

harvested. Notwithstanding the definition of "harvest" at § 600.10, for the purposes of this part, transfer includes, but is not limited to, moving or attempting to move an Atlantic tuna that is on fishing gear in the water from one vessel to another vessel. However, an owner or operator of a vessel for which a Purse Seine category Atlantic Tunas category permit has been issued under § 635.4 may transfer large medium and giant BFT at sea from the net of the catching vessel to another vessel for which a Purse Seine category Atlantic Tunas permit has been issued, provided the amount transferred does not cause the receiving vessel to exceed its currently authorized vessel allocation, including incidental catch limits.

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5. In § 635.30, paragraph (a) is revised to read as follows:

§ 635.30 Possession at sea and landing.

(a) *Atlantic tunas.* Persons that own or operate a fishing vessel that possesses an Atlantic tuna in the Atlantic Ocean or that lands an Atlantic tuna in an Atlantic coastal port must maintain such Atlantic tuna through offloading either in round form or eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached. The upper and lower lobes of the tuna tail may be removed for storage purposes as long as the fork of the tail remains intact.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648-BA35

Fisheries Off West Coast States; Highly Migratory Species Fisheries; Amendment 2

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 2 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) for

Secretarial review. Amendment 2 would modify the current suite of management unit species, establish a new category of ecosystem component species, modify the process for revising numerical estimates of maximum sustainable yield and optimal yield, and specify status determination criteria so that overfishing and overfished determinations can be made for all management unit species.

DATES: Comments on Amendment 2 must be received on or before May 13, 2011.

ADDRESSES: You may submit comments on the NOA identified by "RIN 0648-BA35", by any of the following methods:

- *Federal e-Rulemaking portal:*

<http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

- *Fax:* (562) 980-4047.

Instructions: All comments received are part of the public record and generally will be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (if submitting comments via the Federal e-Rulemaking portal, enter "N/A" in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only. Copies of the draft EA and RIR prepared for this proposed rule are available at <http://swr.nmfs.noaa.gov/> or may be obtained from Rodney R. McInnis (*see ADDRESSES*).

Copies of Amendment 2, which includes an Environmental Assessment/Regulatory Impact Review, are available from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220-1384.

FOR FURTHER INFORMATION CONTACT: Craig Heberer, Sustainable Fisheries Division, NMFS, at 760-431-9440, ext. 303 or Kit Dahl, Pacific Fishery Management Council, at 503-820-2422.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (MSA), 18 U.S.C. 1801 *et seq.*, requires each regional fishery management council to submit any amendment to an

FMP to NMFS for review and approval, disapproval, or partial approval. The MSA also requires that NMFS, upon receiving an amendment to an FMP, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. NMFS will consider the public comments received during the public comment period in determining whether to approve, disapprove, or partially approve Amendment 2.

Amendment 2 would revise the HMS FMP to ensure it is consistent with advisory guidelines published at 50 CFR 600.310. The guidelines describe fishery management approaches to meet the objectives of National Standard 1 (NS1) of the MSA, Section 301. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA) amended the MSA to include new requirements for annual catch limits (ACLs) and accountability measures (AMs) and other provisions regarding preventing and ending overfishing and rebuilding fisheries. NMFS revised NS1 Guidelines in response to these changes in the MSA. The NS1 Guidelines were published in the **Federal Register** on January 16, 2009. The Guidelines are intended to meet the objectives of NS1 by providing guidance on:

1. Specifying maximum sustainable yield (MSY) and optimal yield (OY);
2. Specifying status determination criteria (SDC) so that overfishing and overfished determinations can be made for stocks and stock complexes that are part of a fishery;
3. Preventing overfishing and achieving OY, incorporation of scientific and management uncertainty in control rules, and adaptive management using ACLs and measures to ensure accountability (AM); and
4. Rebuilding stocks and stock complexes.

The revisions to the NS1 guidelines also dictate that fisheries undergoing overfishing have ACLs and AMs in place to end overfishing by 2010, and all fisheries to have ACLs and AMs in place to prevent or end overfishing by 2011, and beyond. However, a stock or stock complex may not require an ACL and AMs if it qualifies for an MSRA-defined exception. The most important of these with respect to highly migratory species is the so-called "international exception" described at § 660.310(h)(2)(ii) for stocks managed under an international agreement to which the United States is a party. The NS1 Guidelines also have other provisions related to classifying stocks in the FMP.

In November 2009 the Council reviewed the Highly Migratory Species Management Team's (Management Team) recommendations on the range of issues related to amending the HMS FMP and provided further guidance on developing alternatives based on the following topics:

(1) Classification of stocks in the HMS FMP as management unit species or ecosystem component species;

(2) Potential application of the MSRA international exception for ACL requirements to management unit species in the HMS FMP;

(3) Determining the primary fishery management plan for managed species covered by both the HMS FMP and the Western Pacific Fishery Management Council's Pelagics Fishery Ecosystem Plan; and

(4) Establishing biological reference points and accountability measures.

At their April 2010 meeting, the Council adopted a set of alternatives for public review that were made available in the form of a preliminary draft environmental assessment. At the June 2010 meeting the Council took final action to adopt the preferred alternative, addressing the four issue areas listed above in the following manner: Bigeye thresher, *Alopias superciliosus*, and pelagic thresher, *A. pelagicus*, would be reclassified as ecosystem component species resulting in a total of 11 management unit species versus the current 13 management unit species under status quo. Based on these considerations there would be eight ecosystem component species included in the HMS FMP, including the two thresher shark species that are currently management unit species.

The international exception to setting ACLs described at § 660.310(h)(2)(ii) would be applied to all management unit species because they are subject to management by the Inter-American Tropical Tuna Commission, of which the U.S. is a member. The HMS FMP would be amended to discuss the process by which NMFS would make a determination of the primary FMP in consultation with the Western Pacific Fishery Management Council. The determination will be based on the stock, or portion of the stock (if stock structure is poorly understood and catch data is limited), for which reference points will be identified. The existing numerical estimates of MSY (or proxies), OY, and SDC, including the overfishing limit, would be retained. Upon the receipt of any new information based on the best available science, the Council may periodically adjust the numerical estimates of MSY, OY, and SDC. The adjustment would

follow an established protocol whereby the HMSMT proposes MSY and OY estimates based on the best available science, which are included in the draft HMS Stock Assessment and Fishery Evaluation (SAFE) document submitted to the Council in June. The Council's Science and Statistical Committee would review the estimates and make a recommendation on their suitability for management. The Council would then decide whether to adopt updated numerical estimates of MSY and OY, which would be submitted as recommendations for NMFS to review as part of the management cycle process. This provides the opportunity for Secretarial review of revised MSY and OY estimates. In this process the Council would take final action in November and then NMFS would engage in rulemaking to implement the specifications and any management measures proposed by the Council.

The Council has submitted a proposed rule to implement Amendment 2 for Secretarial review. NMFS expects to publish and request public comment on the proposed rule in the near future.

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

Dated: March 9, 2011.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

RIN 0648-AY33

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; Amendment 34

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

ACTION: Notice of availability of a proposed amendment to a fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendment 34 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs to NMFS for review. If approved, Amendment 34 would amend the

Bering Sea and Aleutian Islands Crab Rationalization Program to exempt additional recipients of crab quota share from Gulf of Alaska Pacific cod and pollock harvest limits, called sideboards, which apply to some vessels and license limitation program licenses that are used to participate in these fisheries. The North Pacific Fishery Management Council determined that these additional recipients demonstrated a sufficient level of historical participation in Gulf of Alaska Pacific cod or pollock fisheries, and that they should be exempt from the current sideboards. This action is necessary to give these recipients an opportunity to participate in the Gulf of Alaska Pacific cod and pollock fisheries at historical levels. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs, and other applicable laws.

DATES: Comments on the amendment must be submitted on or before May 13, 2011.

ADDRESSES: Send comments to Dr. James Balsiger, Regional Administrator, Alaska Region, NMFS, *Attn:* Ellen Sebastian. You may submit comments, identified by "RIN 0648-AY33," by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov>.

- **Mail:** P. O. Box 21668, Juneau, AK 99802.

- **Fax:** 907-586-7557.

- **Hand Delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Electronic copies of Amendment 34 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner