

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.460 is amended by revising paragraphs (a)(12), (b) (1), (2), (3), (4), (5), (6), (7), (9), and (11), and adding a new paragraph at (a)(13), to read as follows:

§ 334.460 Cooper River and tributaries at Charleston, SC.

(a) The areas:

(12) *Danger zone.* That portion of Foster Creek beginning at the point of the southern shoreline of an unnamed tributary of Foster Creek at its intersection with Foster Creek at latitude 32°59'16"N, longitude 79°57'23"W; thence back proceeding along the eastern shoreline to the terminus of the tributary at latitude 32°59'49"N, longitude 79°57'29"W; thence back down the western shoreline of the unnamed tributary to latitude 32°59'15"N, longitude 79°57'26"W. The waters and associated marshes in this danger zone area are subject to impact by rounds and ricochets originating from a small arms range when firing is in progress.

(13) *Danger zone.* Those portions of unnamed tributaries and associated marshes of Back River and Foster Creek that are generally described as lying south of the main shoreline and extending southward to the northern shoreline of Big Island (U.S. Naval Reservation). Specifically, the area beginning at a point on the main shoreline which is the northern shore of an unnamed tributary of Back River at latitude 32°59'19"N, longitude 79°56'52"W, southwesterly to a point on or near the northern shoreline of Big Island at latitude 32°59'11"N, longitude 79°56'59"W; thence northwesterly to a point on the main shoreline, which is the northern shore of an unnamed tributary of Foster Creek, at latitude 32°59'16"N, longitude 79°57'11"W; thence easterly along the main shoreline, which is the northern shore of the unnamed tributaries of Foster Creek and Back River, back to the point of beginning at latitude 32°59'19"N, longitude 79°56'52"W. The waters and associated marshes in this danger zone area are subject to impact by rounds and ricochets originating from a small arms range when firing is in progress.

(b) The regulations:

(1) Unauthorized personnel, vessels and other watercraft shall not enter the restricted areas described in paragraphs (a)(1), (a)(2), and (a)(4) of this section at any time.

(2) Personnel, vessels and other watercraft entering the restricted area described in paragraph (a)(5) of this section, shall proceed at normal speed

and under no circumstances anchor, fish, loiter, or photograph until clear of the restricted area.

(3) Personnel, vessels and other watercraft may be restricted from using any or all of the area described in paragraphs (a)(3) and (a)(6) of this section without first obtaining an escort or other approval from Commander, Naval Base, Charleston, when deemed necessary and appropriately noticed by him/her for security purposes or other military operations.

(4) Personnel, vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the restricted area described in paragraph (a)(8) of this section shall proceed at normal speed, and under no circumstances anchor, fish, loiter, or photograph in any way until clear of the restricted area.

(5) Personnel, vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the areas described in paragraphs (a)(9) and (a)(10) of this section, are prohibited from entering within one-hundred (100) yards of the west bank of the Cooper River, in those portions devoid of any vessels or manmade structures. In those areas where vessels or man-made structures are present, the restricted area will be 100 yards from the shoreline or 50 yards beyond those vessels or other man-made structures, whichever is the greater. This includes the area in paragraph (a)(10) of this section.

(6) In the interest of National Security, Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, may at his/her discretion, restrict passage of persons, watercraft and vessels in the areas described in paragraphs (a)(7) and (a)(11) of this section until such time as he/she determines such restriction may be terminated.

(7) All restricted areas and all danger zones and the approaches leading to the danger zones will be marked with suitable warning signs.

(9) The regulations in this section for the danger zones described in paragraphs (a)(12) and (a)(13) of this section and the regulations described in paragraphs (b) (4), (5) and (6) of this section, shall be enforced by the Commanding Officer, Naval Weapons Station Charleston, SC, and such agencies as he/she may designate.

(11) The unauthorized entering or crossing of the danger zones described in paragraphs (a)(12) and (a)(13) of this

section by all persons, watercraft and vessels is prohibited at all times unless specifically authorized by the Commanding Officer of the U.S. Naval Weapons Station Charleston, SC.

Dated: August 29, 1996.

John P. D'Aniello,

Deputy Director of Civil Works.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960830240-6240-01; I.D. 082796A]

RIN 0648-AH28

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Closure to Protect Red King Crab

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

ACTION: Proposed rule and supplemental proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 37 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This rule would implement trawl closure areas in portions of Bristol Bay, adjust the prohibited species catch limit for red king crab in Zone 1 of the Bering Sea, and increase observer coverage in specified areas related to the trawl closures. These measures are necessary to protect red king crab in Bristol Bay, which has declined to a level that presents a serious conservation problem for this stock. They are intended to accomplish the objectives of the North Pacific Fishery Management Council (Council) with respect to fishery management in the Bering Sea and Aleutian Islands Management area (BSAI).

DATES: Comments must be submitted by October 28, 1996.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory

Flexibility Analysis (EA/RIR/IRFA) prepared for the proposed rule may be obtained from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the FMP. The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) (Magnuson Act), and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR part 679.

Bering Sea crab stocks are currently at relatively low levels based on 1995 NMFS bottom trawl survey data, which indicated that exploitable biomass of Bristol Bay red king crab is at about one-fifth record levels. The red king crab stock is at its lowest level since the fishery was closed after the first stock collapse in 1983. In 1994 and 1995, Bristol Bay was closed to red king crab fishing because the number of female red king crab had declined below the threshold of 8.4 million crab. Under the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands (Crab FMP), the commercial red king crab fishery is closed entirely when a red king crab stock component is at or near the threshold. In addition, the annual trawl surveys indicated little prospect for increased recruitment of mature males or females, and low female spawning biomass. Also, the area east of 163° W. long. was closed to Tanner crab fishing to minimize the bycatch of female red king crab.

In view of the declining red king crab stock and the need to further protect and conserve red king crab in the Bristol Bay area of the Bering Sea, NMFS issued an emergency rule in 1995 (60 FR 4866, January 25, 1995), which established and closed the Red King Crab Savings Area (RKCSA) to all trawling. At its September 1995 meeting, the Council adopted Amendment 37 to the FMP to close the RKCSA from January 20 to March 31 each year. In 1996, NMFS closed the RKCSA by inseason adjustment (60 FR 63451, December 11, 1995) from January 20 to March 31, 1996. Continued low abundance of crab stocks caused the Council to express additional concerns about opening the RKCSA and resulted in a recommendation at the January 1996

Council meeting for an extension to the 1996 inseason adjustment to close the RKCSA until June 15, 1996 (61 FR 8889, March 6, 1996), to further protect red king crab during the molting and mating period.

The Council then notified the public that it intended to revisit the previous action on Amendment 37 and requested staff to prepare additional information on potential impacts of modifying the closure time to 6 months or to a year-round closure. Based on information provided at its June 1996 meeting, the Council recommended the following expanded management measures under Amendment 37 to protect the declining stocks of red king crab in Bristol Bay:

1. A year-round closure in the RKCSA to directed fishing for groundfish by vessels using non-pelagic trawl gear. A subarea of the RKCSA between 56° and 56°10' N. lat. would open if a guideline harvest level for Bristol Bay red king crab is established. A portion of the annual red king crab prohibited species catch (PSC) limit would be specified for the RKCSA subarea (RKCSS) that, when reached, would result in closure of the RKCSS to vessels fishing with non-pelagic trawl gear;

2. A year-round closure to all trawling in the nearshore waters of Bristol Bay, with the exception that a portion of this area, between 159° and 160° W. long. and between 58° and 58°43' N. lat. would remain open to trawling during the period April 1 to June 15 each year. Existing regulations at § 679.22(a) would be removed. These regulations authorize opening the Port Moller area of reporting areas 512 and 516 to fishing for Pacific cod with trawl gear; and

3. Adjustments to the Zone 1 PSC limit for red king crab taken in trawl fisheries. The PSC limit would be specified annually based on the abundance and biomass of Bristol Bay red king crab.

Increased observer coverage is proposed on all vessels, including vessels using pot, jig, and longline gear, fishing for groundfish in the RKCSA and on trawl vessels fishing in the seasonal open area of the Bristol Bay nearshore waters closure.

Details of and justification for these measures follow:

RKCSA

Based on NMFS' survey data, the 1994 abundance index for legal-sized male Bristol Bay red king crab was 5.5 million crab compared to 7.3 million in 1993. The abundance index for mature female crab declined from 14.2 million crab in 1993 to 7.5 million crab in 1994. The number of mature female red king crab is below the threshold value of 8.4

million crab established pursuant to the Crab FMP.

The 1995 NMFS trawl survey indicated reduced numbers of large red king crab of both sexes in Bristol Bay. Additionally, the abundance of mature females was at or below threshold, and consequently, no fishery was permitted in 1995. Survey indices of abundance for juvenile males and small females were the highest observed in many years. These crab represent the cornerstone of stock rebuilding, as protection of these crab through maturity may result in increased spawning and recruitment in future years.

Analysis of crab distribution data indicates that the RKCSA provides substantial habitat for red king crab. Various size-sex-maturity groups that have been vulnerable to trawling or other commercial fishing gear have been found in the process of molting or in a soft shell condition from the last week of January through the end of June or sometimes later. The timing of molting for various groups varies considerably from year to year, which indicates the need for increased protection of red king crab.

The dates adopted by the Council in September 1995 for the RKCSA closure (January 20–March 31) do not encompass the entire molting and mating period of red king crab. Additionally, unobserved impacts of trawling on softshell crab may impact crab rebuilding and future crab harvests by pot fisheries. Therefore, extended duration of the closure period provides for increased protection of adult red king crab and their habitat.

As a result, at its June 1996 meeting, the Council recommended a year-round closure of the RKCSA to ensure conservation of the red king crab resource in the Bristol Bay area of the Bering Sea. NMFS would prohibit directed fishing for groundfish by vessels using trawl gear, other than pelagic trawl gear, in the RKCSA, that portion of the Bering Sea that is bounded by a straight line connecting the following coordinates in the order listed below:

Latitude	Longitude
56°00' N.	162°00' W.
56°00' N.	164°00' W.
57°00' N.	164°00' W.
57°00' N.	162°00' W.
56°00' N.	162°00' W.

The Council also recommended that a portion of the above-described area, between 56°00' N. lat. and 56°10' N. lat. remain open to non-pelagic trawling for groundfish if a guideline harvest level for Bristol Bay red king crab is established. The RKCSS has been

productive for the rock sole fishery, and an opening of the RKCSS would allow some of the rock sole to be harvested. From 1990 through 1994, the RKCSS accounted for 13 percent to 35 percent of the annual groundfish harvest in the rock sole fishery in Zone 1. However, the RKCSS also has accounted for a relatively high percentage of the Zone 1 red king crab bycatch, ranging from 12 percent to 47 percent during the same period.

If the RKCSS reopened, an amount of the annual Zone 1 red king crab PSC limit would be specified for the RKCSS that, when reached, would result in closure of the RKCSS to vessels fishing with non-pelagic trawl gear. The amount of the Zone 1 red king crab PSC limit specified for the RKCSS would be equivalent to no more than 35 percent of the amount of the red king crab PSC limit apportioned to the rock sole fishery. Trawl vessels fishing in the RKCSS would continue to accrue any associated king crab bycatch against the red king crab bycatch allowance specified for the fishery the vessel is participating in. The RKCSS would be closed to vessels fishing with non-pelagic trawl gear when either the Zone 1 red king crab bycatch limit is reached or the amount of the PSC limit specified for the RKCSS is reached.

Determination of the actual amount of the Zone 1 red king crab bycatch limit for the RKCSS would be specified by NMFS, after consultation with the Council, and based on the need to optimize the groundfish harvest relative to red king crab bycatch.

Further details on the high fishing effort in the RKCSA and the associated high bycatch of red king crab, especially in the rock sole/other flatfish category can be found in the preamble to the 1995 emergency rule (60 FR 4866, January 25, 1995).

Nearshore Bristol Bay Trawl Closure

With the declining crab resource, the Council is also concerned about the protection of juvenile red king crab and critical rearing habitat. Therefore, the Council recommended in addition to the RKCSA closure, that all trawling be prohibited on a year-round basis in the nearshore waters of Bristol Bay in the area east of 162° W. long., which essentially encompasses all of Bristol Bay. Such a closure would also benefit juvenile halibut, seabirds, marine mammals, and spawning herring stocks. The area within 3 mi (4.83 km) of shore within Bristol Bay has been closed to trawling year-round under state regulations (5 AAC 39.165) since 1993.

The area bounded by 159°00' to 160°00' W. long. and 58°00' to 58°43' N.

lat. would remain open to trawling during the period April 1 to June 15 each year. Harvest information indicates that allowing trawling in this area could yield high catches of flatfish and low bycatch of other species. The April 1 to June 15 time period is proposed to reduce bycatch rates of halibut, which move into the nearshore area in June. Sea ice generally prevents fishing operations in northern Bristol Bay before April 1.

The trawl closure north of 58°43' N. lat. is proposed to reduce the potential for high bycatch rates of Pacific herring, a prohibited species in the groundfish fisheries. Increased bycatch rates of herring could increase the potential for reaching trawl fishery bycatch allowances of herring and closure of the Herring Savings Areas under regulations at § 679.21(e)(7)(v). Increased bycatch rates of herring also would precipitate public concern within Western Alaska communities that rely on herring stocks to support subsistence fisheries.

The Council anticipates that the trawl closure area designed to protect juvenile red king crab habitat will maintain and possibly increase recruitment of red king crab. Young-of-the-year red king crab require cobble substrate or epifaunal life forms on which to settle and provide protection from predators. Much of this habitat is already protected by the Area 512 trawl closure. Additional habitat for age-0 red king crab has been found to occur in the shallow waters (<50 m) of Area 508, and in the area north of 58° N. lat.

In addition to establishing the nearshore trawl closure area, the Council also recommended that NMFS remove regulations at § 679.22(a)(1)(ii), (a)(2)(ii), and (a)(3) that allow trawling for Pacific cod in the Port Moller area. The Port Moller exemption area for trawl gear was established in 1987 by Amendment 10 to the FMP. These regulations originally provided an opportunity to fish for Pacific cod with trawl gear in portions of BSAI reporting areas 512 and 516, provided that such fishing was in compliance with a scientific data collection and monitoring program. A separate PSC limit of 12,000 red king crab applied to this area in the advent that trawl operations were allowed. Fisheries for Pacific cod occurred within these areas in 1986 to 1990. Although these regulations provide the authority to open these areas, the authority has not been invoked since 1990.

In light of the current status of red king crab and the fact that a fishery has not occurred in these areas in recent years, the Council recommended that these regulations be removed.

In addition, to maintain consistency with the Council's intent for implementation of Amendment 1 to the Fishery Management Plan for the Scallop Fishery off Alaska (Scallop FMP), NMFS also proposes to amend regulations at § 679.62(d). The Council recommended Amendment 1 to the Scallop FMP in June of 1995 and the final rule implementing this amendment was published on July 23, 1996 (61 FR 38099). Under section 2.5.5 of the Scallop FMP, the Council intended that areas closed to vessels fishing for groundfish with non-pelagic trawl gear to protect red king crab or red king crab habitat would also be closed to scallop dredging to ensure protection of red king crab. Therefore, NMFS is proposing to amend regulations at § 679.62(d), to include the RKCSA and the Nearshore Bristol Bay Trawl Closure area as areas that would also be closed to scallop dredging. Historical data indicate that scallop fishing has not occurred in the RKCSA and the Nearshore Bristol Bay Trawl Closure area; therefore, operators of scallop vessels should not be affected by these closures.

Observer Coverage

All vessels, including vessels using pot, jig, and longline gear, that fish for groundfish in the RKCSA would be required to carry an observer during 100 percent of their fishing days. This provision for increased observer coverage also would apply to vessels using non-pelagic trawl gear to fish for groundfish in the RKCSS when this subarea of the RKCSA is open to non-pelagic trawling. This increased observer requirement is necessary to ensure that operators of vessels using pelagic trawl gear adhere to the current crab performance standard for pelagic trawl gear set out at § 679.7(c)(4) and to more fully monitor crab bycatch in non-pelagic trawl and other gear fishing operations.

For the same reason, the Council also recommended 100 percent observer coverage for trawl vessels fishing for groundfish in the area of the Nearshore Bristol Bay Trawl Closure bounded by 159° and 160° W. long. and 58° and 58°43' N. lat. when this area is open to trawling from April 1 to June 15 each year. The number of vessels that may be affected by the requirement for increased observer coverage is not known and would depend on the current level of observer coverage for individual vessels as well as a vessel operator's decision on whether to fish in the areas subject to increased observer coverage. However, for those vessels that would require increased observer

coverage, the cost per vessel per day is approximately \$200.

The term "fishing days" is defined at § 679.2 for purposes of observer coverage requirements and does not include days during which a vessel only delivers unsorted codends to a processor. Therefore, catcher vessels used only for this purpose would be exempt from increased observer coverage requirements.

The proposed increase in observer coverage outlined above is a supplement to a previous proposed rule published on August 2, 1996 (61 FR 40353), that, if approved by NMFS, would establish 1997 observer coverage levels. Pending their approval, NMFS anticipates the August 2 proposed rule will be effective prior to the effective date of increased observer coverage requirements proposed under this action.

Zone 1 PSC limit

The Council adopted a modification to the 200,000 red king crab PSC limit currently established for Zone 1 and recommended that the PSC limit be annually specified based on the population indicators of Bristol Bay red king crab outlined as follows:

a. When the number of mature female red king crab is equal to or below the threshold number of 8.4 million crab, or the effective spawning biomass (ESB) is less than 14.5 million lb (6,577 mt), the Zone 1 red king crab PSC limit would be 35,000 crabs;

b. When the number of mature female red king crab is above threshold, and the ESB is equal to or greater than 14.5 million lb (6,577 mt) but less than 55 million lb (24,948 mt), the Zone 1 red king crab PSC limit would be 100,000 crab; and

c. When the number of mature female red king crab is above threshold, and the ESB is equal to or greater than 55 million lb (24,948 mt) the Zone 1 red king crab PSC limit would be 200,000 crab.

Crab are caught incidentally during harvest operations for groundfish. One objective of the FMP is to minimize the impact of BSAI groundfish fisheries on crab and other prohibited species while providing for rational and optimal use of the region's fishery resource. All gear types used to catch groundfish have some potential to catch crab incidentally, but most of the crab bycatch occurs in trawl fisheries.

A PSC limit of 135,000 red king crab was established in 1987 for the domestic yellowfin sole/other flatfish fishery in Zone 1. This PSC limit was based on a negotiated agreement between crab and groundfish industry representatives. In 1989, the Zone 1 red king crab PSC limit

was extended to the remaining trawl fisheries and increased to the current level of 200,000 crab. This PSC limit is apportioned among trawl fisheries during the annual specification process as fishery specific bycatch allowances. When a fishery attains its specified bycatch allowance, Zone 1 is closed to that fishery.

The bycatch of red king crab in BSAI groundfish fisheries totaled 48,191 in 1995, which was down significantly from a recent high of 281,023 in 1994. Most red king crab bycatch is taken in the trawl fisheries (97 percent). The rock sole/flathead sole/"other flatfish" fishery accounts for most of the red king crab trawl bycatch. Approximately 80 percent of the red king crab bycatch has been taken from the area encompassed by the existing crab protection Zone 1.

The Council's proposed adjustment to the red king crab PSC limit is an effort to protect further the stocks of Bristol Bay red king crab by limiting the incidental take of this species when the stock is depressed. The proposed criteria for the annual specification of the PSC limit were developed by the BSAI Crab Plan Team, based on input from the Council's Scientific and Statistical Committee, and use the mature female crab threshold number established in the Crab FMP plus the effective spawning biomass annually derived by NMFS and the Alaska Department of Fish and Game as a basis for establishing an annual red king crab PSC limit.

In addition to the above, the EA/RIR/IRFA for Amendment 37 also includes information on and alternatives for bycatch limits for Tanner and snow crab. However, the Council made no recommendations, other than the status quo, on bycatch limits for Tanner and snow crab at this time. The Council indicated that action, other than status quo, may be taken in September 1996. If measures are adopted at that time, they would proceed as a separate FMP amendment.

Economic considerations

Estimates based on the Bering Sea simulation model indicate that the proposed management measures would lead to a slight decrease in the net benefits to the Nation over the status quo based on both the 1993 and 1994 data. The approximately \$1.1 million decrease in net benefits (1993 data) and \$1.3 million decrease in net benefits (1994 data) result in approximately a 0.4 percent and a 0.5 percent decrease of the net benefits to the Nation under status quo from 1993 and 1994 data, respectively. However, given a certain level of uncertainty inherent in the data,

and in the model procedures, these predicted changes in net benefits to the Nation are probably not great enough to indicate an actual change from the status quo.

In general, time area closures cause shifts in groundfish fishery effort. With each additional bycatch restriction, options for the groundfish trawl fleets are reduced and these effort shifts could increase the bycatch of other prohibited species. To some extent, this situation occurred in the rock sole trawl fishery as a result of implementing the RKCSA in 1995 and 1996. However, these tradeoffs will occur with any protection closure that may be implemented.

Other proposed changes to the regulations

NMFS proposes to correct the regulations at § 679.21(e)(7)(iii) to remove an incorrect reference to a Zone 2 red king crab PSC limit. NMFS also proposes to clarify the regulations by rearranging regulatory text. The paragraph that closes the Chum Salmon Savings Area was originally placed in the Prohibited Species management section of regulations at § 679.21. NMFS proposes to redesignate this paragraph from the Prohibited Species Management section at § 679.21(e)(7)(vi)(A)(1) to § 679.22(a)(10), the Closure section. This redesignation would simply move an existing paragraph from one section to another more applicable section to maintain consistency in the placement of closure restrictions.

Classification

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

The Council prepared an IRFA as part of the RIR, which describes the impact this proposed rule would have on small entities, if adopted. Many trawl vessels and processors participating in the BSAI groundfish fishery could be affected by this proposed action. Potentially, scallop vessels could also be affected by the closure areas in this action. However, historical data indicate that scallop vessels have not fished in the closed areas; therefore, they are unlikely to be affected by this action. Most

catcher vessels harvesting groundfish off Alaska are considered small entities and would be affected by the trawl closure areas. The economic impact on small entities that would result from closures could result in a reduction in annual gross revenues by more than 5 percent and would have a significant economic impact on a substantial number of small entities. The 132 catcher vessels that harvested groundfish off Alaska in 1993 are considered small entities. That many vessels could be affected by the trawl closure areas and the changes to the Zone 1 red king crab PSC limits, based on the best available information. A copy of this analysis is available from the Council (see ADDRESSES).

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

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: September 4, 1996.

N. Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

2. In § 679.2, definitions of the "Nearshore Bristol Bay Trawl Closure Area", the "Red King Crab Savings Area", and the "Red King Crab Savings Subarea" are added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Nearshore Bristol Bay Trawl Closure Area of the BSAI (see § 679.22(a)(9))

* * * * *

Red King Crab Savings Area (RKCSA) of the BSAI (see § 679.22(a)(3))

Red King Crab Savings Subarea (RKCSS) of the BSAI (see § 679.21(e)(3)(ii)(B))

* * * * *

3. In § 679.7, paragraph (c)(1) is removed and paragraph (c)(2) is redesignated as paragraph (c)(1), paragraph (c)(3) is redesignated as paragraph (c)(2) and paragraph (c)(4) is redesignated as paragraph (c)(3).

4. In § 679.21 the heading of paragraph (e)(7)(vi)(A) and paragraph (e)(7)(vi)(A)(2) are removed, paragraph

(e)(7)(vi)(A)(2) is redesignated as paragraph (e)(7)(vi)(A), paragraph (e)(3)(ii)(B) is redesignated as paragraph (e)(3)(ii)(C), paragraphs (e)(1)(i), (e)(6), (e)(7)(ii), (e)(7)(iii), are revised, and paragraph (e)(3)(ii)(B) is added to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(e) * * * (1) * * * (i) *Red king crab in Zone 1*—The PSC limit of red king crab caught by trawl vessels while engaged in directed fishing for groundfish in Zone 1 during any fishing year will be specified annually by NMFS, after consultation with the Council, based on abundance and spawning biomass of red king crab using the criteria set out under paragraphs (e)(1)(i) (A) through (C) of this section.

(A) When the number of mature female red king crab is at or below the threshold of 8.4 million mature crab or the effective spawning biomass is less than or equal to 14.5 million lb (6,577 mt), the Zone 1 PSC limit will be 35,000 red king crab.

(B) When the number of mature female red king crab is above the threshold of 8.4 million mature crab and the effective spawning biomass is equal to or greater than 14.5 but less than 55 million lb (24,948 mt), the Zone 1 PSC limit will be 100,000 red king crab.

(C) When the number of mature female red king crab is above the threshold of 8.4 million mature crab and the effective spawning biomass is equal to or greater than 55 million lb, the Zone 1 PSC limit will be 200,000 red king crab.

* * * * *

(3) * * * (ii) * * * (B) *Red King Crab Savings Subarea (RKCSS)*. (1) The RKCSS is the portion of the RKCSA between 56° 00' and 56° 10' N. lat. Notwithstanding other provisions of this part, vessels using non-pelagic trawl gear in the RKCSS may engage in directed fishing for groundfish in a given year if the ADF&G had established a guideline harvest level the previous year for the red king crab fishery in the Bristol Bay area.

(2) When the RKCSS is open to vessels fishing for groundfish with non-pelagic trawl gear under paragraph (e)(3)(ii)(B)(1) of this section, NMFS, after consultation with the Council, will specify an amount of the red king crab bycatch limit annually established under paragraph (e)(1)(i) of this section for the RKCSS. The amount of the red king crab bycatch limit specified for the RKCSS will not exceed an amount equivalent to 35 percent of the trawl bycatch allowance specified for the rock

sole/flathead sole/"other flatfish" fishery category under this paragraph (e)(3) and will be based on the need to optimize the groundfish harvest relative to red king crab bycatch.

* * * * *

(6) *Notification*—(i) *General*. NMFS will publish annually in the Federal Register the annual red king crab PSC limit and, if applicable, the amount of this PSC limit specified for the RKCSS, the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, as required under this paragraph (e).

(ii) *Public comment*. Public comment will be accepted by NMFS on the proposed annual red king crab PSC limit and, if applicable, the amount of this PSC limit specified for the RKCSS, the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, for a period of 30 days from the date of publication in the Federal Register.

(7) * * *

(ii) *Red king crab or C. bairdi Tanner crab, Zone 1, closure*. (A) *General*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the Federal Register the closure of Zone 1, including the RKCSS, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(B) *RKCSS*. If during the fishing year the Regional Director determines that the amount of the red king crab PSC limit that is specified for the RKCSS under § 679.21(e)(3)(ii)(B) of this section will be caught, NMFS will publish in the Federal Register the closure of the RKCSS to directed fishing for groundfish with non-pelagic trawl gear for the remainder of the year.

(iii) *C. bairdi Tanner crab, Zone 2, closure*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs

(e)(3)(iv)(B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the Federal Register the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

* * * * *

5. In § 679.22, paragraphs (a)(1), (a)(2), and (a)(3) are revised and paragraphs (a)(9) and (a)(10) are added to read as follows:

§ 679.22 Closures.

(a) * * *

(1) *Zone 1 (512) closure to trawl gear.* No fishing with trawl gear is allowed at any time in reporting Area 512 of Zone 1 in the Bering Sea subarea.

(2) *Zone 1 (516) closure to trawl gear.* No fishing with trawl gear is allowed at any time in reporting Area 516 of Zone 1 in the Bering Sea Subarea during the period March 15 through June 15.

(3) *Red King Crab Savings Area.* Directed fishing for groundfish by vessels using trawl gear other than pelagic trawl gear is prohibited at all times, except as provided at § 679.21(e)(3)(ii)(B) of this section, in that part of the Bering Sea subarea defined by straight lines connecting the following coordinates, in the order listed:

Latitude Longitude
56°00' N., 162°00' W.

56°00' N., 164°00' W.
57°00' N., 164°00' W.
57°00' N., 162°00' W.
56°00' N., 162°00' W.

* * * * *

(9) *Nearshore Bristol Bay Trawl Closure.* Directed fishing for groundfish by vessels using trawl gear in Bristol Bay, as described in the current edition of NOAA chart 16006, is closed at all times in the area east of 162°00' W. long., except that the area bounded by a straight line connecting the following coordinates in the order listed below is open to trawling from 1200 hours (A.l.t.) April 1 to 1200 hours (A.l.t.) June 15 of each year:

Latitude Longitude
58°00' N., 160°00' W.
58°43' N., 160°00' W.
58°43' N., 159°00' W.
58°00' N., 159°00' W.
58°00' N., 160°00' W.

(10) Trawling is prohibited from August 1 through August 31 in the Chum Salmon Savings area defined at § 679.21(e)(7)(vi)(B).

* * * * *

6. The proposed rule published at 60 FR 40380, August 2, 1996, proposing to amend 50 CFR part 679, is further proposed to be amended by adding paragraphs (c)(1)(viii) and (c)(1)(ix) to § 679.50 to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 1997.

* * * * *

(c) * * *
(1) * * *

(viii) *Red King Crab Savings Area.* (A) Any catcher/processor or catcher vessel

used to fish for groundfish in the Red King Crab Savings area must carry a NMFS-certified observer during 100 percent of its fishing days in which the vessel uses pelagic trawl gear, pot, jig, or longline gear.

(B) Any catcher/processor or catcher vessel used to fish for groundfish in the Red King Crab Savings Subarea and subject to this subarea being open to vessels fishing for groundfish with non-pelagic trawl gear under § 679.21(e)(3)(ii)(B) of this part, must carry a NMFS-certified observer during 100 percent of its fishing days in which the vessel uses non-pelagic trawl gear.

(ix) *Nearshore Bristol Bay Trawl Closure.* Any catcher/processor or catcher vessel used to fish for groundfish in the Nearshore Bristol Bay Trawl Closure area must carry a NMFS-certified observer during 100 percent of its fishing days in which the vessel uses trawl gear.

* * * * *

7. In § 679.62, paragraph (d) is revised to read as follows:

§ 679.62 General limitations.

* * * * *

(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

§ 679.22(a)(1)(i), (a)(2)(i), (a)(3), (a)(4), (a)(6), (a)(7), (a)(9), and (b).

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