

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/199

of 2 December 2021

amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards the use of excluder devices in the North Sea fishery for Norway pout

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 ⁽¹⁾, in particular Article 15(2) thereof,

Whereas:

- (1) Annex V to Regulation (EU) 2019/1241 provides for technical measures established at regional level for the North Sea, Skagerrak and Kattegat.
- (2) Where Member States having a direct management interest in a fishery consider that alternative measures are compatible with the protection of juveniles through the use of alternative selectivity devices to those established at regional level and set out in Part B of Annexes V to XI to Regulation (EU) 2019/1241, the Commission may adopt such measures by means of delegated acts upon a joint recommendation submitted by those Member States.
- (3) According to Article 16 of Regulation (EU) 2019/1241, Member States having a direct management interest in a fishery can submit a joint recommendation to the Commission for the purposes of adopting technical measures as referred to in Article 15(2) of that Regulation in relation to size-selective and species-selective characteristics of gear. Member States submitting such a recommendation are to provide scientific evidence demonstrating that those measures result in selectivity characteristics for specific species or combination of species which are at least equivalent to the selectivity characteristics of the gear set out in Part B of Annexes V to X and in Part A of Annex XI to that Regulation.
- (4) Belgium, Denmark, Germany, France, the Netherlands and Sweden ('Scheveningen Group') have a direct fisheries management interest in the North Sea fisheries. After consulting the North Sea Advisory Council, the Scheveningen Group submitted on 26 February 2020 a joint recommendation to the Commission on the basis of Article 15 of Regulation (EU) 2019/1241 proposing a delegated act to amend Part B of Annex V to that Regulation to allow the use of a species-selective device in the North Sea fishery for Norway pout as an alternative to the sorting grid with a maximum bar spacing of 35mm as defined in Part B of Annex V to that Regulation, as the baseline measure for that directed fishery.

⁽¹⁾ OJ L 198, 25.7.2019, p. 105.

- (5) The Fisheries Expert Group was consulted on the joint recommendation on 30 September 2021. The European Parliament attended the meeting as an observer.
- (6) The Scientific, Technical and Economic Committee for Fisheries (‘STECF’) concluded ⁽²⁾ that the use of an excluder device would likely result in reduced by-catch rates (in weight and number) and a maintained or improved exploitation pattern for bycatch species that grow larger than Norway pout (such as gadoids) compared with use of the sorting grid. STECF noted that individuals smaller than 15 cm constitute only a small proportion of the overall by-catch and concluded that by-catches in the Norway pout fishery would hence be substantially reduced with the excluder when compared to the sorting grid.
- (7) Regulation (EU) 2019/1241 should therefore be amended accordingly.
- (8) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force immediately after its publication. Since the Norway pout fishery is from September to December, this Regulation should apply from 1 September 2021. Such retroactive application does not affect the principle of legal certainty and protection of legitimate expectations,

HAS ADOPTED THIS REGULATION:

Article 1

Annex V to Regulation (EU) 2019/1241 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 September 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽²⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2786172/STECF+PLEN+20-03.pdf>

ANNEX

In Annex V, Part B, point 1.4, the ninth entry of the table is amended as follows:

Mesh Size	Geographical Areas	Conditions
'At least 16 mm	Whole area	<p>Directed fishing for small pelagic species which are not covered elsewhere in the table.</p> <p>Directed fishing for Norway pout. One of the following devices shall be fitted:</p> <p>(1) a sorting grid with a maximum bar spacing of 35 mm;</p> <p>(2) an excluder device (*), provided that the following conditions are fulfilled:</p> <p>(i) the excluder shall have a maximum mesh size of 70mm and shall be mounted with a kite made of PVC or similar flexible materials;</p> <p>(ii) where a sail is mounted inside the excluder device across the cone/tube of that device, that sail shall be made of PVC or similar flexible material and the size of the sail shall be such that it does not cover more than 75 % of the cross-section area where it is positioned; and</p> <p>(iii) an exit hole of a minimum 50 x 50 cm shall be inserted at the apex of the excluder device.</p> <p>Directed fishing for common and Aesop shrimps. A separator trawl or sorting grid shall be fitted in accordance with nationally or regionally established rules.</p>

(*) "Excluder device" means a conic net device fulfilling the following criteria:

- (1) it is inserted before the cod-end, in such a way that the leading edge or base of the cone is attached to the full circumference of the trawl in front of the cod-end or extension piece;
- (2) it tapers to an apex where it is attached to the bottom sheet of the trawl;
- (3) an exit hole is cut where the apex of the excluder and cod-end join;
- (4) it allows for the passage of Norway pout through it and its retention in the cod-end, whilst releasing by-catches of fish by guiding them out of the exit hole.'