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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 940253-4151; I.D. 021494C]
RIN 0648-AG20

King and Tanner Crab Fisheries of the Bering Sea and Aleutian
Islands

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

ACTION: Final rule.

SUMMARY: NMFS announces the approval of Amendment 2 to the Fishery
Management Plan (FMP) for the Commercial King and Tanner Crab
Fisheries
of the Bering Sea and Aleutian Islands (BSAI). NMFS issues final
regulations removing existing regulations that superseded State of
Alaska (State) regulations that established Norton Sound as a
superexclusive registration area in the exclusive economic zone (EEZ)
of the BSAI. This action is necessary for effective management of the
fishery having the smallest biomass and guideline harvest level (GHL)
in the BSAI crab fisheries. This action is intended to promote
management and conservation of crab and other fishery resources and to
further the goals and objectives contained in the FMP for the
Commercial King and Tanner Crab Fisheries of the BSAI.

EFFECTIVE DATE: June 27, 1994.

ADDRESSES: Copies of Amendment 2 and the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (907-271-2809).

FOR FURTHER INFORMATION CONTACT: Kim J. Spitler, Fisheries Management Division, **Alaska** Region, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The commercial king and Tanner crab fisheries in the EEZ of the BSAI are managed under the FMP. This FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). It is a framework FMP that, with oversight by the Council and the Secretary of Commerce (Secretary), defers management of the crab resources in the BSAI to the State. The FMP was approved by the Secretary and implemented on June 2, 1989. At times, regulations implementing the FMP must be amended to resolve problems pertaining to management of the BSAI crab fisheries.

The FMP contains three categories of management measures: (1) Specific Federal management measures that require an FMP amendment to change; (2) framework type management measures, with criteria set out in the FMP that the State must follow when implementing changes in State regulations; and (3) measures that are neither rigidly specified nor frameworked in the FMP, and that may be freely adopted or modified by the State, subject to an appeals process or other Federal laws. Registration areas are listed as a category 2 measure. Section 8.2.8 of the FMP specifies that king crab registration areas may be designated as either exclusive or nonexclusive. Designation of a registration area as superexclusive would require an FMP amendment and incorporation into the FMP as a category 1 management measure.

At its January 1994 meeting, the Council adopted Amendment 2 to the FMP and requested that NMFS prepare a rulemaking to implement the amendment. Amendment 2 establishes the Norton Sound Section of the

Northern District of the BSAI king crab fishery as a superexclusive registration area.

A notice of availability of Amendment 2 was published in the Federal Register on February 23, 1994 (59 FR 8595), and invited comments on the amendment through April 25, 1994. A proposed rule to implement Amendment 2 was published in the Federal Register March 4, 1994 (59 FR 10365). Comments on the proposed rule were invited through April 14, 1994. One letter, containing 14 comments on Amendment 2 and the proposed rule, was received. These comments are summarized in the Response to Comments section, below.

Amendment 2 was approved by NMFS on May 18, 1994, under section 304(b) of the Magnuson Act. Under the amendment, the operator of any vessel registered in the Norton Sound Section of the Northern District of the BSAI king crab fishery superexclusive area cannot register the vessel in any other EEZ area of the BSAI during that registration year.

Upon reviewing the reasons for Amendment 2, and the comments on the proposed rule to implement it, NMFS has determined that this final rule

is necessary for fishery conservation and management. The final rule removes existing regulations at 50 CFR 671.20, which supersede existing

State regulations designating Norton Sound as a superexclusive registration area.

The intent of this measure, implemented under Amendment 2, is to allow for a slower-paced fishery, full attainment of guideline harvest levels, longer seasons, and reduced administrative and enforcement costs. This measure also will provide for consistency between the FMP and State regulations governing the BSAI crab fishery. Further explanation of, and reasons for, this measure is contained in the preamble to the proposed rule (59 FR 10365, March 4, 1994).

Comments and Responses

One letter of comments from the **Alaska** Crab Coalition was received within the comment period. The comments were opposed to Amendment 2. A summary of comments and NMFS' response follow:

Comment 1. At the December 1993 Council meeting, the Scientific and Statistical Committee (SSC) commented that the EA prepared for Amendment 2 required considerably more development with respect to the costs and productivity rates of the larger and smaller vessels. The SSC

further stated that data sources needed to be more fully described.

Response. The initial draft EA/RIR/IRFA was revised to address comments made by the SSC. A revised version was subsequently reviewed by the SSC. At the January 1994 Council meeting, the SSC reported that the analysts had addressed the issues identified in December by conducting additional analyses that examined, over a range of possible values, the sensitivity of the results to the assumed operating costs and productivity rates, including the scenario where small and large vessels are assumed to have similar soak times for pots and to experience similar ex-vessel prices. In addition, the analysts provided

a more detailed discussion of management and enforcement costs under the different alternatives. NMFS has determined that the specific issues raised by the SSC in its review of the initial EA/RIR/IRFA (December 14, 1993) have been adequately addressed in the EA/RIR/IRFA that was made available for public comment in January 1994.

Comment 2. The proposed amendment is not consistent with national standard 1 of the Magnuson Act in that it would not contribute to the long-term avoidance of overfishing. The procedures used to establish and enforce the GHL in the Norton Sound summer king crab fishery remain

unchanged by Amendment 2. This refutes the claim in the EA that Amendment 2 would contribute to the avoidance of overfishing.

Moreover,

Amendment 2 encourages, and does not constrain, the development of new, small-boat capacity in the fishery. This could readily result in overcapitalization and a consequent future risk of fishing pressures, leading to overfishing.

The proposed amendment will not contribute to the attainment of optimum yield (OY) as claimed by the EA, which cites the substantial underharvest that occurred in 1992. The underharvest resulted from failure to provide for adequate management during the course of the 1992 opening. This was evidenced by a management decision to set the 1992 closure date in advance of the opening.

Response. Amendment 2 is consistent with national standard 1. It is

not necessary to change the procedure used to establish a GHL to contribute to the avoidance of overfishing. The FMP authorizes the State to make inseason adjustments to GHLs after consideration of appropriate factors and to the extent that inseason data are available.

Some of these factors include the effect of overall fishing effort

within the registration area, catch per unit of effort and rate of harvest, and timeliness and accuracy of catch reporting. The dispersion of effort predicted to occur in a superexclusive registration area can slow the pace of the fishery and reduce the necessity for conservative management measures (e.g., premature fishery closures) that sometimes are necessary to reduce the potential for overharvest of the GHL. Inseason data are more readily available and utilized in a slower-paced fishery. A critical aspect of national standard 1 is consideration of the rate of fishing mortality and its effect on the long-term capacity of the stock to produce maximum sustainable yield. Dispersing the fishing effort in a geographic region such as Norton Sound effectively slows the rate of fishing mortality.

The redistribution of fishing effort in Norton Sound that will result from superexclusive registration status does not involve vessels newly constructed solely for Norton Sound. New entrants are using existing and historical gear. Many had been idle due to failures in salmon and herring fisheries. Any potential increase in capacity in this small fishery would be **limited** by the Council's proposed vessel moratorium which, if approved, would limit the entry of new vessels over 32 ft (10 m) into the groundfish, crab, and halibut fisheries off **Alaska**. The proposed moratorium is intended as an interim management measure to curtail increases in fishing capacity until a comprehensive management plan for the groundfish and crab fisheries can be prepared and implemented.

National standard 1 requires appropriate consideration of pertinent social, economic, and ecological factors in the attainment of OY. Because of temporal variability in these factors, GHLs are adjusted annually, based upon current evaluations of the biological and socioeconomic components. The use of superexclusive registration area status as a management tool will address socioeconomic factors identified in the EA.

NMFS disagrees that the pre-announced 1992 fishery closure was an indication of mismanagement by the State of **Alaska**. Pre-announced closures have been used historically in some fisheries that experience pulse-type fishing patterns as a result of excessive effort, such as the halibut and black cod fisheries. For example, in 1992, the Norton Sound crab fishery experienced the second highest recorded number of pots ever fished and was conducted in a pulse-type fashion.

Comment 3. It is predicted that only small harvesting vessels and

no catcher/processors would participate in the Norton Sound fishery if it is a superexclusive registration area. With no observer coverage, an essential management tool for effective fisheries management would be lost.

Response. Nothing in the amendment prohibits catcher/processors from participating in the Norton Sound king crab fishery if they so choose. NMFS has received information from the industry indicating that one floating processor may participate in the 1994 fishery. Observer information would be available for catcher vessels delivering to this processor. Even if no floating processor participated, management data would still be available.

In a crab fishery conducted predominantly by small catcher vessels, information necessary for effective fishery management is acquired by the **Alaska** Department of Fish and Game (ADF&G) staff monitoring shoreside deliveries. One reason the crab observer program was initiated was to enforce regulations on catcher/processors and floating processor vessels regarding the taking of sublegal and female crab. Compliance with these size and sex regulations on catcher vessels is enforced by shoreside ADF&G staff present at the time of delivery.

Comment 4. Amendment 2 is not consistent with national standard 2 of the Magnuson Act in that there has not been a good-faith effort to assemble and supply the best scientific information available. The assertion that data on 1993 participants are unavailable is highly implausible. The central reliance on a model is a fundamental defect of the EA, given the lack of revenue and cost data.

Response. Amendment 2 is based upon the best scientific information available and is consistent with national standard 2. The EA examined the seasonal fishing activities for Norton Sound crab vessels participating in other fisheries. The data for participation in other 1993 fisheries by vessels participating in the 1993 Norton Sound king crab fishery were not available at the time the EA was prepared, due to ongoing fishing seasons, the volume of incoming fish tickets, and the time necessary for fish ticket data entry and audit. Currently, most of these data still are not available. Preliminary review of the available

1993 fish ticket data indicates that only two of the 14 vessels registered in the Norton Sound king crab fishery participated in other BSAI king crab fisheries. If these operators choose to register in Norton Sound in the future, they would not be able to register their vessels in other BSAI king crab registration areas during that registration year.

NMFS disagrees that the EA displays a central reliance on a model. Models are only as good as the assumptions and input variables used. Model results are best used to gauge the relative effects of alternative management measures, rather than the actual quantitative impacts. This was the manner in which the model was used to analyze the economic effects of the Norton Sound superexclusive registration area on the participating fleet.

Comment 5. Notably absent from the EA is any serious discussion of the effect of Amendment 2 on crab fisheries, other than that in Norton Sound. The EA fails to address the effect of increased effort and the subsequent economic impact of additional vessels operating in the other crab fisheries as a result of large vessels that would no longer operate in Norton Sound.

Furthermore, the EA overwhelmingly is concerned with the economic benefits that allegedly will accrue to the local community from the adoption of Amendment 2. Amendment 2 would impose hardships on those who effectively are excluded from the Norton Sound summer crab fishery. The EA is superficial and legally insufficient in its treatment of this impact.

Response. The EA is legally sufficient. The vessel operators that choose not to register in the superexclusive Norton Sound fishery will not create an additional effort in other crab fisheries; they already participate in these other fisheries. Therefore, their decision not to register in Norton Sound would not indicate an increase in effort in these fisheries. Norton Sound crab accounts for a relatively small percentage of their total harvest, so the impacts of obtaining an equivalent harvest from other BSAI crab fisheries would be relatively insignificant in such fisheries.

A management objective of the crab FMP is to maximize the economic and social benefits to the Nation over time, including the economic stability of coastal communities. When selecting management measures, the impact of management alternatives on the distribution of benefits among members of the harvesting, processing and consumer communities

must be considered. As indicated in the RIR, the economic impacts on the Norton Sound region from participation by small vessels and a longer season are relatively much greater than the economic impacts on crab communities such as Dutch Harbor, Bellingham, and Seattle. The 1993 Norton Sound crab fishery resulted in the greatest revenues of any fishery in the Norton Sound region that year, and a local fresh crab market was established.

Conversely, the large vessels that participate in the Norton Sound fishery obtain only a small percentage of their annual crab landings from this fishery. The Norton Sound fishery accounts for less than 1 percent of the total poundage of the entire BSAI crab fishery (the January draft EA reflects a typographical error; it indicates that Norton Sound accounts for less than 5 percent, not 1; see final EA at page 3-13). The primary fisheries for these vessels are Tanner crab and Bristol Bay red king crab. The hardship experienced by the operators of the large vessels was relatively less given that Norton Sound crab contributed no more than 0.7 percent to any of the 26 catcher/processor and catcher vessels' yearly crab landings for 1992 and no more than 1.6 percent of the total landings for any of the catcher/processors in 1990. Neither individual vessels nor participants in the pre-1993 fleet were dependent on this fishery in terms of year-to-year participation or landings within any one year.

Comment 6. Amendment 2 is not consistent with national standard 3 of the Magnuson Act in that it does not manage the Norton Sound summer king crab fishery in close coordination with other king crab fisheries.

For instance, the implication in the EA that Amendment 2 coordinates with Adak brown crab fisheries is false, because no relationship exists

between the vessels used in Norton Sound and those used in the Adak brown king crab fisheries.

Response. Amendment 2 is consistent with national standard 3. No direct relationship exists between the operators of vessels using single pot gear in the Norton Sound red king crab fishery and those using longline pot gear in the Adak brown king crab fishery. However, a relationship does exist between the Norton Sound and Adak red king

crab

fisheries, because single pot gear is used in both and the fisheries could be conducted by the same vessels.

Alternative 3 of the EA considered the option of creating an exclusive, rather than a superexclusive, registration area in Norton Sound. Exclusive registration in Norton Sound would require vessels to register in Norton Sound, but would also allow vessels registered in nonexclusive areas to register and participate in the Norton Sound fishery. An exclusive registration area would not remedy the situation of excessive vessel effort harvesting the small quota in a very short time. Therefore, unless the Adak red king crab fishery also was made exclusive, there would be no means of forestalling participation by much of that fleet in Norton Sound. The Council viewed Alternative 3 as

more restrictive on the entire fleet than Alternative 2 because it would further limit their registration options. The Council and Secretary considered the close coordination that exists among the Norton Sound fishery and the other BSAI crab fisheries in developing the superexclusive area for Norton Sound.

Comment 7. Amendment 2 is not consistent with national standard 4 of the Magnuson Act in that it incorporates, or relies upon, a discriminatory state law or regulation. The precise effect of Amendment

2 is to advantage local Alaskan residents at the expense of non-Alaskans in the Norton Sound summer king crab fishery.

It is not necessary to allocate the Norton Sound summer king crab. Favoritism shown to Alaskan residents may lead to less responsible management through more leniency in the regulatory and enforcement processes. In fact, State management of the 1993 Norton Sound crab fishery relaxed time and area restrictions to allow local residents **access** to areas that have been closed for 5 years due to conservation problems.

Response. Amendment 2 is consistent with national standard 4. NMFS is not aware of any discriminatory State law or regulation incorporated

in Amendment 2 that suggests a preference for **Alaska** residents in the management of the fisheries. The commenter did not cite the alleged discriminatory statute. The amendment does not prohibit any vessel in the fleet, regardless of where it is registered, from electing to fish in the Norton Sound superexclusive registration area or elsewhere in any year. Any vessel, including an **Alaska**-registered vessel, permitted to participate in the Norton Sound king crab fishery may not fish for king crab in any other BSAI registration area. Vessels from outside

Alaska may operate in exclusive and nonexclusive areas, in only nonexclusive areas, or in the Norton Sound superexclusive area.

The designation of Norton Sound as a superexclusive registration area is not primarily an allocative measure. Title 50 CFR 602.14(c)(1) states that an allocation or assignment of fishing privileges is a direct and deliberate distribution of the opportunity to participate in

a fishery among identifiable, discrete user groups or individuals. Many

management measures have indirect allocative effects, but only those measures that result in direct distributions of fishing privileges will

be judged against the allocation requirements of national standard 4. Allocations of fishing privileges include individual vessel catch limits, quotas by vessel class and gear type, different quotas or fishing seasons for recreational and commercial fishermen, assignment of ocean areas to different gear users, and limitation of permits to a certain number of vessels or fishermen. While the designation of Norton

Sound as a superexclusive registration area is not primarily allocative, it does have allocative effects that are incidental to the primary conservation purpose of the amendment. NMFS expects operators of large vessels will be discouraged from participating in the Norton Sound fishery, because the resource base is relatively small and it is not economically feasible for large vessels to operate in Norton Sound.

Therefore, NMFS did consider the three criteria outlined in 50 CFR 602.14(c)(3)(i) through (iii).

The amendment is fair and equitable. The 1993 GHF accounted for less than 1 percent of the total available harvest in all of the BSAI crab fisheries. There is crab available elsewhere for harvest by a vessel not registered in Norton Sound.

The amendment is consistent with 50 CFR 602.14(c)(3)(ii) in that it promotes conservation by encouraging a rational, more easily managed use of the resource. See NMFS' response to Comment 2. In the past 10 fishery seasons, the resource was overharvested 5 times, substantially underharvested once, and the fishery did not open in 1991 due to excessive effort present and concern over possible damage to the resource (see EA, Table 12). Designating Norton Sound as a superexclusive area is expected to dissuade the operators of large vessels from coming in and taking the crab quickly and risking overharvest, provide for better monitoring of the GHF with a small

boat

fishery, and promote OY by not leaving available crab on the grounds.

The amendment avoids the acquisition of excessive shares of fishing

privileges by any one person or entity. The purpose of superexclusive registration is not to distribute fishing shares. Many factors can limit a vessel's fishing capacity. In Norton Sound, individual vessels are **limited** by size and by the number of pots deployed. Current regulations limit the number of pots to 40 on vessels 125 ft (38 m) or less. These restrictions effectively prevent any one vessel from harvesting an inordinate amount of the available GHL.

In anticipation of a longer season as a result of lowered pot limits and reduced effort, State management adjusted the opening date of the 1993 Norton Sound king crab fishery from August 1 to July 1.

The

intent of this action was to decrease the likelihood of the fishery being conducted in September when the crab are molting and mating. The 15 nautical mile closure line was reduced to 5 miles on July 15 by emergency order based on daily catch reports that indicated a poor catch rate. The poor catch rate was thought to be caused by the early timing of the fishery, in that the seasonal offshore migration of the crab had not yet occurred. The closure was reduced to allow for the efficient harvest of red king crab. The risk of handling sublegal crab and the associated mortality was considered prior to this decision being made. The fewer pots on the grounds and the ability of fishermen to rapidly move off small crab effectively lessened such a risk.

In 1982 the **Alaska** Board of Fisheries implemented a 15 nautical mile closure in the Norton Sound summer king crab fishery for purposes of biological conservation. Under appropriate circumstances, this closure could be reduced by ADF&G to allow the king crab fishery to obtain efficiently the allowable harvest of red king crab. Large and small vessels in the fleet benefitted from closure reductions that occurred in 1982 and 1985. The commenter's misperception of ``leniency'' shown toward local residents is erroneous. First, the ``lenient'' management approach deemed incompatible with basic conservation objectives by the commenter may better be described as a more rational, easily managed approach that was possible under the conditions present in 1993 and that successfully promoted conservation of the resource. Second, only four of the 14 vessels in 1993 were local. Relaxation of time and area restrictions also benefitted the other 10 vessels.

Comment 8. The problems of deadloss and handling mortality that allegedly exist under the status quo would not be effectively

addressed

by Amendment 2 and would predictably continue under the amendment.

Response. NMFS disagrees. Problems of deadloss and handling mortality would be addressed effectively in the Norton Sound fishery as

a result of its superexclusive status. Norton Sound is unique among the

BSAI crab fisheries in that the spring Yukon River run-off and concurrent ice melt creates a freshwater lens that can contribute substantially to deadloss and handling mortality. Larger vessels with live tanks require circulating water; this is a problem in Norton Sound

because introduced freshwater can cause increased mortality of the live

crab held in tanks. Smaller vessels typically do not have live tanks; therefore, the freshwater lens does not impact crab onboard. Evidence indicates that pulse-type fishing patterns typical of fisheries of short duration result in decreased pot soak times and more frequent pot

pulls. Handling mortality of female and sublegal crab subsequently increases. Fisheries of longer duration, such as that expected through superexclusive registration, effectively increase soak time of pots. This allows smaller sublegal crab the opportunity to escape and reduces handling mortality.

Comment 9. Amendment 2 is not consistent with national standard 5 of the Magnuson Act in that it offers no prospect of long-term, increased efficiency in the Norton Sound summer king crab fishery, and would, instead, lead to decreased efficiency in the other crab fisheries. The operators of displaced vessels will respond by concentrating their efforts more intensively in the other, already overcapitalized, crab fisheries.

Response. NMFS disagrees. The amendment is consistent with national standard 5. See NMFS' responses to Comments 2 and 5.

Comment 10. The sole purpose of Amendment 2 is economic allocation, thus it is not consistent with national standard 5 of the Magnuson Act.

A factual basis for a claim of an advantage to be gained for management

of the fishery under Amendment 2 is lacking. Social claims that are cast in terms of benefits to local Alaskan communities are

unsubstantiated.

Response. NMFS disagrees. The sole purpose of the amendment is not allocative. NMFS acknowledges that the amendment may have some indirect allocative effects and this is addressed in the response to Comment 7. Claims of advantages to management and of social benefits to local communities are clearly evident from the 1993 fishery, which was essentially managed as if it were superexclusive.

Comment 11. Amendment 2 is not consistent with national standard 6 of the Magnuson Act in that it does not allow for, or respond to, variations and contingencies in the Norton Sound summer king crab fishery. Amendment 2 encourages unconstrained building of new capacity for the fishery and does not address the prospect of overcapacity. It does not provide any advantage over the status quo management for contending with the likely influx of excessive capacity or the probable periodic decline of the resource base.

Response. NMFS disagrees. The amendment is consistent with national standard 6. Title 50 CFR 602.16(b) provides that fisheries exhibit unique uncertainties and that the particular management regime chosen must be flexible enough to allow timely response to resource, industry, national, and regional needs. Continual data acquisition and analysis will help the development of management measures to compensate for variations and to reduce the need for substantial buffers. Flexibility in the management regime and the regulatory process will aid in responding to contingencies. The likelihood of a timely response, continual inseason data acquisition, and management flexibility is greatly enhanced when the duration of the fishery is extended, as can be expected with a superexclusive registration status. The amendment does not encourage unconstrained capacity. See NMFS' responses to Comments 2 and 5.

Comment 12. Amendment 2 is not consistent with national standard 7 of the Magnuson Act in that a predicted increase in the length of the fishery and the associated reporting period will increase management and enforcement costs, rather than minimize them.

Response. The amendment is consistent with national standard 7. Costs to manage the fishery likely will be less under the superexclusive regime. Based on a review of the EA, the SSC concurred in this finding in its January report to the Council. The single greatest enforcement cost for a crab fishery is aerial surveys. When a fishery experiences a lengthened season, reduced effort, and a fleet

dependent on daily shoreside deliveries, the need for aerial surveys is drastically reduced, if not eliminated. These same conditions also allow area managers to more easily administer the crab fishery along with other fishery duties. Therefore, in terms of management and enforcement costs, it is essentially more cost-effective to manage a relatively longer fishery than a very short one that requires labor-intensive aerial surveys.

Comment 13. The Magnuson Act allows for establishment of a system for limiting **access** to a fishery in order to achieve optimum yield. Amendment 2 cannot be characterized as being a measure calculated to achieve OY. Further, the EA does not genuinely take into account the full range of requisite considerations that must be considered when limiting **access** to a fishery.

Response. NMFS disagrees. The amendment can be characterized as a measure calculated to achieve OY. See NMFS' response to Comment 2. The amendment is not a form of **limited access**. As described at 50 CFR 602.15(c), a system for limiting **access** is a type of allocation of fishing privileges which attempts to limit units of effort in a fishery. Typically, the number of units of effort has been predetermined and those participating in the fishery must satisfy certain established criteria. Common forms of **limited access** are licensing of vessels, gear, or fishermen to reduce the number of units of effort, and dividing the total allowable catch into fishermen's quotas. There is no limit on the amount of effort that can occur in the fishery. Therefore, the amendment is not a form of **limited access**. A vessel operator need only register for the area in which he wishes to fish. Registration requirements are used to: (1) Make better preseason estimates of fishing effort and the rate at which resources will be harvested in each area so that the inseason monitoring of the fishery may be planned; and (2) limit the ability of vessels to fish in multiple areas, so that fishing effort is dispersed, while still allowing the majority of the fleet the opportunity to harvest the majority of the crab.

Comment 14. There is no evidence that vessel safety will improve under Amendment 2. It is more likely that a deterioration of safety will occur as more small vessels operate over longer periods of time in the open waters of the Northern Bering Sea fishery. The EA notes that weather conditions can create real safety problems for small vessels.

Response. NMFS believes that vessel safety considerations would not

be exacerbated if longer periods of time were available to fish. Similar to the halibut fishery, which historically is conducted derby-style, a longer time period to harvest the available quota would allow vessel operators to remain shoreside during dangerous weather conditions.

Classification

NMFS prepared a FRFA, a copy of which is available from the Council
(see ADDRESSES).

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 671

Fisheries, Reporting and recordkeeping requirements.

Dated: May 25, 1994.

Charles Karnella,
Acting Assistant Administrator for Fisheries, National Marine
Fisheries
Service.

For the reasons set out in the preamble, 50 CFR part 671 is amended
as follows:

PART 671--KING AND TANNER CRAB FISHERIES OF THE BERING SEA AND ALEUTIAN ISLANDS

1. The authority citation for part 671 continues to read as follows:

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

2. Section 671.20 is removed and reserved.

[FR Doc. 94-13303 Filed 5-26-94; 3:13p.m.]

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