

553(b)(B), there is good cause to waive prior notice of, and an opportunity for public comment on, this action for the following reasons: The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to reopen the fishery is impracticable and contrary to the public interest. The General category recently closed, but based on available BFT quotas, fishery performance in recent weeks, and the availability of BFT on the fishing grounds, responsive reopening of the fishery is warranted to allow fishermen to take advantage of availability of fish and of quota. NMFS could not have proposed this action earlier, as it needed to consider and respond to updated data and information about fishery conditions and this year's landings. If NMFS was to offer a public comment period now, after having appropriately considered that data, it would preclude fishermen from harvesting BFT that are legally available. This action does not raise conservation and management concerns. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 et seq. and 1801 et seq.

Dated: November 4, 2020.

Jennifer M. Wallace,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[RTID 0648-XY104]

Fisheries of the Exclusive Economic Zone Off Alaska; St. Matthew Blue King Crab Rebuilding Plan in the Bering Sea and Aleutian Islands

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

ACTION: Notice of agency decision.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the

approval of Amendment 50 to the Fishery Management Plan (FMP) for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (Crab FMP) (Amendment 50). Amendment 50 adds a new rebuilding plan for St. Matthew blue king crab (SMBKC) to the Crab FMP. The objective of this amendment is to rebuild the SMBKC stock. In order to comply with provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), this action is necessary to implement a rebuilding plan prior to the start of the 2020/2021 fishing season. Amendment 50 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Crab FMP, and other applicable laws.

DATES: The amendment was approved on October 13, 2020.

ADDRESSES: Electronic copies of Amendment 50 and the Environmental Assessment (referred to as the "Analysis") prepared for this action may be obtained from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment.

The Notice of Availability (NOA) for Amendment 50 was published in the **Federal Register** on July 15, 2020 (85 FR 42817) with a 60-day comment period that ended on September 14, 2020. NMFS received two comments during the public comment on the NOA. NMFS is not disapproving any part of Amendment 50 in response to these comments. NMFS summarized and responded to these comments under Comments and Responses, below.

NMFS determined that Amendment 50 is consistent with the Magnuson-Stevens Act and other applicable laws, and the Secretary of Commerce approved Amendment 50 on October 13, 2020. The July 15, 2020 NOA contains additional information on this action. No changes to Federal regulations are necessary to implement the Amendment.

NMFS manages the crab fisheries in the exclusive economic zone under the

Crab FMP. The North Pacific Fishery Management Council (Council) prepared the Crab FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 680.

Through the Crab FMP, the State of Alaska (the State) is delegated management authority over certain aspects of the SMBKC fishery consistent with the Magnuson-Stevens Act and the FMP. Specific to this Crab FMP amendment, the State has established a harvest strategy to set total allowable catch (TAC) levels and guideline harvest levels (GHLs), and season or area closures when the TAC or GHL is reached. The State's SMBKC harvest strategy (5 AAC 34.917) is more conservative than the Crab FMP's control rule parameters. Under the State's harvest strategy, directed fishing is prohibited at or below a larger biomass level than the Crab FMP's overfishing level (F_{OFL}) control rule. During rebuilding, the State's harvest strategy will apply.

NMFS declared the SMBKC stock overfished on October 22, 2018, because the estimated spawning biomass was below the minimum stock size threshold specified in the Crab FMP. In order to comply with provisions of the Magnuson-Stevens Act, a rebuilding plan must be implemented prior to the start of the 2020/2021 fishing season.

In June 2020, the Council chose a rebuilding plan for SMBKC that allows directed harvest during rebuilding only if estimates of stock biomass are sufficient to open the fishery under the State's crab harvest strategy. The rebuilding plan is consistent with the Magnuson-Stevens Act (16 U.S.C. 1854(e)); with the National Standards (see Analysis Section 4.1); and with National Standard Guidelines (50 CFR 600.310) on time for rebuilding, specifically rebuilding within a time (T_{target}) that is as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish with the marine ecosystem. This rebuilding plan will allow directed fishing pursuant to the State's harvest strategy because such fishing, though limited, may provide important economic opportunities for harvesters, processors, and Alaska communities. Maintaining these economic opportunities for a limited directed commercial fishery under the State harvest strategy is important for

harvesters, processors, and communities, particularly because the majority of commercial crab stocks are currently in a state of decline and future openings are likely to be limited or closed. Fishermen and communities must be able to diversify their portfolios and be flexible enough to take advantage of any available fishing opportunities each season to remain viable.

Under the Magnuson-Stevens Act, the time period specified for rebuilding a fishery generally should not exceed 10 years unless the biology of the stock or environmental conditions dictate otherwise, as is the case for SMBKC. Because ecological conditions represent the primary constraint on rebuilding the SMBKC fishery, the projected time for rebuilding, taking into account the biology of the species and current environmental conditions, is 25.5 years.

The directed fishery has been closed since 2016 under the State harvest strategy, and has only been open 6 out of the past 20 years. In addition to the State's conservative SMBKC harvest policy, multiple measures for habitat protection and bycatch reduction are in place for the stock. The St. Matthew Island Habitat Conservation Area (SMIHCA) was created in 2008 and expanded through Amendment 94 to the FMP for Groundfish of the BSAI Management Area to protect blue king crab habitat. Vessels fishing with non-pelagic trawl gear are prohibited from fishing in the SMIHCA. Other fishery closure areas include a 20 nautical mile (nmi) closure around the southern tip of Hall Island to trawling, hook-and-line, and pot fisheries for pollock, Pacific cod, and Atka mackerel to protect Steller sea lions, which also serves to limit fishing effort in areas occupied by SMBKC. In addition, State jurisdictional waters (0 to 3 nmi from shore) surrounding St. Matthew, Hall, and Pinnacle Islands are closed to the taking of king and Tanner crab and to commercial groundfish fishing.

Fishing mortality is not considered to be the primary constraining factor for rebuilding SMBKC. The groundfish fisheries incur low levels of bycatch of SMBKC, but in analytical projections average bycatch rates had no constraining effect on rebuilding (see Analysis Section 2.3). Instead, rebuilding will depend on successful recruitment of crab under ecosystem conditions that have recently been very unfavorable. Warm bottom temperatures, low pre-recruit biomass, and northward movement of predator species, primarily Pacific cod, have constrained stock growth (see Analysis Section 3.3.6). For this reason, the rebuilding plan aims to maintain existing low levels of fishing mortality with the anticipation that future ecosystem conditions will support SMBKC stock growth.

Amendment 50 adds Section 6.2.5 to the Crab FMP to include the approved rebuilding plan for SMBKC. Under the approved rebuilding plan, ecosystem indicators developed for the stock will be monitored for the foreseeable future. The NMFS eastern Bering Sea bottom-trawl survey provides data for the annual assessment of the status of crab stocks in the BSAI, including SMBKC, and this survey and assessment will continue throughout rebuilding. The Council's BSAI Crab Plan Team will report stock status and progress towards the rebuilt level in the Stock Assessment and Fishery Evaluation (SAFE) Report for the king and Tanner crab fisheries of the BSAI. Additionally, the State and NMFS monitor directed fishery catch and bycatch of blue king crabs in other fisheries. When the fishery is open, the State requires full observer coverage (100 percent) for both catcher vessels and catcher/processors participating in the crab fishery. Observers monitor harvest at sea and landings by catcher vessels to shoreside processors. The State reports the total harvest from the commercial crab

fishery and that report will be included annually in the SAFE. The contribution of the rebuilding plan to stock recovery is additive to measures already in place that limit the effects of fishing activity on SMBKC.

Comments and Responses

During the public comment period for the NOA for Amendment 50, NMFS received two unique comments from two members of the public. NMFS is not disapproving any part of Amendment 50 in response to these comments. NMFS's responses to these comments are presented below.

Comment 1: One commenter expressed general support for this action.

Response: NMFS acknowledges this comment.

Comment 2: One commenter stated that crab fisheries in Alaska should be shut down.

Response: The Magnuson-Stevens Act and the Crab FMP require, among other things, that the Council and NMFS manage fisheries to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery and base management decisions on the best scientific information available. The commenter provided no information to support shutting down crab fisheries in Alaska. Currently, crab fisheries in Alaska are being responsibly managed with conservative harvest strategies and provide important economic benefits to Alaskan communities.

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

Dated: October 20, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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