

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

[I.D. 111798A]

RIN 0648-AL89

**Fisheries of the Exclusive Economic Zone Off Alaska; Revision of Definitions of Overfishing, Maximum Sustainable Yield, and Optimum Yield for the Crab and Scallop Fisheries**

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

**ACTION:** Approval of fishery management plan amendments.

**SUMMARY:** NMFS announces the approval of Amendment 7 to the Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands (BSAI crab FMP) and Amendment 6 to the FMP for the Scallop Fishery Off Alaska (scallop FMP). These amendments revise definitions of overfishing, maximum sustainable yield (MSY), and optimum yield (OY) for the crab and scallop fisheries. These actions are necessary to ensure that conservation and management measures continue to be based on the best scientific information available and are intended to advance the Council's ability to achieve, on a continuing basis, the OY from fisheries under its geographical area of authority.

**DATES:** The amendments were approved on March 3, 1999.

**ADDRESSES:** Copies of Amendment 7 to the BSAI crab FMP, Amendment 6 to the scallop FMP, and the Environmental Assessment (EA) prepared for each amendment are available from the North Pacific Fishery Management Council, 605 West 4<sup>th</sup> Ave., Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Harrington, 907-586-7228 or gretchen.harrington@noaa.gov.

**SUPPLEMENTARY INFORMATION:****Background**

National standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from fisheries in Federal waters. The Magnuson-Stevens Act, in section

303(a)(10), requires that each FMP specify objective and measurable criteria for identifying when stocks or stock complexes covered by an FMP are overfished and for rebuilding overfished stocks. NMFS published national standard guidelines (50 CFR part 600) to provide comprehensive guidance for the development of FMPs and FMP amendments that comply with the Magnuson-Stevens Act.

NMFS is required to notify a regional fishery management council once NMFS determines that overfishing is occurring, a stock or stock complex is overfished, a stock or stock complex is approaching its minimum stock size threshold (MSST), or the rate or level of fishing mortality for a stock or stock complex is approaching maximum fishing mortality threshold (MFMT). The regional fishery management council then must develop a rebuilding plan within 1 year.

In June 1998, the North Pacific Fishery Management Council (Council) took final action on amendments to bring the BSAI crab and scallop FMPs into compliance with the Magnuson-Stevens Act and the national standard guidelines (50 CFR part 600). Each of these amendments would redefine overfishing, MSY, and OY based on the biology of the stock, the fishing history, and the available scientific and fishery data.

A notice of availability for the proposed Amendment 7 to the BSAI crab FMP and proposed Amendment 6 to the scallop FMP, which described the proposed amendments and invited comments from the public, was published in the **Federal Register** on December 1, 1998 (63 FR 66112). Comments were invited until February 1, 1999. NMFS received two letters of no comment, one from the U.S. Coast Guard and one from the U.S. Department of State.

**Bering Sea/Aleutian Islands King and Tanner Crabs**

Amendment 7 to the BSAI crab FMP improves management of the BSAI crab fisheries by: (1) Preventing overfishing; (2) achieving OY on a continuing basis; and (3) updating the crab FMP with new information. Amendment 7 establishes criteria for estimating OY and overfishing levels for BSAI crab stocks. These criteria were developed by the BSAI Crab Plan Team based on species life history characteristics and trends in stock biomass estimates. The OY, MSY, and threshold levels in Amendment 7 are based on the Magnuson-Stevens Act and the national standard guidelines.

Currently, the Bering Sea *C. bairdi* Tanner crab spawning biomass is below the MSST, and is deemed "overfished,"

under Amendment 7. The Council is required to develop a rebuilding plan for this stock within 1 year.

**Update the BSAI Crab FMP**

The 1989 BSAI Crab FMP does not provide the reader with a clear understanding of conservation and management measures that have been implemented for the BSAI crab fisheries. The updated version of the FMP incorporates: Six FMP amendments; catch data and other scientific information from the past 10 years; and changes due to amendments to the Magnuson-Stevens Act and other laws, a Russian/U.S. boundary agreement, and a Federal/State Action Plan.

**Scallops**

Amendment 6 to the scallop FMP improves management of the scallop fisheries by: (1) Preventing overfishing; (2) achieving OY on a continuing basis; and (3) minimizing bycatch. Amendment 6 will amend the scallop FMP by redefining overfishing, OY, and MSY, to bring the FMP into compliance with the Magnuson-Stevens Act.

This amendment also adds information to the FMP on State of Alaska bycatch monitoring and reduction programs. The Magnuson-Stevens Act national standard 9 emphasizes the importance of minimizing bycatch effects. Accordingly, Amendment 6 to the scallop FMP identifies implemented bycatch reduction and monitoring measures: at-sea catch sampling, area closures, bycatch limits, and gear restrictions.

The Council prepared an EA for each amendment that describes the management background, the purpose and need for the action, the management action alternatives, and the environmental and socio-economic impacts of the alternatives. A copy of each EA can be obtained from the Council (see **ADDRESSES**).

The Director, Alaska Fisheries Science Center, NMFS, certified with reservations that the definitions of overfishing for the crab and scallop fisheries comply with the provisions of the national standard guidelines at 50 CFR 600.310(d)(5). These guidelines require that overfishing definitions (1) have sufficient scientific merit, (2) are likely to result in effective Council action to protect the stock from closely approaching or reaching an overfished status, (3) provide a basis for objective measurement of the status of the stock against the criteria, and (4) are operationally feasible. The crab and scallop overfishing definitions satisfy

criteria (1), (3), and (4). However, insufficient information exists to determine if the overfishing definitions satisfy criterion (2). Data currently available for species covered by these FMPs are inadequate to determine if the selected MSSTs are greater than the minimum stock size at which rebuilding to the MSY level would be expected to occur within 10 years if the stock or

stock complex were exploited at the MFMT.

NMFS determined that Amendment 7 to the BSAI crab FMP and Amendment 6 to the scallop FMP are consistent with the Magnuson-Stevens Act and other applicable laws and approved Amendments 7 and 6 on March 3, 1999. Additional information on this action is contained in the December 1, 1998, Notice of Availability (63 FR 66112).

No regulatory changes are necessary to implement these FMP amendments.

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

Dated: March 3, 1999.

**Gary C. Matlock,**

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National Marine Fisheries Service.*

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