, 2009). EC species are defined in the National Standard 1 guidelines (§ 600.310(d)(5)). In order to be designated an EC species, the species or species group should be: (1) A non-target species or species group; (2) not subject to overfishing, overfished, or approaching an overfished condition; (3) not likely to become subject to overfishing or overfished in the absence of conservation and management measures; and (4) not generally retained for sale or personal use.

Amendments 96/87 established the EC category in the FMPs, and designated prohibited species (which include salmon, steelhead trout, crab, halibut, and herring) and forage fish (as defined in Table 2c to part 679 and § 679.20(i)) as EC species in the FMPs. For EC species, NMFS maintained conservation regulations applicable to the specific EC species. These include prohibiting the retention of prohibited species, prohibiting directed fishing for forage fish, and establishing a limit on the incidental harvest of forage fish while directed fishing for other groundfish species, known as a maximum retainable amount (MRA), of 2 percent. Regulations at § 679.2 define the term “directed fishing.” Regulations at § 679.20(e) describe the application and calculation of MRAs.

When the Council recommended Amendments 96/87, it recognized that as information on a nonspecified species improves, it would consider moving that species back into the FMP, either as a “stock in the fishery” or as an EC species. In 2010, the Council initiated an analysis to consider moving grenadiers back into the FMPs. The Council determined that sufficient information exists for grenadiers to address them in the FMPs, as reflected in the Analysis prepared for this action (see **ADDRESSES**). The Analysis provides the best available information on grenadiers and considers two action alternatives: Include grenadiers in the FMP as an EC species, or include grenadiers in the FMP as “stocks in the fishery.”

#### Amendments 100/91

In February 2014, the Council voted unanimously to recommend Amendments 100/91 to the FMPs to add grenadiers to the EC category in the FMPs. The Council and NMFS recognized that adding grenadiers to the

FMPs in the EC category acknowledges their role in the ecosystem and limits the groundfish fisheries’ potential impact on grenadiers. Adding grenadiers to the EC category allows for improved data collection and catch monitoring appropriate for grenadiers given their abundance, distribution, and catch.

The Council considered the requirements of the Magnuson-Stevens Act and the National Standard 1 guidelines in making its recommendation. The preamble to the proposed rule (79 FR 27557, May 14, 2014) and the Analysis prepared for this action (see **ADDRESSES**) describe how grenadiers meet the four factors for inclusion into the EC category rather than as a “stock in the fishery.” That description is briefly summarized here.

Grenadiers are not a targeted species group and are not generally retained for sale or personal use. Grenadiers have no current or foreseeable economic value. Section 3.4 of the Analysis explains that grenadiers are incidentally caught in deep water trawl and hook-and-line fisheries, but are not actively targeted or retained. Thus, there is no evidence that grenadiers are presently being targeted or purposely retained.

Grenadiers are not generally retained for sale or personal consumption. As explained in Section 3.4.4 of the Analysis, attempts to create a marketable product from giant grenadiers caught off Alaska have been unsuccessful given the poor quality of the resulting product. No current market exists for grenadiers, and it is unlikely that one will be developed in the foreseeable future.

Grenadiers are not generally retained for personal use. As explained in Section 3.4 of the Analysis, a small portion of the total catch of grenadiers is known to be retained for use as bait (e.g., 3 metric tons (mt) (6,614 lb.) in the GOA in 2013). Currently, reporting requirements on the retention of grenadiers for bait is not required, but is recorded voluntarily. This information is the best available, and it indicates that grenadiers are not generally retained for bait.

Grenadiers are not subject to overfishing, overfished, or approaching an overfished condition, and are not likely to become subject to overfishing or overfished in the absence of conservation and management measures. As explained in Section 3.3 of the Analysis, NMFS has been conducting a stock assessment for grenadiers since 2006. Since 2010, the stock assessment has been used to estimate grenadier biomass, an overfishing level (OFL), and an

acceptable biological catch (ABC). NMFS estimates the incidental catch of grenadiers in the groundfish fisheries using observer data collected under the North Pacific Groundfish and Halibut Observer Program (see regulations at § 679.50).

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that grenadier biomass in the BSAI is 1,286,734 mt (2.8 billion lb.), the OFL is 100,365 mt (211 million lb.), the ABC is 75,274 mt (165 million lb.), and the estimated catch is 5,320 mt (11.7 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the BSAI represents approximately 0.4 percent of the estimated biomass, approximately 5 percent of the estimated OFL, and approximately 7 percent of the estimated ABC.

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that grenadier biomass in the GOA is 524,624 mt (1.2 billion lb.), the OFL is 40,921 mt (90 million lb.), the ABC is 30,691 mt (68 million lb.), and the estimated catch is 8,769 mt (19 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the GOA represents approximately 1 percent of the estimated biomass, approximately 21 percent of the estimated OFL, and approximately 28 percent of the estimated ABC.

#### Final Rule

In addition to adding grenadiers to the EC category in the FMPs under Amendments 100/91, the Council recommended NMFS implement regulations for groundfish fishery participants to limit and monitor the catch of grenadiers. This final rule will:

- Require recordkeeping and reporting of grenadiers in the BSAI and GOA groundfish fisheries;
- Add two grenadier species codes;
- Add grenadier product recovery rates (PRRs);
- Prohibit directed fishing for grenadiers; and
- Establish a grenadier MRA of 8 percent.

To require recordkeeping and reporting of grenadiers, this final rule adds a definition for grenadiers and revises the definition for non-allocated or nonspecified species at § 679.2. This final rule also modifies regulations at § 679.5 to require a vessel operator or manager in a BSAI or GOA groundfish fishery to record and report retained and discarded grenadier catch. NMFS notes that this regulation is expected to improve the collection of information on the catch and retention of grenadiers. Specifically, this regulation improves

the ability for NMFS to monitor the retention of grenadiers for use as bait, or in the unlikely event that grenadiers are retained for sale.

This final rule modifies regulations in Table 2c to part 679 to add two grenadier species codes so that NMFS can track the retention of giant grenadiers and other grenadier species. This final rule removes grenadiers from Table 2d to part 679. Section 2 of the Analysis notes that nearly all grenadiers encountered in the groundfish fisheries are giant grenadiers; therefore, it is not necessary to establish more than two species codes for grenadiers (one for giant grenadiers and one for all other grenadier species) to provide the information necessary to adequately monitor grenadier catch.

This final rule modifies Table 3 to part 679 to include PRRs for grenadiers of 100 percent for whole fish, 50 percent for headed and gutted fish, and 24.3 percent for fillets. These PRRs are established based on food science studies of grenadiers that estimated product recovery rates (see Section 2.2 of the Analysis for additional detail). In this final rule, NMFS also adds the standard PRRs to Table 3 of 17 percent for meal, zero percent for infested or decomposed fish, and 100 percent for discards for grenadiers. NMFS uses a standard PRR of 17 percent for meal, zero percent for infested or decomposed fish, and 100 percent for discards for all groundfish species. The proposed rule inadvertently omitted a row in Table 3 to part 679 that assigns these standard PRRs to grenadiers. This final rule corrects that administrative error in the proposed rule.

These regulatory changes enable NMFS to collect data on the harvest and use of grenadier catch retained in the groundfish fisheries. The changes in recordkeeping and reporting, definition of grenadier species codes, and grenadier PRRs aid NMFS in determining if grenadiers become generally retained for sale or personal use, and provide the information needed in any potential future consideration to modify the designation of grenadiers in the FMPs as a “stock in the fishery” should a fishery for grenadiers develop.

This final rule revises regulations at § 679.20(i) and § 679.22(i) to prohibit directed fishing for grenadiers at all times in the BSAI and GOA groundfish fisheries. NMFS is prohibiting directed fishing as a precautionary measure to prevent groundfish fishermen from directed fishing for grenadiers without a clear and conscious decision by the Council and NMFS to provide that opportunity. This prohibition is

consistent with the regulations for other EC species. NMFS prohibits directed fishing for forage fish and prohibits retaining or possessing prohibited species, except as provided under the Prohibited Species Donation Program. Prohibiting directed fishing prevents the development of an uncontrolled fishery on grenadiers in the absence of management measures.

This final rule adds a grenadier incidental catch species MRA of 8 percent to Table 10 to part 679 and Table 11 to part 679. The MRA is the percentage of the 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). An 8 percent MRA would allow vessels fishing for groundfish to retain a quantity of grenadiers equal to but no more than 8 percent of the round weight or round weight equivalent of groundfish species open to directed fishing that are retained on board the vessel during a fishing trip. The requirement to not exceed MRA proportions at any time during a trip limits the vessel operators' ability to maximize incidental catch of grenadiers.

#### **Changes From the Proposed Rule**

NMFS made one change to Table 3 to part 679 to include standard PRRs for meal, infested or decomposed fish, and discarded fish. As explained above, these standard PRRs were inadvertently excluded from the proposed rule. NMFS made no changes to the final rule in response to comments.

#### **Response to Public Comments**

NMFS received three letters of public comment during the public comment periods for Amendments 100/91 and the proposed rule. NMFS received letters from environmental organizations and a member of the public. NMFS summarized these letters into 17 separate comments, and responds to them below.

*Comment 1:* Disapprove Amendments 100/91 because they violate the statutory requirements of the Magnuson-Stevens Act. The Magnuson-Stevens Act states that the agency must prepare an FMP for each fishery that requires conservation and management. The EC species classification for grenadiers is not consistent with the Magnuson-Stevens Act conservation and management requirements. Categorizing grenadiers as “stocks in the fishery” would better minimize bycatch.

*Disapprove Amendments 100/91* because they do not contain measures to minimize grenadier bycatch in the groundfish fisheries. Include a

prohibited species catch (PSC) limit for grenadiers to limit groundfish fishing once that PSC limit is reached.

*Response:* In approving Amendments 100/91, NMFS determined that these amendments comply with the statutory requirements of the Magnuson-Stevens Act. As explained in the preamble to the proposed rule, the Council and NMFS reviewed the available information and determined that grenadiers should not be classified as “stocks in the fishery” and that they do not require conservation and management under section 303(a) of the Magnuson-Stevens Act. As noted in this preamble, and the preamble to the proposed rule, the Council and NMFS determined that grenadiers meet all of the criteria for classification as an EC species consistent with National Standard 1 guidelines (§ 600.310).

NMFS notes that the Council can analyze and recommend, and NMFS can implement, any measures appropriate to address grenadier bycatch at any time and regardless of whether grenadiers are classified as “stocks in the fishery” or in the EC category. PSC limits are used to limit the total amount of incidental catch of BSAI crab, Chinook salmon, halibut, and herring in the groundfish fisheries. BSAI crab, Chinook salmon, halibut, and herring are in the EC category under the BSAI FMP and GOA FMP. PSC limits have been established for these species because they are economically and culturally valuable species that are harvested in other directed fisheries besides the groundfish fishery. PSC limits ensure that catch in the groundfish fisheries do not limit harvest opportunities in other fisheries, or risk conditions that could result in total catch exceeding established limits. These conditions do not apply to grenadiers. Grenadiers are not harvested in any directed fishery, and total catch is well below the estimated OFLs and ABCs, as noted earlier in this preamble. Amendments 100/91 and this final rule implement measures appropriate to limit the impact of groundfish fisheries on grenadiers and collect the fishery data necessary for the Council to assess whether additional measures to minimize bycatch are warranted.

*Comment 2:* The Council and NMFS have not demonstrated and cannot demonstrate that the requisite factors for EC classification of grenadiers have been met.

*Response:* Grenadiers meet the National Standard 1 guidelines factors that should be considered for EC classification (§ 600.310(d)(5)). This preamble, the preamble to the proposed rule (79 FR 27557, May 14, 2014), and Section 2 of the Analysis describe how

grenadiers meet the specific criteria for EC classification in the National Standard 1 guidelines.

In summary, even though there are no restrictions on the catch of grenadiers now, grenadiers are not a targeted species group and are not generally retained for sale. No current market exists for grenadiers, and it is unlikely that one will be developed in the foreseeable future. Grenadiers are not generally retained for personal use, although a small portion of the total catch of grenadiers is known to be retained for use as bait in hook-and-line fisheries. The best available information indicates that grenadiers are not subject to overfishing, overfished, or approaching an overfished condition, and are not likely to become subject to overfishing or overfished in the absence of conservation and management measures. See response to Comment 4 for a more detailed response to the concern that grenadiers may be overfished. See response to Comment 5 for a more detailed response to the concern that grenadiers are experiencing overfishing.

*Comment 3:* The Council did not heed expert advice when deciding not to include grenadiers as “stocks in the fishery.” The grenadier stock assessment authors, the Council’s Scientific and Statistical Committee (SSC), the BSAI and GOA Groundfish Plan Teams, and members of the public made clear and repeated appeals that the grenadier stocks in Alaska require conservation and management. Managing grenadiers as “stocks in the fishery” is consistent with those requests.

*Response:* The Council and NMFS considered the recommendations in the grenadier stock assessment, and from the BSAI and GOA Groundfish Plan Teams, the SSC, and the public in developing Amendments 100/91 and this final rule. These recommendations are summarized below.

The 2012 stock assessment (see **ADDRESSES**) recommended that grenadiers be categorized as “stocks in the fishery” because (1) giant grenadier are taken in large amounts as bycatch in commercial fisheries; (2) the potential exists for the future development of a targeted fishery on giant grenadier; and (3) they are slow growing and late to mature and therefore vulnerable to overfishing. The 2012 stock assessment also explains that an EC classification for grenadiers in the BSAI may be acceptable from a biological and management standpoint because giant grenadiers are very abundant in this area and catches have been relatively small relative to biomass, OFL, and ABC

limits calculated in the stock assessment. Thus, the 2012 stock assessment concluded that overfishing of grenadiers in the BSAI is unlikely in the foreseeable future. The 2012 stock assessment also notes that catches could increase without endangering the stocks, and the recommended OFLs and ABCs appear to be sufficiently conservative to protect the stocks.

The Council addressed the management concerns expressed in the 2012 stock assessment in recommending Amendments 100/91 and this final rule. Importantly, the Council and NMFS recognize that the potential exists for the future development of a targeted fishery on grenadiers. Therefore, the Council recommended, and this final rule implements, a prohibition of directed fishing to prevent a target fishery on grenadiers. Prohibiting directed fishing on grenadiers also prevents overfishing because, under status quo, a directed fishery could occur at any time without any catch limits. The Council also addressed the analysis of grenadiers’ vulnerability to overfishing. As shown in the 2012 stock assessment, the amount of grenadier bycatch was far below the estimated OFL. Overfishing could only occur if catch increased dramatically with a directed fishery. The final rule’s prohibition on a directed fishery addresses the potential vulnerability of grenadiers to overfishing.

Further, the 2012 stock assessment identifies problems with leaving grenadiers as a nonspecified species. The 2012 stock assessment notes that under current management “. . . there are no limitations on catch or retention, no reporting requirements, and no official tracking of grenadier catch by management.” This final rule limits grenadier catch and limits grenadier retention, implements reporting requirements for grenadiers, and officially tracks grenadier catch by requiring the reporting of grenadier catch and the use of any retained grenadiers.

In September 2013, NMFS staff presented a summary of a preliminary analysis to include grenadiers in the groundfish FMPs to the BSAI and GOA Groundfish Plan Teams. The BSAI and GOA Groundfish Plan Teams discussed whether any action is needed because grenadiers appear to lack any conservation concerns presently and there is no directed fishery or market for grenadiers. Minutes from the BSAI and GOA Groundfish Plan Teams are available on the Council’s Web site at <http://www.npfmc.org/wp-content/PDF/documents/membership/PlanTeam/Groundfish/JOINT913minutes.pdf>.

Amendments 100/91 and this final rule are consistent with the BSAI Groundfish Plan Team’s recommendation. The BSAI Groundfish Plan Team recommended that the Council consider adding grenadiers to the EC category under the BSAI FMP. The BSAI Groundfish Team’s recommendation was based on the lack of a clear justification for inclusion as a “stock in the fishery” (and subsequent inclusion under the 2 million mt optimal yield cap) given the economic costs to the BSAI groundfish fisheries (and the Nation) of foregone harvests in other, more valuable fisheries. The BSAI Groundfish Plan Team acknowledged that including grenadiers in the EC category and requiring the reporting of catch would be one way to improve data on retained catch and enhance fishery monitoring.

The GOA Groundfish Plan Team did recommend that the Council consider adding grenadiers to the GOA FMP as “stocks in the fishery.” The GOA Groundfish Plan Team’s recommendation was based on the lack of required catch accounting and monitoring of the GOA grenadier catch under the status quo and lack of economic costs to the GOA groundfish fisheries by including grenadiers as “stocks in the fishery.” The GOA Groundfish Plan Team concluded that management as “stocks in the fishery” would allow grenadiers to be targeted if a market develops without the need for a further FMP amendment. Note that the lack of a potential economic cost to include grenadiers as “stocks in the fishery” in the FMP is not one of the factors that the Council or NMFS uses to determine if a stock requires conservation and management.

Catch information on grenadiers is currently collected under the North Pacific Groundfish and Halibut Observer Program. This final rule would improve the data collection on grenadiers by requiring the reporting of grenadier catch from vessels that are not observed and requiring the reporting on the use of any retained grenadiers (e.g., retained as bait, or used as fish meal). Section 3.4.1 of the Analysis provides more detail on grenadier catch estimation.

Amendments 100/91 and this final rule establish more precautionary management in the GOA than would result from the GOA Groundfish Plan Team’s recommendation to manage grenadiers as “stocks in the fishery” in the GOA because this final rule prohibits directed fishing and the Council would need to amend the FMP before grenadiers could be targeted in a commercial fishery. If grenadiers were

managed as “stocks in the fishery,” a directed fishery could occur, and total catch could be greater than that possible under this final rule. NMFS notes that grenadiers would need to be managed as “stocks in the fishery” if they were generally retained for sale. However, there is no indication that a market for grenadiers exists now, or will develop in the foreseeable future. Therefore, managing grenadiers in the GOA as “stocks in the fishery” is not required at this time (see Section 3.4.4 of the Analysis for additional detail).

In December 2013, the SSC reviewed the Analysis and made many recommendations that analysts addressed before Council final action in February 2014. The SSC did not recommend that grenadiers in either the BSAI or GOA be managed as “stocks in the fishery.” Amendment 100/91 and this final rule are consistent with the SSC’s expert advice. The SSC recommended that grenadiers not be added to the forage fish category because the life history of grenadiers (long life span, late maturation, slow growth rate) and their trophic position in the food web are not similar to species included in the forage fish category. Amendment 100/91 and this final rule do not add grenadiers to the forage fish category. The SSC minutes are available on the Council’s Web site at <http://www.npfmc.org/meeting-minutes/>.

**Comment 4:** NMFS cannot justify a conclusion, based on existing data, that grenadiers are not overfished or approaching an overfished condition. In the North Pacific groundfish fishery, overfished status for a specific stock is determined using that stock’s minimum stock size threshold (MSST), which is defined as the level of biomass below which the stock or stock complex is considered to be overfished. In the Analysis, NMFS stated that it cannot establish an MSST for grenadiers, a Tier 5 stock. Without an estimate of MSST or reliable proxy measurement, it is impossible for NMFS to state with any confidence that the grenadier stock is not overfished or approaching an overfished status. Nonetheless, NMFS makes this claim and uses the claim to support the EC classification for grenadiers. Because this determination is not supported by sufficient data, this required factor for EC classification is not met.

**Response:** National Standard 1 guidelines for status determination criteria, such as MSST, only apply to “stocks in the fishery.” Therefore, NMFS is not required to set an MSST for grenadiers as EC stocks. While NMFS does not have the information to

define MSST for grenadiers, the conclusion that the stock is not overfished or approaching an overfished condition is supported by the available information.

The Analysis uses the best available information to assess whether grenadiers are overfished or approaching an overfished condition. A stock is overfished when it is at low abundance. NMFS has abundance estimates for grenadiers using trawl survey data beginning in 1979 for the BSAI and beginning in 1984 for the GOA. NMFS also has abundance estimates from longline survey data beginning in 1996/1997 for the BSAI and beginning in 1992 for the GOA. Abundance estimates for grenadier are available in the 2014 stock assessment (see **ADDRESSES**). No evidence indicates that grenadiers in the BSAI or GOA are currently at low abundance compared to previous abundance estimates. In fact, in the BSAI, grenadier abundance estimates for 2015 are above the mean abundance estimated for the time series using the trawl and longline survey data. In the GOA, abundance estimates for 2015 are slightly below the mean abundance estimated for the time series.

The SSC evaluates the amount of information available on each groundfish stock and assigns each stock to one of six fishery stock assessment tiers based on the quantity and quality of information available. Fisheries in the higher ranking tiers (e.g., Tiers 1, 2, and 3) have more reliable and more complete information. Stocks with less reliable and less complete information are assigned to lower ranking tiers (e.g., Tiers 4 and 5), and stocks with only catch estimates are assigned to lowest ranking tier (Tier 6). Additional detail on the stock assessment process is provided in the annual Stock Assessment and Fishery Evaluation Reports prepared for the BSAI and GOA groundfish fisheries, available at: <http://www.afsc.noaa.gov/refm/stocks/assessments.htm>.

The 2014 stock assessment suggests placing grenadiers in Tier 5 based on the information available (see **ADDRESSES**). According to the FMPs, for Tiers 4 through 6, neither direct estimates of  $B_{MSY}$  (biomass level necessary to support the maximum sustainable yield) nor reliable estimates of  $B_{MSY}$  proxies are available. A reliable estimate of  $B_{MSY}$  or a reliable estimate of a  $B_{MSY}$  proxy is required in order to determine the MSST for a stock. Therefore, the MSST of stocks and stock complexes managed under Tiers 4 through 6 is undefined. Under the FMPs, 23 “stocks in the fishery” are also in Tiers 4 through 6. Classifying

grenadiers as “stocks in the fishery” would not change the fact that neither direct estimates of  $B_{MSY}$  nor reliable estimates of  $B_{MSY}$  proxies are available and MSST would remain undefined.

**Comment 5:** Conservation and management measures are required to prevent overfishing of grenadiers. Grenadier stocks are especially vulnerable to deleterious fishing effects due to their longevity and slow rate of reproduction. NMFS’ determination that grenadiers are not currently subject to overfishing is unsupported by reliable information or data. The Council evaluates whether a stock in the groundfish fishery is subject to overfishing by evaluating whether catch exceeds the OFL.

Grenadiers are a Tier 5 stock due to the lack of biological information. For Tier 5 stocks, the Council’s SSC sets OFL using estimates of the current biomass based on the average of the last three trawl surveys conducted. A Center for Independent Experts (CIE) review evaluated the methods for assessing Tier 5 stocks and concluded that current methods of implementing a Tier 5 assessment for non-target species are poor (Cieri, M., et al., 2013 CIE Review of Non-Target Species Stock Assessments in the BSAI and GOA). This conclusion is based in large part on the use of trawl survey biomass to estimate absolute abundance: These surveys may not cover the entire distribution of a stock, and reviewers were particularly concerned with the extrapolation of trawl survey densities to untrawlable ground. With regard to grenadiers specifically, one reviewer stated that the grenadier biomass estimates are unreliable, as they assume that trawl-survey biomass indices are absolute biomass estimates (and the Aleutian Islands estimates are based on an unreliable extrapolation). Another reviewer found it was not realistic to estimate absolute biomass for grenadiers with reasonable accuracy.

Because the current biomass estimates for grenadiers are not defensible, any OFL calculated based on these estimates is similarly unreliable. As a result, NMFS’ determination that grenadiers are not subject to overfishing is not grounded in reliable information, and the agency’s use of this determination to support the EC classification is inappropriate.

**Response:** NMFS’ conclusion that overfishing of grenadiers is not occurring is supported by the best scientific information available, as explained in Section 3.3 of the Analysis. NMFS has been conducting a stock assessment for grenadiers since 2006. At present, stock assessment information

for giant grenadier is relatively good compared to many other non-target species in Federal waters off Alaska. Since 2010, the stock assessment has been used to estimate an ABC and an OFL, using the best available estimates of biomass and natural mortality. The stock assessment uses giant grenadier as a proxy for the other grenadier species, and the estimated ABC and estimated OFL are based on giant grenadier because relatively few other grenadier species are caught in the groundfish fisheries or are taken in NMFS surveys. NMFS estimates the incidental catch of grenadiers in the groundfish fisheries using observer data.

Total catch of grenadiers is far below the estimated grenadier OFL in both the BSAI and the GOA and NMFS is confident that grenadiers are not subject to overfishing. Overfishing occurs when catch exceeds the OFL.

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that the BSAI grenadier OFL is 100,365 mt (211 million lb.) and grenadier catch is 5,320 mt (11.7 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the BSAI represents approximately 5 percent of the estimated OFL.

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that the GOA grenadier OFL is 40,921 mt (90 million lb.) and grenadier catch is 8,769 mt (19 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the GOA represents approximately 21 percent of the estimated OFL.

The issues raised by the CIE review and noted by the comment are applicable to all Tier 5 stocks and are being addressed by stock assessment authors through the annual BSAI and GOA Groundfish Plan Teams and the annual groundfish harvest specifications process. While NMFS and the Council continually work to improve the quality of the stock assessments, NMFS and the Council use the best scientific available information to assess the status of stocks. Under the FMPs, 14 stocks are in Tier 5 and 9 stocks are in Tier 6 (Tier 6 is for stocks with less biological information than Tier 5). These Tier 5 and Tier 6 stocks are all “stocks in the fishery,” and the SSC uses the Tier 5 and Tier 6 stock assessment information to set OFLs and ABCs for these stocks. If grenadiers were placed as “stocks in the fishery,” the Tier 5 stock assessment would continue to be used to set a grenadier OFL until a Tier 4 stock assessment is approved by the SSC.

The problems with estimating grenadier biomass cited in the comment indicate that the stock assessments for

Tier 5 stocks could either overestimate the OFL or underestimate the OFL. The CIE review also concluded that NMFS was overly precautionary in determining model parameters in the face of uncertainty for all Tier 5 stocks. In other words, NMFS’ estimates of model parameters are more conservative than necessary based on available data and likely result in an underestimate of abundance.

*Comment 6:* NMFS stated in the notice of availability that grenadiers are not likely to become subject to overfishing or overfished in the absence of conservation and management. The Analysis, however, indicates that NMFS never evaluated the likelihood of grenadiers to be overfished or subject to overfishing but, instead, reserved that analysis for future studies. NMFS likely cannot justify a conclusion that grenadiers are not likely to become subject to overfishing or overfished in the absence of conservation and management. Various life history characteristics of grenadiers make the stock particularly vulnerable to existing fisheries. If conservation and management measures are not taken to reduce fishing pressure on grenadiers, it is likely the species will become overfished or subject to overfishing.

*Response:* The best available scientific information does not suggest that grenadier catch levels are likely to cause grenadiers to become overfished or subject to overfishing. Section 3.5 of the Analysis uses the best available information to analyze whether grenadiers are likely to become subject to overfishing or overfished, in the absence of conservation and management measures.

The comment seems to refer to a footnote in Section 2.2 of the Analysis that addressed a comment made by the SSC that requested analysts to better explain the term “likely” with respect to the future potential for an EC species to be found subject to overfishing or overfished. A more complete discussion of the SSC’s comment and changes made to the Analysis to address the comment are in Section 2.4 of the Analysis. Section 2.4 of the Analysis explains that, in the future, the Council can assess whether to re-classify grenadiers and manage them as “stocks in the fishery.” The National Standard 1 guidelines explain that a fishery management council should monitor the catch on a regular basis to determine if the stock is appropriately classified in the FMP (50 CFR 600.310(d)(6)). This final rule implements the reporting requirements necessary to monitor the catch and retention of grenadiers. Section 2.4 of the Analysis explains that

future analyses could compare the trend of grenadier catch with trends in biomass estimates to determine whether grenadier catch is increasing relative to biomass in a way that suggests that catch may be exceeding the OFL estimate. If overfishing appeared “likely,” based on these trends, then this criterion for listing grenadiers as an EC species in the FMPs may no longer be met and reclassification may be appropriate.

*Comment 7:* Stock assessment scientists from the Alaska Fisheries Science Center have analyzed the potential vulnerability of Alaska grenadiers to overfishing. The vulnerability scores for grenadiers based on productivity and susceptibility to fishery impacts are similar to species that are currently managed in the fishery, such as Pacific cod and pollock. As a result, the scientists recommended that grenadiers be included as a “stock in the fishery.”

A more recent study found that grenadiers were susceptible to fishery impacts and may be even more vulnerable than previous results indicate. For example, if a species is not targeted by the fishery but taken as bycatch, the relevant susceptibility attribute is ranked lightly exploited. This ranking is obviously inappropriate for species like grenadiers that are not targeted but experience high bycatch and nearly 100 percent bycatch mortality. These analyses illustrate the potential of grenadiers to become overfished if current fishing practices continue.

*Response:* Potential vulnerability to overfishing and scientific uncertainty is the primary reason the Council and NMFS considered adding grenadiers to the FMPs. Amendments 100/91 and this final rule include grenadiers in Federal groundfish management and provide management measures necessary to ameliorate the potential vulnerability of grenadiers to overfishing. The recordkeeping and reporting requirements established by this final rule will improve data collection on grenadiers. The prohibition on directed fishing and the MRA for grenadiers as an incidental catch species in this final rule will limit grenadier catch.

Grenadiers will be less susceptible to overfishing because incidental catch will be restricted and directed catch will be prohibited. These measures are in sharp contrast to the status quo conditions that do not preclude a directed fishery and do not limit the amount of allowable retained incidental catch. In addition, this final rule will improve catch estimation by requiring the reporting of grenadier catch that is

retained. This information can aid managers in determining whether grenadiers are being retained and if a market is being developed. The regulations implemented by this final rule will help improve information about grenadier harvests and prevent unmanaged directed fisheries for grenadiers.

The vulnerability analysis cited in this comment was prepared by NMFS in 2009 for a number of Alaska stocks and stock complexes, including giant grenadier, and presented the results in Appendix 3 to the 2009 SAFE report (available at [http://www.afsc.noaa.gov/refm/stocks/2009\\_assessments.htm](http://www.afsc.noaa.gov/refm/stocks/2009_assessments.htm)). The vulnerability analysis does not indicate the potential of grenadiers to become overfished if current fishing practices continue. The vulnerability analysis compares two main features of a stock that influence its vulnerability to fishing: Productivity, which determines a population's natural capacity for growth and its resilience to fishery impacts; and susceptibility, which indicates how severe those fishery impacts are likely to be for the population. This analysis does not look at whether overfishing is occurring or likely to occur given the current harvest amounts relative to estimated biomass. When total catch of grenadiers is compared to total biomass, the estimated OFL, or the estimated ABC, it is clear that grenadiers are not currently subject to catch rates that require conservation and management.

Nevertheless, with this action, the Council and NMFS have adopted a precautionary approach to management. The potential vulnerability to overfishing if an unregulated fishery for grenadiers develops was one of the reasons the Council recommended, and this final rule implements, a prohibition on directed fishing. A prohibition on directed fishing is designed to prevent unregulated harvest from increasing to the point that could result in overfishing.

NMFS notes that the primary recommendation in the second study cited by the comment was to monitor and report bycatch and discard amounts because knowledge of bycatch and discard is essential for understanding the nature of the fishery impacts on grenadiers and for assessing populations in the future. This final rule meets the objective of that recommendation.

*Comment 8:* Regular stock assessments for grenadiers are necessary and required in order to determine whether overfishing is occurring or the stock is overfished. The proposed rule provides no assurance that NMFS will assess the status of the grenadier stock

to determine whether overfishing is occurring on the stock or whether the stock is overfished. While the Council recommendation provided encouragement to conduct informal stock assessments, there is nothing compelling NMFS to do so. NMFS' lack of investment in the data that would help define key stock assessment parameters relegates grenadiers to a Tier 5 stock. There appears to be little incentive for NMFS to improve stock assessments for grenadiers, or for that matter, any Tier 5 stocks in the FMPs. The proposed rule must also include a requirement and a timeline with which to regularly assess the risk of overfishing and overfished status of the grenadier stock.

*Response:* The National Standard 1 guidelines explain that a fishery management council should monitor catch on a regular basis to determine if a stock is appropriately classified in the FMP (50 CFR 600.310(d)(6)). Section 2.2 of the Analysis explains that NMFS and the Council will monitor grenadiers as new, pertinent scientific information becomes available. If information indicates that grenadiers should be reclassified, an FMP amendment would be required to move grenadiers to "stocks in the fishery."

The Council and NMFS do not prioritize stock assessment work through regulations. This final rule implements regulations for participants in the groundfish fisheries. The Council and NMFS are continually assessing the data and scientific methods used for stock assessment. The SSC places stocks in tiers based on the best available scientific information using the tier system in Section 3.2.3.2 of the FMPs. Twenty three "stocks in the fishery" are in Tier 5 in the FMPs. Classifying grenadiers as "stocks in the fishery" would not move the stocks out of Tier 5.

*Comment 9:* A failure to classify grenadiers as "stocks in the fishery" would be contrary to obligations under the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the Agreement). Inclusion of grenadiers as "stocks in the fishery" is necessary to ensure the long-term sustainability of grenadiers in the North Pacific, to maintain and restore the deep-sea ecosystem, to preserve future potential uses for those deep-sea resources, and to minimize waste from bycatch. Further, because of the important ecological role of grenadiers in the deep-sea ecosystem, conservation

and management measures must be put in place to protect biodiversity in the marine environment. The EC classification is contrary to the precautionary approach required in the Agreement. NMFS must be more cautious with regard to management because there is so little reliable information regarding the status of grenadier stocks. Using the precautionary approach would mean implementing measures that could effectively conserve and maintain grenadier populations to ensure long-term sustainability.

*Response:* Classifying grenadiers as "stocks in the fishery" is not more precautionary than classifying grenadiers in the EC category. "Stocks in the fishery" are target stocks subject to directed fisheries that can harvest up to the total allowable catch (TAC) established for that stock. For stocks in the EC category, NMFS prohibits directed fishing. Prohibiting directed fishing is more precautionary than establishing a TAC and allowing directed fishing. Therefore, Amendments 100/91 and this final rule are necessary to ensure the long-term sustainability of grenadiers in the North Pacific.

Classifying grenadiers as "stocks in the fishery," as suggested in the comment, would not, on its own, ensure the long-term sustainability of grenadiers in the North Pacific, maintain or restore the deep-sea ecosystem, preserve future potential uses for those deep-sea resources, or minimize waste from bycatch. Any specific management measures to address these concerns would be measures for the groundfish fisheries to reduce their impacts on grenadiers. The comment did not provide any specific measures that would be more precautionary than those implemented in this final rule.

Additionally, the Council and NMFS considered grenadier's role in the ecosystem. Section 3.7 of the Analysis describes the current state of research and understanding about the ecological importance of grenadiers. For example, giant grenadiers have an important ecological role as apex predators. Apex predators reside at the top of their food chain and have few to no predators of their own. In bottom trawl surveys conducted by NMFS in the Bering Sea and the GOA, giant grenadiers are the most abundant fish, in terms of weight, in depths from 600 to 3,000 feet (183 to 914 meters). Giant grenadiers extend much deeper than 3,000 feet (914 meters). While grenadiers have been caught deeper than 6,000 feet (1,829 meters), little is known about their

abundance in waters deeper than 3,000 feet, because neither the NMFS surveys nor fishing effort presently extend below this depth. However, the best scientific information available clearly indicates that catch of grenadiers represents only a small portion of the total estimated biomass, and a small proportion of the estimated ABCs and OFLs.

**Comment 10:** While there is not currently a target market for grenadiers in the North Pacific, it is quite possible such a market could develop in the future. Grenadier meat is high in protein and lipids, which makes it desirable as a potential dietetic food. Further, grenadier livers have a large relative weight and contain many vitamins and fat, and their eggs are large, with a bright orange color and good gustatory quality. As a result of these qualities and the high amounts of grenadier catch, research to develop marketable products from this species is ongoing, and it is likely Alaskan fishermen will continue their efforts at utilizing this species. If a target market were to develop for grenadiers, the problems associated with overfishing would be greatly exacerbated.

**Response:** NMFS agrees that a market for grenadiers in the North Pacific could develop in the future. Concern over the potential for an unregulated fishery for grenadiers was one of the main reasons the Council recommended and NMFS is implementing Amendments 100/91 and this final rule as a precautionary management measure. With this action, NMFS is prohibiting directed fishing for grenadiers and limiting the amount of grenadiers that can be retained as incidental catch in groundfish fisheries through implementation of an 8 percent MRA. Additionally, the recordkeeping and reporting requirements implemented with this final rule will provide the data necessary to determine if fishermen retain grenadiers for bait or processing for sale. Without this action, there would be no constraints on any potential future grenadier fishery.

**Comment 11:** NMFS and the Council set PSC limits in the groundfish fishery for other species in the EC category, such as Chinook salmon and Pacific herring. At a minimum, the proposed rule must establish substantive measures, like PSC limits, that will minimize the current levels of grenadier bycatch occurring in the groundfish fishery.

**Response:** Under the GOA FMP and BSAI FMP, PSC limits are a management tool for species in the EC category. PSC limits are not set for stocks classified as “stocks in the fishery” in the FMP. See response to

Comment 1 for more detail on PSC limits.

Additionally, the comment requests NMFS add new regulations that have not been analyzed or recommended by the Council. NMFS cannot add regulations to a final rule that will have substantive impacts on fisheries without following National Environmental Policy Act, Executive Order 12866, the Regulatory Flexibility Act, and the Administrative Procedure Act. Nothing in the final rule conflicts with or precludes development and analysis of additional regulations in a subsequent future action. The increased recordkeeping and reporting requirements in this final rule will provide more information to decision makers on grenadier bycatch. If additional information indicates that additional management measures would be appropriate, the Council would assess PSC limits or other appropriate management measures.

**Comment 12:** Amendments 100/91 and the proposed rule will do nothing to limit fishery impacts because they do not address or reduce the current bycatch levels to the extent practicable. Prohibiting directed fishing of a species for which, at present, there is no directed fishery in the waters off Alaska does nothing to address the current source of mortality, which is bycatch. Limiting the amount of grenadiers that may be retained after they are caught has no effect on bycatch, especially when the MRA exceeds the current rate of retention. In fact, the MRA under the proposed rule is set at 8 percent, which will allow groundfish fisheries to retain up to 440 million pounds of grenadier, an order of magnitude more than current annual bycatch levels of 34 million pounds.

**Response:** Amendments 100/91 and this final rule are necessary to limit the impacts of the groundfish fisheries on grenadiers. Amendment 100/91 and this final rule accomplish the purpose and need for this action and additional measures are not necessary at this time to meet the purpose and need. The purpose and need for Amendment 100/91 and this final rule are as follows:

Grenadiers are not included in the BSAI or GOA groundfish FMPs. There are no limits on their catch or retention, and no reporting requirements. However, grenadiers are taken as bycatch, especially in longline fisheries; no other Alaskan groundfish has similar levels of catches that is not included in the FMPs. Inclusion in the groundfish FMPs would provide for precautionary management of the groundfish fisheries by, at a minimum, recording the harvest of grenadiers and placing limits on their harvest.

Currently, there are no restrictions on how many grenadiers can be retained in the groundfish fisheries. This final rule prohibits directed fishing to limit grenadier catch and implements an MRA of 8 percent for groundfish fishing vessels to constrain incidental harvests. NMFS has no indication that grenadier retention through incidental harvests is likely to increase beyond current levels, given the lack of any market for grenadiers, and therefore no economic incentive to retain grenadiers.

NMFS disagrees with the comment's assertion that up to 440 million pounds of grenadiers could be retained under this final rule. It appears that the comment calculated that up to 440 million pounds of grenadiers could be retained by summing the TACs of all groundfish species in the BSAI and GOA and multiplying that amount by 8 percent. This is inaccurate for several reasons. First, grenadiers are not caught in all groundfish fisheries. Grenadiers occur in deep water and are not encountered in many fisheries. In the GOA, grenadiers are primarily caught in the deep-water trawl (*i.e.*, arrowtooth flounder and rex sole trawl fisheries) and some hook-and-line groundfish fisheries (*i.e.*, sablefish). In the Aleutian Islands, grenadiers are primarily caught in the sablefish fishery. In the Bering Sea, grenadiers are primarily caught in the Greenland turbot fishery. Calculating 8 percent of the total BSAI and GOA groundfish TACs and assuming that all vessels in all fisheries will harvest up to that amount of grenadiers is not realistic. See Sections 3.4.2 and 3.4.3 of the Analysis for a complete discussion of the bycatch of grenadiers in the different groundfish fisheries (see **ADDRESSES**).

Second, MRAs apply at the vessel and fishing trip level. The 8 percent MRA allows a vessel operator fishing for groundfish to retain a quantity of grenadiers equal to but no more than 8 percent of the round weight or round weight equivalent of groundfish species open to directed fishing that are retained on board the vessel during a fishing trip. The requirement to not exceed MRA proportions at any time during a fishing trip limits the vessel operator's ability to maximize catch of grenadiers. The estimate provided in the comment assumes that all vessels, on each fishing trip, catch grenadiers and will retain up to the maximum amount of grenadier catch. For the reasons described, this will not occur.

The Council considered a MRA range of 2 percent to 20 percent, ultimately choosing an 8 percent grenadier MRA. The 8 percent MRA is not likely to substantially increase the incentive for

vessels to retain grenadiers relative to a lower MRA percentage (*e.g.*, 2 percent), but would limit the amount of incidental catch more conservatively than a higher MRA percentage (*e.g.*, 20 percent). The Council selected an 8 percent MRA to accommodate the current amount of grenadiers incidentally caught by individual vessels. Section 2.2 of the Analysis notes that a *de minimis* amount of grenadiers are retained in the BSAI, and only 0.1 percent of all groundfish fishing trips in the GOA would be expected to meet or exceed an MRA of 8 percent. Retention of grenadiers in the BSAI is less than 0.1 percent of all groundfish fishing trips. Therefore, an MRA of 8 percent would be expected to accommodate all current fishing practices and, if a market should develop, this MRA would limit the potential retention of grenadiers until the Council and NMFS could develop measures to manage a grenadier fishery.

Finally, it is highly unlikely that vessels would catch the maximum MRA on more than 0.1 percent of all groundfish fishing trips. It is not economical for vessel operators to do so because it would take valuable time and effort for vessels to find grenadiers to “top off” their catch.

This final rule also increases monitoring of grenadier catch, and NMFS will add grenadiers to weekly catch reports posted on the NMFS Alaska Region Web page at <http://alaska.fisheries.noaa.gov/sustainablefisheries/catchstats.htm>. This information will provide the Council, NMFS, and the public the information needed to determine if increased retention of grenadiers is occurring. The Council and NMFS will review this information and consider additional management measures, if appropriate.

*Comment 13:* Including grenadiers as “stocks in the fishery” would necessitate the establishment of an OFL, ABC, and TAC each year in the annual harvest specifications process. If a grenadier TAC was set below the current bycatch level, bycatch would be reduced. The grenadier TAC would count in the calculation of total TAC under the optimum yield (OY) cap.

The OY cap is a binding constraint on the BSAI groundfish fisheries that limits the total TACs of all groundfish fisheries in the BSAI managed as “stocks in the fishery” to no more than 2 million mt. In most years, the total TACs of all groundfish fisheries in the BSAI sum to 2 million mt. This means that the Council and NMFS would need to “fund” a grenadier TAC in the BSAI by reducing the TAC in one or more BSAI groundfish fisheries so that the 2

million mt limit is not exceeded. The potential reduction of a TAC for one or more BSAI groundfish fisheries will incentivize reduction of grenadier bycatch in the BSAI so that the grenadier TAC can be set as low as possible and not limit the TACs set for other fisheries.

*Response:* NMFS agrees that the BSAI OY cap requires that the sum of the groundfish TACs in the BSAI cannot exceed 2 million mt (see 50 CFR 679.20(a)(1)). The response to Comment 2 explains that the Council and NMFS determined that grenadiers meet the criteria for the EC category, and assigning grenadiers to the EC category would preclude the development of a directed fishery that could increase catch of grenadiers. The comment’s suggested approach would be less conservative and could result in an increase in grenadier catch in a directed fishery with a TAC.

The comment seems to suggest that, in the BSAI, grenadiers should be classified as “stocks in the fishery” so that a grenadier TAC would be set at a level below the current grenadier catch as a way to constrain bycatch. This is inconsistent with the management of fisheries classified as “stocks in the fishery” and the TAC setting process for Tier 5 stocks. According to the BSAI FMP, a specific TAC is established annually for each target species or species assemblage. The FMP defines target species as those species that support either a single species or mixed species target fishery, are commercially important, and for which a sufficient data base exists that allows each to be managed on its own biological merits. Grenadiers are not a target fishery. As a Tier 5 stock, the grenadier TAC would be set following the harvest specifications process, and, given the stock’s ABC, the TAC could be set much higher than current bycatch. Managing grenadiers as “stocks in the fishery” and establishing a TAC for grenadiers would provide for a directed fishery. As long as the TAC has not been, or is not likely to be exceeded, NMFS would not constrain catch of grenadiers whether retained or discarded. This would not result in a reduction of grenadier catch as suggested in the comment.

NMFS disagrees with the comment’s assumption that managing grenadiers as “stocks in the fishery” will “force” harvesters to minimize their catch of grenadiers so that a lower TAC for grenadiers may be established and provide more TAC for non-grenadier species within the 2 million mt OY cap. As stated in response to Comment 12, grenadiers are not encountered in many fisheries and are encountered in very

limited amounts in some fisheries (*e.g.*, Bering Sea pollock). Therefore, NMFS expects that limiting the TAC of most groundfish fisheries would not result in a reduction of grenadier catch or in the amount of grenadier catch that is discarded because there is no market. NMFS expects that constraining the TAC of other groundfish fisheries would not minimize grenadier bycatch to the extent practicable as required by the Magnuson-Stevens Act.

*Comment 14:* The Council’s decision to classify grenadiers as an EC species appears to be motivated by a desire to avoid consequences for existing fisheries subject to the 2 million mt OY cap in the BSAI. Originally, the effort to evaluate grenadier stocks was motivated by a desire to address conservation concerns in the grenadier fishery. Beginning in 2008, the BSAI and GOA Groundfish Plan Teams and the SSC strongly encouraged the Council to manage grenadiers as “stocks in the fishery,” stressing the issue should be a priority, based largely on concerns over bycatch and vulnerability of the species. Initial preliminary assessments prepared by NMFS also emphasized the conservation and management concerns associated with grenadier stocks. However, after analyzing the potential consequences to the existing groundfish fisheries, the Council deemphasized conservation concerns, and instead focused on classifying grenadiers as an EC species. This conclusion is unlawful. National Standards 1 and 9 require that necessary and practicable bycatch measures must be implemented, even if that results in a downward adjustment of OY.

When read together, National Standards 1 and 9 in the Magnuson-Stevens Act require that necessary and practicable bycatch measures must be implemented, even if that results in a downward adjustment of OY. As spelled out in the Magnuson-Stevens Act, yield is optimal when it takes into account protection of marine ecosystems and any relevant ecological factor. These same considerations require reducing grenadier bycatch because they have an important ecological role.

*Response:* NMFS disagrees with the comment for the following reasons. First, there is no grenadier fishery. As noted in the preamble to this rule, markets for grenadiers have not developed and the available data do not indicate significant retention of grenadiers for personal use as bait.

Second, comments made prior to 2009 did not consider the amendments to the Magnuson-Stevens Act establishing ACLs and AMs, or the National Standard 1 guidelines establishing the

EC category published in 2009 (74 FR 3178, January 16, 2009). See the response to Comment 3 for a summary of the recommendations of the Groundfish Plan Teams and SSC for Amendments 100/91.

Third, in 2010, the Council recommended and NMFS removed the nonspecified species category from the FMPs when the FMPs were revised to meet Magnuson-Stevens Act requirements for ACLs and AMs under Amendments 96/87 to the FMPs (75 FR 61639, October 6, 2010). The nonspecified species, including grenadiers, were removed from the FMPs because these species were too poorly understood to set ACLs and AMs or to develop a management regime. The Council also initiated an analysis to consider moving grenadiers back into the FMPs in 2010. In June 2012, the Council reviewed the first discussion paper that explored two alternatives for grenadiers, classifying them either as “stocks in the fishery” or as an “ecosystem component.” That discussion paper also identified the primary concerns that apply to grenadiers; grenadiers have no limits on their catch or retention, no reporting requirements, and no official record of their catch. These concerns were reiterated when the Analysis was revised and improved between 2012 and February 2014 when the Council took final action. The Analysis analyzes potential economic impacts to fishery participants in compliance with Executive Order 12866 and the Regulatory Flexibility Act.

Fourth, when the Council recommended Amendments 100/91, the Council emphasized conservation concerns in classifying grenadiers as an EC species. Amendments 100/91 and this final rule directly address concerns of groundfish fishery impacts on grenadiers. Amendments 100/91 and this final rule limit grenadier catch and retention and require reporting for an official record of grenadier catch.

Fifth, NMFS considered the potential vulnerability of grenadiers from the groundfish fisheries as it developed this action as described in response to Comment 7.

Finally, Amendments 100/91 and this final rule comply with the Magnuson-Stevens Act, including the 10 National Standards. The Council and NMFS considered the best available information on the total biomass of grenadiers as well as the total catch of grenadiers. As described in this preamble and the Analysis, total catch of grenadiers represents only a small proportion of the estimated biomass of grenadiers, OFLs, and ABCs in the BSAI

and GOA. This final rule prohibits the directed fishing for grenadiers and improves the monitoring of grenadier catch to ensure that total catch of grenadiers will not adversely affect grenadiers. Additional measures to limit the total catch of grenadiers are not required at this time to comply with the requirements of National Standard 1 or National Standard 9.

*Comment 15:* Conservation and management measures are needed in order to maintain the grenadier stock and the deep-sea environment. Grenadier bycatch threatens to cause irreversible or long-term adverse effects both on grenadier resources and the marine ecosystem. The environmental effects of this bycatch may change the ocean environment in ways that would decrease the options available with respect to future uses of deep-sea or other marine resources. Thus, grenadier stocks are in need of conservation and management and should be managed in the fishery, as required by the Magnuson-Stevens Act. Grenadier bycatch constitutes a major input of dead organic material to the ecosystem that would not otherwise be there and could have unintended consequences for the environment.

*Response:* As stated in previous responses to comments, including grenadiers as “stocks in the fishery” would not be expected to result in less catch than the amount currently occurring, and could result in more catch than is permitted under this final rule because this final rule prohibits directed fishing for grenadiers. Section 3.7.2 of the Analysis discusses the impacts of the alternatives on the ecosystem and notes that total catch of grenadiers represents a small proportion of the total grenadier biomass and that most commercial fisheries do not occur at depths where grenadiers are known to occur. The comment does not provide any specific comments on how managing grenadiers as “stocks in the fishery” would reduce potential impacts on the deep sea ecosystem more than the management measures implemented under this final rule. Section 3.7.2 of the Analysis also discusses the impacts of the input of dead organic material.

*Comment 16:* By weight, bycatch of grenadiers is among the worst problems in Alaska. The average catch of grenadiers is nearly 20 percent of the total bycatch in Alaska. In 2010, out of a total of 573 fish stocks nation-wide with reported bycatch estimates, there were only three other species that suffered more bycatch than grenadiers: Arrowtooth flounder in Alaska, Atlantic croaker in the Southeast, and sea scallops in the Northeast. All of these

species, except for grenadier, are actively managed in a fishery through a fishery management plan.

*Response:* NMFS disagrees. Grenadier bycatch is not one of the worst problems in the fisheries off Alaska. As explained earlier in this preamble, catch of grenadiers, including the bycatch of grenadiers, represents a small proportion of the known biomass of grenadiers. Grenadiers are not subject to a directed fishery. A large proportion of the grenadier catch is discarded as bycatch because the flesh is unpalatable and no market for grenadiers exists.

Bottom trawl surveys have shown giant grenadier to be the most abundant species at depths 200 m to 1,000 m on the continental slope of the GOA, eastern Bering Sea, and Aleutian Islands (see Section 3.7.1 of the Analysis). The average biomass from the last three surveys is 553,557 mt in the eastern Bering Sea, 598,727 mt in the Aleutian Islands, and 597,884 mt in the GOA. And, as explained in Section 3.3.2 of the Analysis, NMFS likely underestimates grenadier biomass for a number of reasons, including that grenadiers are abundant in waters deeper than where NMFS surveys are conducted and grenadiers may be unavailable to bottom trawls during feeding because they move into the water column.

Average catch of grenadiers from 2003 through 2013 in the BSAI constitutes only 0.4 percent of the estimated grenadier biomass. Average catch of grenadiers from 2003 through 2013 in the GOA constitutes only 1 percent of the estimated grenadier biomass. Although the total tonnage of grenadiers caught and discarded as bycatch is higher than other species, it represents only a small proportion of the total biomass of grenadiers. Managing grenadiers as “stocks in the fishery” would not address the primary reason that grenadiers are discarded as bycatch—the fish is unpalatable and no market exists.

*Comment 17:* Grenadier bycatch in the sablefish fishery greatly exceeds 5 percent of the catch, and in some years, even exceeds the catch of sablefish. The Marine Stewardship Council certification of sablefish may be in jeopardy during the next annual audit. In order to retain Marine Stewardship Council certification, the sablefish fishery may have to develop and execute an action plan to address the bycatch problem in the fishery. Changing the definition of grenadier from bycatch to ecosystem component within the FMP does not change the obligation of the sablefish fishery to reduce bycatch under the Marine Stewardship Council.

**Response:** Including grenadiers in the EC category in the FMPs does not change the fact that grenadiers are bycatch in the sablefish fishery. The process that the Marine Stewardship Council uses to certify the sablefish fishery is an activity undertaken by a private entity and is outside the scope of this action. Nothing in Amendments 100/91 or this final rule prevents participants in the sablefish fishery from developing operational guidelines or other voluntary measures that may result in reduced grenadier bycatch in that fishery.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Administrator, Alaska Region, NMFS, has determined this final rule is necessary for the conservation and management of the groundfish fisheries and that it is consistent with Amendments 100/91, the FMPs, the National Standards, other provisions of the Magnuson-Stevens Act, and other applicable laws.

NMFS prepared an environmental assessment (EA) for Amendments 100/91 and this final rule and the Administrator, Alaska Region, NMFS, concluded that there will be no significant impact on the human environment as a result of this rule. The impact of this action is to limit and monitor the incidental catch of grenadiers in the groundfish fisheries. A copy of the EA is available from NMFS (see **ADDRESSES**).

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

#### Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS' responses to those comments, and a summary of the analyses completed to support the action.

Section 604 of the Regulatory Flexibility Act requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare an FRFA.

Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues,

and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

#### Need for, and Objectives of, the Rule

A statement of the need for, and objectives of, the rule is contained in the preamble to this final rule and is not repeated here.

#### Public and Chief Counsel for Advocacy Comments on the Proposed Rule

NMFS published a proposed rule to implement Amendments 100/91 on May 14, 2014 (79 FR 27557). An IRFA was prepared and summarized in the "Classification" section of the preamble to the proposed rule. The comment period closed on June 13, 2014. NMFS received 3 letters of public comment on Amendments 100/91 and the proposed rule. No comments were received on the IRFA or the small entity impacts of the rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

#### Number and Description of Small Entities Regulated by the Action

In the GOA, NMFS estimates that there are a total of 1,114 small catcher vessels and 5 small catcher/processors in the groundfish fisheries. The majority of these (581) are catcher vessels in the hook-and-line gear sector. In the BSAI, NMFS estimates that there are 118 small catcher vessels and 7 small catcher/processors in the groundfish fisheries.

NMFS estimates that 72 small shoreside processors are directly regulated by this action. This number includes entities located in both the BSAI and GOA. Thus, NMFS estimates that this action directly regulates 1,316 small entities (1,232 catcher vessels, 12 catcher/processors, 72 shoreside processors) because the reporting requirements and MRAs apply to all participants in the groundfish fisheries.

#### Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency and that affect the impact on small entities was rejected. "Significant alternatives" are those that achieve the stated objectives for the action, consistent with prevailing law, with potentially lesser adverse economic impacts on small entities, as a whole.

The two aspects of this final rule that directly regulate small entities are the requirement to report grenadier catch under regulations at § 679.5(a)(3) and the requirement that vessels not exceed an MRA of 8 percent, under regulations at Tables 10 and 11 to part 679. These requirements have a *de minimis* economic impact on small entities, as explained in Section 5.7 of the Analysis. The reporting requirements were the same under all of the action alternatives.

The Council considered an MRA range of 2 percent to 20 percent, ultimately choosing an 8 percent MRA. The Council selected an 8 percent MRA to accommodate the current amount of grenadiers incidentally caught. The Council considered that there are very few instances when grenadier retention exceeds 8 percent; however, allowing a higher MRA of as much as 20 percent may not meet the objectives of providing precautionary management and placing limits on harvest, as identified in the purpose and need for the action.

Thus, there are no significant alternatives that accomplish the objectives of accounting for grenadier catch or MRA management and minimize adverse economic impacts on small entities.

## Recordkeeping and Reporting Requirements

The final rule modifies the recordkeeping and reporting requirements of the vessels and processors participating in the BSAI and GOA groundfish fisheries.

Presently, NMFS requires catcher vessel operators, catcher/processor operators, buying station operators, mothership operators, shoreside processor managers, and stationary floating processor managers to record and report all FMP species in logbooks, forms, eLandings, and eLogbooks. Recording is optional for non-FMP species. Grenadiers are currently listed as non-FMP species.

The final rule amends regulations to change the status of grenadiers (giant grenadiers and other grenadiers) from non-FMP species to FMP species and require operators to record and report grenadier species in logbooks, forms, eLandings, and eLogbooks. If operators retain and land grenadiers, then landings and the use of retained catch must be reported on fish tickets and production reports.

### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule and the preamble to this final rule serve as the small entity compliance guide. This rule does not require any additional compliance from small entities that is not described in the preambles to the proposed and final rules. Copies of this final rule are available on request from the NMFS Alaska Region Office (see **ADDRESSES**).

### *Collection-of-Information Requirements*

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by Office of Management and Budget (OMB) under OMB Control Number 0648–0213 (paper recordkeeping and reporting) and OMB Control Number 0648–0515 (electronic recordkeeping and reporting). However, this rule only mentions these collections and does not change either collection-of-information.

Send comments regarding this burden estimate, or any other aspect of this data

collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA\_Submission@omb.eop.gov*, or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a 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.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

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

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 26, 2015.

**Samuel D. Rauch III,**  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

## **PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

- 1. The authority citation for 50 CFR 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 “Grenadiers” in alphabetical order and revise the definition for “Non-allocated or nonspecified species” to read as follows:

### **§ 679.2 Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

*Non-allocated or nonspecified species* means those fish species, other than prohibited species, for which TAC has not been specified (*e.g.*, prowfish and lingcod).

\* \* \* \* \*

- 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), and grenadiers (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), and grenadiers (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 the 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), and grenadiers (see Table 2c to this part). The operator may also record and report the required information for non-groundfish (see Table 2d to this part).

\* \* \* \* \*

- 4. In § 679.20, revise paragraph (i) to read as follows:

### **§ 679.20 General limitations.**

\* \* \* \* \*

(i) *Forage fish and grenadiers—(1) Definition.* See Table 2c to this part.

(2) *Applicability.* The provisions of § 679.20(i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.

(3) *Closure to directed fishing.*

Directed fishing for forage fish and grenadiers 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 or grenadiers is prohibited, except as provided in paragraph (i)(5) of this section.

(5) *Allowable fishmeal production.*

Retained catch of forage fish or grenadiers not exceeding the maximum retainable amount may be processed into fishmeal for sale, barter, or trade.

\* \* \* \* \*

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

### **§ 679.22 Closures.**

\* \* \* \* \*

(i) Forage fish and grenadiers closures. See § 679.20(i)(3).

■ 6. 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) AND GRENADIER SPECIES

Species Identification	Code
<b>FORAGE FISH</b>	
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
Picklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family <i>Stichaeidae</i> ) .....	208
Surf smelt (family <i>Osmeridae</i> ) .....	515
<b>GRENADIERS</b>	
Giant Grenadiers ( <i>Albatrossia pectoralis</i> ) .....	214
Other Grenadiers .....	213

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

TABLE 2d TO PART 679—SPECIES CODES: NON-FMP SPECIES

Species description	Code
GENERAL USE	
Arctic char, anadromous .....	521
Dolly varden, anadromous .....	531
Eels or eel-like fish .....	210
Eel, wolf .....	217
<b>GREENLING:</b>	
Kelp .....	194
Rock .....	191
Whitespot .....	192
Jellyfish (unspecified) .....	625
Lamprey, pacific .....	600
Lingcod .....	130
Lumpsucker .....	216
Pacific flatnose .....	260
Pacific hagfish .....	212
Pacific hake .....	112
Pacific lamprey .....	600
Pacific saury .....	220
Pacific tomcod .....	250
Poacher (Family <i>Algonidae</i> ) .....	219
Prowfish .....	215
Ratfish .....	714
Rockfish, black (GOA) .....	142
Rockfish, blue (GOA) .....	167
Rockfish, dark .....	173
Sardine, Pacific (pilchard) .....	170
Sea cucumber, red .....	895
Shad .....	180
Skilfish .....	715
Snailfish, general (genus <i>Liparis</i> and genus <i>Careproctus</i> ) .....	218
Sturgeon, general .....	680
Wrymouths .....	211
<b>Shellfish:</b>	
Abalone, northern (pinto) .....	860
<b>Clams:</b>	
Arctic surf .....	812
Cockle .....	820
Eastern softshell .....	842
Pacific geoduck .....	815
Pacific littleneck .....	840
Pacific razor .....	830
Washington butter .....	810

TABLE 2d TO PART 679—SPECIES CODES: NON-FMP SPECIES—Continued

Species description	Code
Coral .....	899
Mussel, blue .....	855
Oyster, Pacific .....	880
Scallop, weathervane .....	850
Scallop, pink (or calico) .....	851
SHRIMP:	
Coonstripe .....	864
Humpy .....	963
Northern (pink) .....	961
Sidestripe .....	962
Spot .....	965
Snails .....	890
Urchin, green sea .....	893
Urchin, red sea .....	892

- 8. Revise Table 3 to part 679 to read as follows:

BILLING CODE 3510-22-P

**Table 3 to Part 679--Product Recovery Rates for Groundfish Species and Conversion Rates for Pacific Halibut**

Species Code	FMP Species	Product Code											30 Surimi	31 Mince
		15 Pectoral Girdle	16 Heads	17 Cheeks	18 Chins	19 Belly	20 Fillets with skin & ribs	21 Fillets with skin no ribs	22 Fillets with ribs no skin	23 Fillets skinless boneless	24 Fillets deep skin			
110	Pacific Cod	0.05	---	0.05	---	0.01	0.45	0.35	0.25	0.25	---	0.15	0.5	
	Flatfish other than Pacific Halibut	---	---	---	---	---	0.32	0.27	0.27	0.22	---	0.18	---	
143	Thornyhead Rockfish	---	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	---	---	---	
160	Scorpions	---	---	---	---	---	---	---	---	---	---	---	---	
193	Atka Mackerel	---	---	---	---	---	---	---	---	---	---	0.15	---	
214	Giant Grenadiers	---	---	---	---	---	---	24.3	---	---	---	---	---	
270	Pollock	---	0.15	---	---	---	0.35	0.30	0.30	0.21	0.16	0.16 <sup>1</sup> 0.17 <sup>2</sup>	0.22	
510	Smelts	---	---	---	---	---	---	0.38	---	---	---	---	---	
511	Eulachon	---	---	---	---	---	---	---	---	---	---	---	---	
516	Capelin	---	---	---	---	---	---	---	---	---	---	---	---	
	Sharks	---	---	---	---	---	---	0.30	0.30	0.25	---	---	---	
	Skates	---	---	---	---	---	---	---	---	---	---	---	---	
710	Sablefish	---	---	0.05	---	---	0.35	0.30	0.30	0.25	---	---	---	
870	Octopus	---	---	---	---	---	---	---	---	---	---	---	---	
875	Squid	---	---	---	---	---	---	---	---	---	---	---	---	
	Rockfish	---	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	---	---	---	
200	PACIFIC HALIBUT Conversion rates to Net Weight.	---	—	—	—	—	—	—	—	—	—	—	—	

<sup>1</sup>Standard pollock surimi rate during January through June.

<sup>2</sup>Standard pollock surimi rate during July through December.

Species Code	FMP Species	Product Code						
		32 Meal	33 Oil	34 Milt	35 Stomachs	36 Mantles	37 Butterfly Backbone Removed	88, 89 Infested or Decomposed Fish
110	Pacific Cod	0.17	---	---	---	---	0.43	0.00
	Flatfish other than Pacific Halibut	0.17	---	---	---	---	---	0.00
122	Flathead Sole	0.17	---	---	---	---	---	0.00
123	Rock Sole	0.17	---	---	---	---	---	0.00
124	Dover Sole	0.17	---	---	---	---	---	0.00
125	Rex Sole	0.17	---	---	---	---	---	0.00
127	Yellowfin Sole	0.17	---	---	---	---	---	0.00
134	Greenland Turbot	0.17	---	---	---	---	---	0.00
143	Thornyhead Rockfish	0.17	---	---	---	---	---	0.00
160	Sculpins	0.17	---	---	---	---	---	0.00
193	Atka Mackerel	0.17	---	---	---	---	---	0.00
214	Giant grenadiers	0.17	---	---	---	---	---	0.00
270	Pollock	0.17	---	---	---	---	0.43	0.00
510	Smelts	0.17	---	---	---	---	---	0.00
511	Eulachon	0.17	---	---	---	---	---	0.00
516	Capelin	0.17	---	---	---	---	---	0.00
	Sharks	0.17	---	---	---	---	---	0.00
	Skates	0.17	---	---	---	---	---	0.00
710	Sablefish	0.17	---	---	---	---	---	0.00
870	Octopus	0.17	---	---	---	0.85	---	0.00
875	Squid	0.17	---	---	---	0.75	---	0.00
---	Rockfish	---	---	---	---	---	---	0.00
200	PACIFIC HALIBUT Conversion rates to Net Weight	---	---	---	---	---	---	0.00
								0.75

**Notes:** To obtain round weight of groundfish, divide the product weight of groundfish by the table PRR.

To obtain IFQ net weight of Pacific halibut, multiply the product weight of halibut by the table conversion rate.

To obtain round weight from net weight of Pacific halibut, divide net weight by 0.75 or multiply by 1.33333.

■ 9. 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) <sup>(6)</sup> )															
Code	Species	Pollock	Pacific Cod	DW Flat (2)	Rex sole	Flathead sole	SW Flat (3)	Arrow-tooth	Sable-fish	Aggregated Rockfish (8)	SR/RE ERA (1)	DSR SEO (C/Ps only) <sup>(6)</sup>	Atka mackerel	Aggregated forage fish <sup>(10)</sup>	Skates (11)	Other species (7)	Grenadiers (13)
110	Pacific cod	20	n/a <sup>(9)</sup>	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8
121	Arrowtooth	5	5	20	20	20	20	n/a	1	5	0	0	20	2	20	20	8
122	Flathead sole	20	20	20	20	n/a	20	35	7	15	7	1	20	2	20	20	8
125	Rex sole	20	20	20	n/a	20	20	35	7	15	7	1	20	2	20	20	8
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
152/ 151	Shortraker/ rougheye <sup>(1)</sup>	20	20	20	20	20	20	35	7	15	n/a	1	20	2	20	20	8
193	Atka mackerel	20	20	20	20	20	20	35	1	5	(1)	10	n/a	2	20	20	8
270	Pollock	n/a	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8
710	Sablefish	20	20	20	20	20	20	35	n/a	15	7	1	20	2	20	20	8
Flatfish, deep-water <sup>(2)</sup>		20	20	n/a	20	20	20	35	7	15	7	1	20	2	20	20	8
Flatfish, shallow-water <sup>(3)</sup>		20	20	20	20	20	n/a	35	1	5	(1)	10	20	2	20	20	8
Rockfish, other <sup>(4)</sup>		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
Rockfish, pelagic <sup>(5)</sup>		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
Rockfish, DSR-SEO <sup>(6)</sup>		20	20	20	20	20	20	35	7	15	7	n/a	20	2	20	20	8
Skates <sup>(11)</sup>		20	20	20	20	20	20	35	1	5	(1)	10	20	2	n/a	20	8
Other species <sup>(7)</sup>		20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	n/a	8
Aggregated amount of non-groundfish species <sup>(12)</sup>		20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8

## Notes to Table 10 to Part 679

1 Shorthraker/rougheye rockfish					
SR/RE	Shorthraker rockfish (152)				
	Rougheye rockfish (151)				
	SR/RE ERA	Shorthraker/rougheye rockfish in the Eastern Regulatory Area (ERA).			
Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish					
2 Deep-water flatfish	Dover sole, Greenland turbot, and deep-sea sole				
3 Shallow-water flatfish	Flatfish not including deep-water flatfish, flathead sole, rex sole, or arrowtooth flounder				
4 Other rockfish	Western Regulatory Area	means slope rockfish and demersal shelf rockfish			
	Central Regulatory Area				
	West Yakutat District				
	Southeast Outside District	means slope rockfish			
	Slope rockfish				
	<i>S. aurora</i> (aurora)	<i>S. variegatus</i> (harlequin)	<i>S. brevispinis</i> (silvergrey)		
	<i>S. melanostomus</i> (blackgill)	<i>S. wilsoni</i> (pygmy)	<i>S. diploproa</i> (splitnose)		
	<i>S. paucispinis</i> (bocaccio)	<i>S. babcocki</i> (redbanded)	<i>S. saxicola</i> (stripetail)		
	<i>S. goodei</i> (chilipepper)	<i>S. proriger</i> (redstripe)	<i>S. miniatus</i> (vermillion)		
	<i>S. crameri</i> (darkblotch)	<i>S. zacentrus</i> (sharpchin)	<i>S. reedi</i> (yellowmouth)		
	<i>S. elongatus</i> (greenstriped)	<i>S. jordani</i> (shortbelly)			
In the Eastern GOA only, Slope rockfish also includes <i>S. polypinias</i> (northern)					
5 Pelagic shelf rockfish	<i>S. variabilis</i> (dusky)	<i>S. entomelas</i> (widow)	<i>S. flavidus</i> (yellowtail)		
6 Demersal shelf rockfish (DSR)	<i>S. pinniger</i> (canary)	<i>S. maliger</i> (quillback)	<i>S. ruberrimus</i> (yelloweye)		
	<i>S. nebulosus</i> (china)	<i>S. helvomaculatus</i> (rosethorn)			
	<i>S. caurinus</i> (copper)	<i>S. nigrocinctus</i> (tiger)			
DSR-SEO = Demersal shelf rockfish in the Southeast Outside District (SEO)(see § 679.7(b)(4) and § 679.20(j)).					
7 Other species	Sculpins	Octopus	Sharks	Squid	
8 Aggregated rockfish	Means rockfish as defined at § 679.2 except in:				
	Southeast Outside District	where DSR is a separate category for those species marked with a numerical percentage			
	Eastern Regulatory Area	where SR/RE is a separate category for those species marked with a numerical percentage			

Notes to Table 10 to Part 679		
9	n/a	Not applicable
10	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
	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
11	Skates Species and Groups	
	Big Skates ( <i>Raja binoculata</i> )	702
	Longnose Skates ( <i>R. rhina</i> )	701
	Other Skates (all skates that are not Big Skate or Longnose Skate)	700
12	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.
13	Grenadiers	
	Giant grenadiers ( <i>Albatrossia pectoralis</i> )	214
	Other grenadiers	213

■ 10. 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	Arrow-tooth	Kamchatka	Yellow fin sole	Other flatfish <sup>2</sup>	Rock sole	Flat-head sole	Greenland turbot	Sablefish <sup>1</sup>	Shortraker/rougheye	Agg. Rockfish <sup>6</sup>	Squid	Agg. forage fish <sup>7</sup>	Other species <sup>4</sup>	Grenadiers <sup>9</sup>
110	Pacific cod	20	na <sup>5</sup>	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
121	Arrowtooth	20	20	20	20	na	20	20	20	20	20	7	1	2	5	20	2	3	8
117	Kamchatka	20	20	20	20	20	na	20	20	20	20	7	1	2	5	20	2	3	8
122	Flathead sole	20	20	20	35	35	35	35	35	35	na	35	15	7	15	20	2	20	8
123	Rock sole	20	20	20	35	35	35	35	35	na	35	1	1	2	15	20	2	20	8
127	Yellowfin sole	20	20	20	35	35	35	na	35	35	35	1	1	2	5	20	2	20	8
133	Alaska Plaice	20	20	20	na	35	35	35	35	35	35	1	1	2	5	20	2	20	8
134	Greenland turbot	20	20	20	20	35	35	20	20	20	20	na	15	7	15	20	2	20	8
136	Northern	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
141	Pacific Ocean perch	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
152/151	Shortraker/Rougheye	20	20	20	20	35	35	20	20	20	20	35	15	na	5	20	2	20	8
193	Atka mackerel	20	20	na	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
270	Pollock	na	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
710	Sablefish <sup>1</sup>	20	20	20	20	35	35	20	20	20	20	35	na	7	15	20	2	20	8
875	Squid	20	20	20	20	35	35	20	20	20	20	1	1	2	5	na	2	20	8
Other flatfish <sup>2</sup>		20	20	20	35	35	35	35	na	35	35	1	1	2	5	20	2	20	8
Other rockfish <sup>3</sup>		20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
Other species <sup>4</sup>		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	na	8
Aggregated amount non-groundfish species <sup>8</sup>		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8

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

<sup>2</sup> **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.

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

<sup>4</sup> The **Other species** includes sculpins, sharks, skates and octopus.

<sup>5</sup> na = not applicable

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

<sup>7</sup> **Forage fish** are defined at Table 2c to this part.

<sup>8</sup> 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.

<sup>9</sup> **Grenadiers** are defined in Table 2c to this part.