

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 650**

[I.D. 042996G]

New England Fishery Management Council; Public Hearing

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

ACTION: Public hearing; request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold a public hearing to seek input on Amendment 5 to the Atlantic Sea Scallop Fishery Management Plan (FMP). Amendment 5 would close an area to some fishing activities over an 18-month period to allow an experiment and demonstration project involving sea scallop research, resource enhancement, and aquaculture.

DATES: Written comments must be received on or before June 4, 1996. The hearing will be held on Friday, May 17, 1996, at 1 p.m.

ADDRESSES: Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097. Copies of proposed Amendment 5 will be available at the hearing, but may be obtained in advance by calling or writing the Council office.

The hearing will take place at the University of Massachusetts Cranberry Experiment Station, Glen Charlie Road, Wareham, MA; telephone: (508) 295-2212.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, (671) 231-0422.

SUPPLEMENTARY INFORMATION: Fishermen and any other interested members of the public are encouraged to attend this hearing to review a proposal to amend the FMP. Amendment 5 would establish a temporary experimental use area in Federal waters approximately 12 miles (22.22 km) southwest of Martha's Vineyard. During the 18-month-long project, the area would be used to determine whether it is feasible to enhance wild stocks through bottom seeding, and to study the interactions of the harvesting gear, sea scallops and their habitat, open-ocean pen engineering, and the growth rates of transferred juvenile brood stock in both pen culture and open bottom culture.

Otter trawling, mid-water trawling and the use of other mobile gear, shellfish dredging and gillnetting would be prohibited within the 9 square-mile (23.31 square-km) site. Other fishing gear such as lobster traps and longline gear would be controlled but allowed within the area and the operation of hand gear would not be restricted. If the project is approved, the Council will amend the FMP accordingly.

Discussion of this issue will be included on the agenda at the Council's June 5-6, 1996, meeting at the King's Grant Inn, Danvers, MA. There will be an opportunity for public comment at that time.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: May 6, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96-11772 Filed 5-9-96; 8:45 am]

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50 CFR Part 673

[Docket No. 960502124-6124-01; I.D. 042396B]

RIN 0648-AF81

Scallop Fishery off Alaska; Federal Management Regime

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

ACTION: Proposed rule; proposed 1996 scallop harvest specifications; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 1 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMP). Amendment 1 would establish a Federal management regime for the scallop fishery in Federal waters off Alaska. The management measures proposed under Amendment 1 include: Gear and efficiency restrictions, scallop registration areas and districts, procedures for specifying total allowable catch (TAC) and crab bycatch limits (CBLs), time and area closures, inseason management authority, fishing seasons, and observer coverage requirements. This action is necessary to further the conservation and management objectives of the FMP and

the Magnuson Fishery Conservation and Management Act (Magnuson Act).

DATES: Comments must be received by June 21, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel. Copies of the proposed FMP amendment and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907-586-7228.

SUPPLEMENTARY INFORMATION:**Background**

The scallop fishery in the exclusive economic zone (Federal waters) off Alaska is managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Act. The FMP was approved by NMFS on July 26, 1995. The only management measure currently authorized under the FMP is an interim closure of Federal waters off Alaska to fishing for scallops for 1 year, or until an amendment to the FMP is prepared that would provide for a managed fishery in Federal waters. The interim closure will expire on August 28, 1996. Regulations implementing the FMP are set out at 50 CFR part 673. General regulations that also affect fishing in Federal waters are set out at 50 CFR part 620. The history of the scallop fishery off Alaska, as well as the events leading up to the interim closure of Federal waters are described in the FMP and in the preambles to the proposed and final rules implementing the FMP (60 FR 24822, May 10, 1995, and 60 FR 42070, August 15, 1995, respectively).

In June 1995, the Council adopted Amendment 1 to the FMP, which would authorize Federal management measures to replace the interim closure of Federal waters to fishing for scallops. The Council's preferred alternative for Amendment 1 was to incorporate certain State of Alaska (State) management measures into the Federal regulations and implement a vessel moratorium based on criteria adopted in April 1994 and reaffirmed in January 1995. Eighteen vessels would qualify under the moratorium. The Council subsequently separated the moratorium from Amendment 1 and will propose a vessel moratorium as Amendment 2. Such action was taken to prevent moratorium issues from delaying the reopening of the fishery.

At its January 1993 meeting, the Council determined that unrestricted access to the scallop fishery may be harmful to the resource and result in a net loss to the Nation. The Council announced a control date of January 20, 1993, to place the industry on notice that a moratorium for this fishery may be implemented and any person or fishing vessel that entered the scallop fisheries in Federal waters off Alaska would not be assured of future access to those fishery resources if a moratorium is implemented. This control date was again reaffirmed at the Council's June 1993 and June 1995 meetings. The January 20, 1993, control date, which was published in the Council's newsletter, means that fishermen and/or vessels not participating in the fishery by that date may not be guaranteed future access to the fishery. NMFS notifies current and future participants in the scallop fisheries that landings made after January 20, 1993, may not count toward allocations of catch under future Federal management and may not be guaranteed future access to the scallop fishery.

The regulations proposed under Amendment 1 were developed in coordination with the Council and the State, and are designed to complement current State management of the scallop fishery. These proposed regulations would not preclude the State from imposing additional regulations on State registered vessels fishing in Federal waters, so long as State regulations are consistent with the FMP and its implementing regulations. The following explains each aspect of the proposed rule.

Gear and Efficiency Restrictions

The primary purpose for restrictions on fishing gear and processing efficiency is to prevent overfishing of undersize scallops. Restrictions on the ring size of scallop dredges are designed to prevent the harvest of juvenile scallops. Limits on dredge widths, crew size, and automatic shucking machines are designed to discourage vessels from targeting on juvenile scallops. The amount of scallops that can be processed on board vessels depends on how fast the scallops can be sorted and shucked. Because larger scallops are worth more per meat, and take the same amount of processing time as small scallops, a limited crew size and a ban on automatic shucking machines would provide an economic incentive for vessels to target larger sized, higher yield, mature scallops. Efficiency limits would also tend to allocate the resource evenly among vessels, regardless of an

individual vessel's potential harvesting capacity.

The following gear and efficiency restrictions are proposed:

1. The inside ring diameter on all dredges used or carried by a vessel fishing for weathervane scallops (*Patinoplectin caurinus*) must be 4 inches (10.16 cm) or larger.
2. The inside ring diameter on all dredges used or carried by a vessel fishing for scallops other than weathervane scallops must be 3 inches (7.62 cm) or larger.
3. No person may use chafing gear or other devices that decrease the legal inside ring diameter of a scallop dredge.
4. Except as provided in item 5 below, no more than two scallop dredges may be operated at one time from a vessel, and the opening of a scallop dredge must be equal to or less than 15 ft (4.57 m) wide.
5. In the Kamishak, Southern, and Central Districts of Scallop Registration Area H, no more than one scallop dredge may be operated at one time from a vessel, and the opening of a dredge may not be more than 6 ft (1.83 m) in width.
6. Scallops must be shucked by hand only. A shucking machine must not be on board a vessel that is fishing for scallops or that has scallops on board.
7. No vessel fishing for scallops in Federal waters may have aboard more than 12 persons, exclusive of the Alaska Department of Fish and Game (ADF&G) or NMFS observers.

Registration Areas

The management area covered under the FMP comprises the Federal waters off Alaska south of the Bering Strait. The cooperative State-Federal management approach outlined in the FMP requires that ADF&G and NMFS use the same registration areas to manage the scallop fishery. This proposed rule would establish nine scallop registration areas composed of the Federal waters and adjacent State waters described in each area. The nine scallop registration areas correspond to the Southeastern, Yakutat, Prince William Sound, Cook Inlet, Kodiak, Alaska Peninsula, Dutch Harbor, Adak, and Bering Sea portions of the State. These scallop registration areas are identical to the nine State scallop registration areas described in State regulations at 5 AAC 38.076(b). The Yakutat, Cook Inlet, and Kodiak scallop registration areas would be subdivided into districts to allow for more precise management of scallop resources in these areas.

Optimum Yield and Overfishing

The FMP establishes the Optimum Yield (OY) for the scallop fishery as a numeric range based on the long-term productivity of the scallop resource and is derived from historical catches since 1978. At present, the FMP establishes an OY for the scallop fishery in Federal waters as a range from zero to 1.1 million lb (0–499.0 mt) of shucked scallop meat. Because NMFS and the State have agreed to manage the scallop fishery within each registration area as a unit throughout Federal and State waters, Amendment 1 also would raise the upper end of the OY range to 1.8 million lb (816.5 mt) to reflect historical catches in State waters.

Under the FMP, overfishing for scallops is defined as landings that exceed OY. Overfishing could be defined as a fishing mortality rate for scallops, based on existing life history data, but the lack of stock assessment information (surveys, population age or size structure) limits the use of a mortality rate-based overfishing definition at this time. Therefore, Amendment 1 does not propose to change the definition of "overfishing" contained in the FMP. As data collected from the fishery and/or assessment surveys of the scallop resource are analyzed, the definition of "overfishing" for scallops could be changed to a fishing mortality rate basis.

Harvest Limits

The management measures proposed by this rule would allow NMFS to specify annual scallop TACs and CBLs. In registration areas where the scallop fishery has occurred traditionally, and where ADF&G has established Guideline Harvest Levels (GHLs), NMFS would establish annual TACs equal to a specified total weight of shucked scallop meat. These areas include all or parts of Scallop Registration Areas A (Southeastern), D (Yakutat), E (Prince William Sound), H (Cook Inlet), K (Kodiak), and O (Dutch Harbor). In areas where bycatch of crab is a concern, NMFS would specify annual CBLs for red king crab and Tanner crab species. These areas include all or parts of Scallop Registration Areas K (Kodiak), M (Alaska Peninsula), O (Dutch Harbor), Q (Bering Sea), and R (Adak). In areas where an adequate historic scallop catch record does not exist (areas M, Q, and R), TACs would not be specified numerically. Instead, annual TACs in those areas would simply be equal to the total weight of shucked scallop meat that could be harvested under the specified CBLs, the sum of which cannot exceed a level equal to the upper

end of the OY range minus the sum of the TACs in Registration Areas A, D, E, H, K, and O. The total amount of scallops harvested under these CBLs is expected to be within conservation limits and the total scallop harvest off Alaska cannot exceed the upper end of the OY range of 1.8 million lb (816.5 mt). The CBLs are expected to limit total catch to a fraction of what would be available under a TAC specified for scallops while continuing to allow the fishing fleet adequate opportunity to explore and harvest scallop stocks while protecting the crab resource.

Annual TACs and CBLs may be adjusted based on a review of the biological condition of each scallop or crab bycatch species or socioeconomic considerations that are consistent with the goals and objectives of the FMP. Biological assessments will include, where practicable, updated estimates of maximum sustainable yield and acceptable biological catch; historical catch trends and current catch statistics; assessments of alternative harvesting strategies; and relevant information related to changes in scallop markets.

In Scallop Registration Area Q (Bering Sea), the Council recommended that the annual red king crab bycatch limit be set within a range of 500 to 3,000 crab. The Council also recommended that bycatch limits for Tanner crab be specified annually based on a percentage of the best available estimate of crab abundance, which is derived each year from NMFS survey data. The Council approved the following percentages for Tanner crab species: *Chionoecetes opilio*, 0.003176 percent and *Chionoecetes bairdi*, 0.13542 percent which would equate to about 275,000 *opilio* and 257,000 *bairdi* crab based on the 1995 NMFS crab survey data.

Procedure for Specifying TACs and CBLs

Amendment 1 proposes an annual process whereby the Council would announce the State's most recent recommendations for scallop TACs and CBLs and the bases for the recommendations to the public and provide copies of the information upon request. Copies of the annual Stock Assessment and Fishery Evaluation (SAFE) report would also be made available at this time. The Council would notify the public of its intent to develop final recommendations at a subsequent Council meeting (usually April) and solicit public comment both before and during that meeting. After considering the SAFE report, public comments, and other relevant information, the Council would submit its TAC and CBL recommendations

along with the rationale and supporting information to NMFS for review and implementation. As soon as practicable, after receiving recommendations from the Council and ADF&G, NMFS would publish in the Federal Register annual specifications of TAC and CBLs for the following fishing year. To accommodate the annual specification process, the scallop fishing year would be a 12-month period starting July 1 and ending June 30 of the following year.

Time and Area Closures

Specific Federal waters are proposed to be closed to fishing for scallops to prevent dredging in biologically critical habitat areas. These include locations of high bycatch of crab, nursery areas for young fish and shellfish, and walrus rookeries. Under this proposed rule, all Federal waters that are currently closed to trawling for groundfish with nonpelagic trawl gear for the purpose of habitat protection, limiting crab bycatch or protecting walrus rookeries and Stellar sea lion areas would also be closed to dredging for scallops. These areas are described at § 672.24 (d) and (e); § 675.22 (a), (b), and (f); and § 675.24(g). These Federal closures would not preclude the State from closing additional areas within State or Federal waters to scallop fishing by State-registered vessels.

Inseason Management Authority

This management measure would allow NMFS to make inseason adjustments such as the closure, extension, opening or reopening of a season in all or part of the Federal waters of a scallop registration area; and the adjustment of TACs or CBLs. Any inseason adjustment would be made in accordance with the procedures for inseason adjustments in the groundfish fisheries off Alaska set out at § 672.22.

Fishing Seasons

Under this rule, fishing seasons in Federal waters would be established that complement the fishing seasons currently established by the State for each scallop registration area. The State established fishing seasons in coordination with industry to focus the scallop fishery during time periods when the quality of scallop meats is highest and the bycatch of molting crab is lowest. Fishing for scallops in the Federal waters off Alaska would be authorized from 0001 hours, A.I.t., July 1, through 2400 hours, A.I.t., June 30 of the following year, except as follows: (1) In Scallop Registration Areas A, D, and E, the fishing season would run from 1200 hours, A.I.t., January 10 through 2400 hours, A.I.t., June 30; (2) in Scallop

Registration Areas K, M, O, Q, and R, the fishing season would run from 1200 hours, A.I.t., July 1 through 1200 hours, A.I.t., February 15 of the following year; and (3) in the Kamishak District of Scallop Registration Area H, the fishing season would run from 1200 hours, A.I.t., August 15 through 1200 hours, A.I.t., October 31.

Observer Coverage Requirements

Except for vessels under 80 ft (24.4 m) length overall fishing in Registration Area H (Cook Inlet), all vessels fishing for scallops would be required to carry a NMFS or ADF&G-certified scallop observer at all times. Operators of vessels required to carry an observer would be required to meet all of the safety and conduct requirements currently in place for the groundfish fisheries off Alaska set out at § 677.10 (c) and (g).

Proposed Total Allowable Catch Specifications

Table 1 shows proposed TACs for the period [insert effective date of the final rule] through June 30, 1997. These proposed TACs reflect the most recent GHs established by the State. In the absence of surveys, the State established the upper GH for the Yakutat, Kodiak, and Dutch Harbor Registration Areas as the average of the historic catch from 1969 to 1994 minus years when no fishery and "fishing-up effect" occurs. The term "fishing-up effect" is used to describe the initial exploitation phase of a new fishery or removal of accumulated stock. The recent development of scallop fisheries in Prince William Sound and Cook Inlet necessitates use of methods other than averaging historic catch data for estimating TACs. The proposed TACs for the Prince William Sound and Cook Inlet Registration Areas are based on estimates of exploitable biomass, a 10 percent harvest rate and a conversion factor of 10 percent average meat weight to total animal weight. Exploitable biomass for Prince William Sound is calculated using area swept methods with information from fishermen on bed size, average towing speed, and pounds per tow. Exploitable biomass for the Kamishak District in Cook Inlet is also calculated using areas swept methods, however, input data are from an ADF&G survey conducted in 1984.

Registration areas exhibiting sporadic catch and effort preclude estimation of TACs by the above methods. To allow exploratory fishing in these registration areas, the State established conservative CBLs under which some exploratory scallop fishing may occur but at levels that are not likely to overharvest the

scallop stocks in those areas. Similarly, the Council recommended a conservation approach. In registration areas for which no specified numerical amount is provided for the TAC in Table 1, the TAC would equal the total weight of shucked scallop meats that can be harvested under the CBLs specified for those areas. In no case would the total amount harvested in all areas result in a harvest that would exceed the upper end of the OY range.

The only known commercially viable scallop beds in Southeast Alaska are found in the Fairweather Grounds in District 16. For purposes of scallop management, this district has been shifted from the Registration Area A (Southeastern) to the adjacent Registration Area D (Yakutat). Because there are no other known commercially viable scallop beds in Registration Area A, the TAC for this area is set at zero. Vessel operators wishing to explore for

new scallop beds in this area would apply for an experimental fishing permit under §672.6 of this part.

Under Amendment 1, scallops may be taken in Registration Areas D (Yakutat) and E (Prince William Sound) from 1200 hours, A.l.t., January 10 through 2400 hours, A.l.t., June 30. Should NMFS approve Amendment 1 to the scallop FMP, the TACs and CBLs for these registration areas would become available January 10, 1997.

TABLE 1.—SCALLOP TAC AMOUNTS FOR THE PERIOD [INSERT EFFECTIVE DATE OF FINAL RULE] THROUGH JUNE 30, 1997 IN POUNDS OF SHUCKED SCALLOP MEATS BY SCALLOP REGISTRATION AREA AND DISTRICT [Kilograms in parentheses]¹

Scallop registration area	TAC
Registration Area A (Southeastern)	Zero.
Registration Area D (Yakutat):	
District 16	35,000 (15,880 kg).
All other districts	250,000 (113,430 kg).
Registration Area E (Prince William Sound)	50,000 (22,686 kg).
Registration Area H (Cook Inlet):	
Kamishak District	20,000 (9,074 kg).
Registration Area K (Kodiak)	400,000 (181,488 kg).
Registration Area O (Dutch Harbor)	170,000 (77,132 kg).

¹ Scallop TAC amounts for Registration Areas M, Q, R and all other districts in Registration Area H (other than the Kamishak District) equal the total weight of shucked scallop meat taken under the CBLs established for those areas in Table 2, not to exceed a total of 875,000 lb (396.9 mt).

Proposed Crab Bycatch Limits

Table 2 shows proposed CBLs for the period [insert effective date of final rule] through June 30, 1997. These proposed CBLs reflect the most recent CBLs established by the State. In Registration areas or districts where red king crab or tanner crab abundance is sufficient to support a commercial crab fishery, the State established CBLs for the scallop

fishery at 1 percent of the most recent estimate of red king crab or Tanner crab abundance. In registration areas or districts where red king crab or tanner crab abundance is insufficient to support a commercial fishery, the State established CBLs at 0.5 percent of the most recent estimate of red king crab or Tanner crab abundance.

In the Bering Sea Registration Area, the Council recommended that the

annual red king crab CBL be set within a range of 500 to 3,000 crab. Because red king crab abundance in the Bering Sea is at an all time low, NMFS proposes a CBL at the lower end of the Council's range, or 500 crab. Proposed Tanner Crab CBLs for the Bering Sea Registration Area are based on percentages of total crab abundance approved by the Council.

TABLE 2.—CRAB BYCATCH LIMITS FOR THE PERIOD [INSERT EFFECTIVE DATE OF FINAL RULE] THROUGH JUNE 30, 1997 IN NUMBERS OF CRABS BY SCALLOP REGISTRATION AREA AND DISTRICT

Scallop registration area	Red king	C. bairdi	C. opilio
Area E (Prince William Sound)		630	
Area H (Cook Inlet):			
Kamishak District	40	15,900	
Outer/Eastern Districts	98	2,170	
Area K (Kodiak):			
Shelikof District	22	16,100	
Northeast District	66	130,000	
Area M (Alaska Peninsula)	435	22,800	
Area O (Dutch Harbor)	10	10,700	
Area Q (Bering Sea)	500	257,000	275,000
Area R (Adak)	50	10,000	

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS publish proposed regulations within 15 days of receipt of an FMP amendment and regulations from a Council. At this time NMFS has not determined that the FMP amendment that this rule would

implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

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

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social

impacts of the alternatives. The RIR also estimates the total number of small entities affected by this action and analyzes the economic impact on those small entities. Copies of the RIR can be obtained from NMFS (see ADDRESSES).

The Council has prepared an IRFA as part of the RIR, which describes the impact this proposed rule would have on small entities, if adopted. The analysis shows that the economic effects of this proposed rule to the regulated community would be significant and positive in that it would repeal the closure of Federal waters to fishing for scallops. In 1994, 86 percent of the scallops harvested off Alaska were taken from Federal waters and 11 of the 16 vessels harvesting scallops participated in no other fishery. A copy of this analysis is available from the Council (see ADDRESSES).

List of Subjects in 50 CFR Part 673 Fisheries.

Dated: May 6, 1996.

Gary Matlock,

Program Management Officer, National
Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 673 is proposed to be amended as follows:

PART 673—SCALLOP FISHERY OFF ALASKA

1. Part 673 is revised to read as follows:

- Sec.
- 673.1 Purpose and scope.
 - 673.2 Definitions.
 - 673.3 Prohibitions.
 - 673.4 Gear limitations.
 - 673.5 Registration areas.
 - 673.6 General limitations.
 - 673.7 Inseason adjustments.
 - 673.8 Seasons.
 - 673.9 Observer requirements.

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

§ 673.1 Purpose and scope.

(a) These regulations implement the Fishery Management Plan for the Scallop Fishery off Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Act.

(b) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska.

(c) State of Alaska laws that are consistent with the regulations in this part are not preempted for vessels registered under the laws of the State fishing for scallops in the Federal waters off Alaska.

§ 673.2 Definitions.

In addition to the definitions in the Magnuson Act and in §§ 620.2 and

672.2 of this chapter, the terms used in this part have the following meanings:

CBL means crab bycatch limit.

Scallop(s) means any scallop species of the family Pectinidae, including without limitation weathervane scallops (*Patinopecten caurinus*).

Scallop dredge means gear consisting of a mouth frame attached to a holding bag constructed of metal rings or any other modification to this design that can be or is used in the harvest of scallops, or the taking of scallops by means of such gear.

Shucking machine means any mechanical device that automatically removes the meat or the adductor muscle from the shell.

§ 673.3 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to violate any provision of this part.

§ 673.4 Gear limitations.

(a) The inside ring diameter on all dredges used or carried by a vessel fishing for weathervane scallops (*Patinopecten caurinus*) must be 4 inches (10.16 cm) or larger.

(b) The inside ring diameter on all dredges used or carried by a vessel fishing for scallops other than weathervane scallops must be 3 inches (7.62 cm) or larger.

(c) No person may use chafing gear or other devices that decrease the legal inside ring diameter of a scallop dredge.

(d) Except as provided in paragraph (e) of this section, no more than two scallop dredges may be operated at one time from a vessel, and the opening of a scallop dredge must be equal to or less than 15 ft (4.57 m) wide.

(e) In the Kamishak, Southern, and Central Districts of Scallop Registration Area H defined under § 673.5, no more than one scallop dredge may be operated at one time from a vessel, and the opening of a dredge may not be more than 6 ft (1.83 m) in width.

(f) Scallops must be shucked by hand only. A shucking machine must not be on board a vessel that is fishing for scallops or that has scallops on board.

(g) No vessel fishing for scallops in Federal waters may have aboard more than 12 persons, exclusive of ADF&G or NMFS observers.

§ 673.5 Registration areas.

For the purpose of managing the scallop fishery, the Federal waters off Alaska and adjacent State waters are divided into nine scallop registration areas. Three scallop registration areas are further subdivided into districts. The scallop registration areas and districts are defined as follows:

(a) *Registration Area A* (Southeastern) has as its southern boundary the international boundary at Dixon Entrance, and as its northern boundary Loran-C line 7960-Y-29590, which intersects the western tip of Cape Fairweather at 58°47'58" N. lat., 137°56'30" W. long., except for ADF&G District 16 defined under paragraph (b) of this section.

(b) *Registration Area D* (Yakutat) has as its western boundary the longitude of Cape Suckling (143°53' W. long.), and as its southern boundary Loran-C line 7960-Y-29590, which intersects the western tip of Cape Fairweather at 58°47'58" N. lat., 137°56'30" W. long., and ADF&G District 16 defined as all waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

(c) *Registration Area E* (Prince William Sound) has as its western boundary the longitude of Cape Fairfield (148°50' W. long.), and its eastern boundary the longitude of Cape Suckling (143°53' W. long.).

(d) *Registration Area H* (Cook Inlet) has as its eastern boundary the longitude of Cape Fairfield (148°50' W. long.) and its southern boundary the latitude of Cape Douglas (58°52' N. lat.).

(1) *Northern District*: North of a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, then to a point on the west shore at 60°46'23" N. lat.

(2) *Central District*: All waters between a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, to a point on the west shore at 60°46'23" N. lat., and the latitude of Anchor Point Light (59°46'12" N. lat.).

(3) *Southern District*: All waters enclosed by a line from Anchor Point Light west to 59°46'12" N. lat., 152°20' W. long., then south to 59°03'25" N. lat., 152°20' W. long., then in a northeasterly direction to the tip of Cape Elizabeth at 59°09'30" N. lat., 151°53' W. long., then from the tip of Cape Elizabeth to the tip of Point Adam at 59°15'20" N. lat., 151°58'30" W. long.

(4) *Kamishak Bay District*: All waters enclosed by a line from 59°46'12" N. lat., 153°00'30" W. long., then east to 59°46'12" N. lat., 152°20' W. long., then south to 59°03'25" N. lat., 152°20' W. long., then southwesterly to Cape Douglas (58°52' N. lat.). The seaward boundary of the Kamishak Bay District is 3 nautical miles seaward from the shoreline between a point on the west shore of Cook Inlet at 59°46'12" N. lat., 153°00'30" W. long., and Cape Douglas at 58°52' N. lat., 153°15' W. long., including a line three nautical miles

seaward from the shorelines of Augustine Island and Shaw Island, and including the line demarking all state waters shown on NOAA chart 16640, 21st Ed., May 5, 1990.

(5) *Barren Island District*: All waters enclosed by a line from Cape Douglas (58°52' N. lat.) to the tip of Cape Elizabeth at 59°09'30" N. lat., 151°53' W. long., then south to 58°52' N. lat., 151°53' W. long., then west to Cape Douglas.

(6) *Outer District*: All waters enclosed by a line from the tip of Point Adam to the tip of Cape Elizabeth, then south to 58°52' N. lat., 151°53' W. long., then east to the longitude of Aligo Point (149°44'33" W. long.), then north to the tip of Aligo Point.

(7) *Eastern District*: All waters east of the longitude of Aligo Point (149°44'33" W. long.), west of the longitude of Cape Fairfield (148°50' W. long.), and north of 58°52' N. lat.

(e) *Registration Area K* (Kodiak) has as its northern boundary the latitude of Cape Douglas (58°52' N. lat.), and as its western boundary the longitude of Cape Kumlik (157°27' W. long.).

(1) *Northeast District*: All waters northeast of a line extending 168° from the easternmost tip of Cape Barnabas, east of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, east of 152°30' W. long. in Shuyak Strait, and east of the longitude of the northernmost tip of Shuyak Island (152°20' W. long.).

(2) *Southeast District*: All waters southwest of a line extending 168° from the easternmost tip of Cape Barnabas and east of a line extending 222° from the southernmost tip of Cape Trinity.

(3) *Southwest District*: All waters west of a line extending 222° from the southernmost tip of Cape Trinity, south of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak and east of the longitude of Cape Kilokak (156°19' W. long.).

(4) *Semidi Island District*: All waters west of the longitude of Cape Kilokak at 156°19' W. long. and east of the longitude of Cape Kumlik at 157°27' W. long.

(5) *Shelikof District*: All waters north of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak, west of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, west of 152°30' W. long., in Shuyak Strait, and west of the longitude of the northernmost tip of Shuyak Island (152°20' W. long.).

(f) *Registration Area M* (Alaska Peninsula) has as its eastern boundary the longitude of Cape Kumlik (157°27' W. long.), and its western boundary the

longitude of Scotch Cap Light. The registration area also includes all waters of Bechevin Bay and Isanotski Strait south of a line from the easternmost tip of Chunak Point to the westernmost tip of Cape Krenitzen.

(g) *Registration Area O* (Dutch Harbor) has as its northern boundary the latitude of Cape Sarichef (54°36' N. lat.), as its eastern boundary the longitude of Scotch Cap Light, and as its western boundary 171°W. long., excluding the waters of Statistical Area Q.

(h) *Registration Area Q* (Bering Sea) has as its southern boundary a line from Cape Sarichef (54°36' N. lat.), to 54°36' N. lat., 171°W. long., to 55°30' N. lat., 171°W. long., to 55°30' N. lat., 173°30' E. long., as its northern boundary the latitude of Point Hope (68°21' N. lat.).

(i) *Registration Area R* (Adak) has as its eastern boundary 171° W. long., and as its northern boundary 55°30' N. lat.

§ 673.6 General limitations.

(a) *Harvest limits*—(1) *General*. NMFS will establish total allowable catch (TAC) amounts and CBLs for the scallop fishery off Alaska according to the procedures described under this section. The total annual TAC amount for scallops off Alaska will be established within the OY range of 0–1.8 million lb (0–815.5 mt) of shucked scallop meats.

(2) *Annual TACs*. (i) The annual TACs for scallops in Registration Areas A, D, E, H, K, and O will be established as a weight in pounds of shucked scallop meats based on a review of the following:

(A) Assessments of the biological condition of each scallop species. Assessments will include, where practicable, updated estimates of MSY and ABC; historical catch trends and current catch statistics, reviews of alternative harvesting strategies; and relevant information relating to changes in scallop markets.

(B) Socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(ii) The annual TACs in Registration Areas M, Q, and R will equal the weight in pounds of shucked scallop meats harvested under CBLs specified for these areas under paragraph (3) of this section. The sum of TACs in Registration Areas M, Q, and R may not exceed an amount equal to the upper end of the OY range minus the sum of the TACs in Registration Areas A, D, E, H, K, and O.

(iii) Annual scallop TACs will be specified for the 12-month time period extending from July 1 through June 30 of the following year. An annual TAC amount is available for harvest only for the registration area or district specified,

only during the applicable season set out in § 673.8, and only if no closure or other restriction or limitation is applicable.

(3) *Crab bycatch limits*. (i) CBLs may be specified for red king crab and Tanner crab species for any registration area or district.

(ii) Except as provided under paragraph (a)(3)(iii) of this section, annual CBLs will be based on the biological condition of each crab species, historical bycatch rates in the scallop fishery, and other socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(iii) Annual CBLs in Registration Area Q will equal the following amounts:

(A) The CBL for red king crab caught while conducting any fishery for scallops will be specified within the range of 500 to 3,000 crab based on the considerations listed in paragraph (a)(3)(ii) of this section.

(B) The CBL for *Chionoecetes opilio* Tanner crab caught while conducting any fishery for scallops is 0.003176 percent of the best available estimate of *C. opilio* abundance in Registration Area Q.

(C) The CBL for *Chionoecetes bairdi* Tanner crab caught while conducting any fishery for scallops is 0.13542 percent of the best available estimate of *C. bairdi* abundance in Registration Area Q.

(iv) Annual CBLs will be specified for the 12-month time period from July 1 through June 30 of the following year. An annual CBL may be utilized only for the registration area or district specified, only if any applicable TAC amount is available for harvest, only during the applicable season set out in § 673.8, and only if no closure or other limitation or restriction is applicable.

(b) *Specifications*. The following procedure is established for specifying TAC amounts and CBLs:

(1) On an annual basis, prior to the April Council meeting, the Council will distribute a summary of the State's most recent TAC and CBL recommendations and supporting documentation to the public through its mailing list, as well as provide copies of the recommendations, documentation, and the annual Stock Assessment and Fishery Evaluation (SAFE) report to the public upon request. The Council will notify the public of its intent to develop final recommendations at the April Council meeting and solicit public comment both before and during the April Council meeting.

(2) Following the April Council meeting, the Council will submit its TAC and CBL recommendations along

with rationale and supporting information to NMFS for review and implementation.

(3) As soon as practicable after receiving recommendations from the Council, NMFS will publish in the Federal Register annual specifications of TAC amounts and CBLs for the succeeding 12-month period extending from July 1 through June 30 of the following year.

(c) *Notices of closure.* (1) If the Director, Alaska Region, NMFS, determines that a TAC or CBL specified under paragraphs (a) and (b) of this section has been or will be reached, NMFS will publish notification in the Federal Register prohibiting the taking and retention of scallops in the Federal waters of the registration area or district where the notification is applicable.

(2) It is unlawful for any person to conduct any fishing for scallops contrary to the notification of closure issued pursuant to this paragraph.

(d) *Closed areas.* It is unlawful for any person to dredge for scallops in any Federal waters off Alaska that are closed to fishing with trawl gear or non pelagic trawl gear under §§ 672.24(d), 672.24(e), 675.22(a) 675.22(b), 674.22(f), and 675.24(g) of this chapter.

§ 673.7 Inseason adjustments.

(a) Inseason adjustments may be issued by NMFS to implement the closure, extension, opening, or reopening of a season in all or part of a scallop registration area; and the adjustment of TAC amounts or CBLs.

(b) Determinations for any inseason adjustment authorized under paragraph (a) of this section must be consistent with §§ 672.22 (a) and (b) of this chapter.

(c) Procedures for making inseason adjustments are specified at § 672.22(c) of this chapter.

(d) It is unlawful for any person to conduct any fishing for scallops contrary to an inseason adjustment issued pursuant to this section.

§ 673.8 Seasons.

(a) Fishing for scallops in the Federal waters off Alaska is authorized from 0001 hours, A.l.t., July 1, through 2400 hours, A.l.t., June 30, subject to the other provisions of this part, except as provided in paragraphs (b) through (d).

(b) Scallops may only be taken in the Federal waters of Scallop Registration Areas A, D, and E from 1200 hours, A.l.t., January 10 through 2400 hours, A.l.t., June 30, subject to the other provisions of this part.

(c) Scallops may only be taken in the Federal waters of Scallop Registration Areas K, M, O, Q, and R from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t., February 15 of the following year, subject to the other provisions of this part.

(d) Scallops may only be taken in the Federal waters of the Kamishak District of Scallop Registration Area H from 1200 hours, A.l.t., August 15 through 1200 hours, A.l.t., October 31, subject to the other provisions of this part.

§ 673.9 Observer requirements.

(a) Except as provided in paragraph (c) of this section, vessels must carry a NMFS-certified or ADF&G-certified scallop observer at all times while fishing for scallops in Federal waters.

(b) An operator of a vessel required to carry an observer must meet all of the requirements specified at §§ 677.10(c) and 677.10(g) of this chapter.

(c) Vessels less than 80 ft (24.4 m) length overall are exempt from the requirements of this section while fishing for scallops in the Federal waters of Registration Area H.

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