

the southern zone may fish in that zone, consistent with the provisions of paragraph (b)(3) of this section, and, through a date 3 years from the date this paragraph is effective, may also fish in the northern zone. A vessel may possess golden crab only in a zone in which it is authorized to fish, except that other zones may be transited if the vessel notifies NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727-570-5344) in advance and does not fish in a zone in which it is not authorized to fish.

(3) *Small-vessel sub-zone.* Within the southern zone, a small-vessel sub-zone is established bounded on the north by 24°15' N. lat., on the south by 24°07' N. lat., on the east by 81°22' W. long., and on the west by 81°56' W. long. No vessel with a documented length overall greater than 65 ft (19.8 m) may fish for golden crab in this sub-zone, and a vessel with a documented length overall of 65 ft (19.8 m) or less that is permitted for the southern zone may fish for golden crab only in this sub-zone.

(4) *Procedure for changing zones.* (i) Upon request from an owner of a permitted vessel, the RA will change the zone specified on a permit from the middle or southern zone to the northern zone. No other changes in the zone specified on a permit are allowed, except as specified in paragraph (b)(4)(ii) of this section. An owner of a permitted vessel who desires a change to the northern zone must submit his/her request with the existing permit to the RA.

(ii) Through a date 3 years after the date this paragraph (b)(4) is effective, upon request, the RA will change a vessel permit back to the southern zone for an owner of a vessel, or the subsequent owner of a vessel, whose permit was changed from the southern zone to the northern zone provided that the documented length overall of the vessel to be used in the southern zone is not more than 20 percent greater than the vessel whose permit was originally changed from the southern zone to the northern zone.

(c) *Transferring permits between vessels—(1) Procedure for transferring.* An owner of a vessel who desires a golden crab permit may request that NMFS transfer an existing permit or permits to his or her vessel by returning an existing permit or permits to the RA with an application for a permit for the replacement vessel.

(2) *Vessel size limitations on transferring.* (i) To obtain a permit for the middle or southern zone via transfer, the documented length overall of the replacement vessel may not exceed the documented length overall,

or aggregate documented lengths overall, of the replaced vessel(s) by more than 20 percent. The owner of a vessel permitted for the middle or southern zone who has requested that NMFS transfer that permit to a smaller vessel (i.e., downsized) may subsequently request NMFS transfer that permit to a vessel of a length calculated from the length of the permitted vessel immediately prior to downsizing.

(ii) There are no vessel size limitations to obtain a permit for the northern zone via transfer.

(d) *Permit renewal.* NMFS will not renew a commercial vessel permit for South Atlantic golden crab if the permit is revoked or if the RA does not receive an application for renewal within 6 months after the permit's expiration, that is, by June 30 each year. See § 622.4(h) for the general procedures and requirements for permit renewals.

4. In § 622.40, the first sentence of paragraph (b)(3)(ii)(B) and paragraph (d)(2)(ii) are revised to read as follows:

**§ 622.40 Limitations on traps and pots.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(B) A golden crab trap constructed of material other than webbing must have an escape panel or door measuring at least 11 7/8 by 11 7/8 inches (30.2 by 30.2 cm), located on at least one side, excluding top and bottom. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(ii) Rope is the only material allowed to be used for a buoy line or mainline attached to a golden crab trap, except that wire cable is allowed for a mainline through December 31, 2002.

5. In § 622.48, paragraph (g) is revised to read as follows:

**§ 622.48 Adjustment of management measures.**

\* \* \* \* \*

(g) *South Atlantic golden crab.* Biomass levels, age-structured analyses, MSY, ABC, TAC, quotas (including quotas equal to zero), trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, sub-zones and their management measures, time frame for recovery of golden crab if overfished, fishing year (adjustment not to exceed 2 months), observer requirements, authority for the RA to close the fishery when a quota is reached or is projected to be reached, definitions of essential

fish habitat, and essential fish habitat HAPCs or Coral HAPCs.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[I.D. 111401B]

RIN 0648-AN55

**Fisheries of the Exclusive Economic Zone Off Alaska; Amendments 61/61/13/8 to Implement Major Provisions of the American Fisheries Act**

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 61 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Amendment 61 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, Amendment 13 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crab, and Amendment 8 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMPs). These amendments incorporate the provisions of the American Fisheries Act (AFA) into the FMPs and their implementing regulations. These amendments are necessary to implement the requirements of the AFA and are intended to do so in a manner consistent with the environmental and socioeconomic objectives of AFA, the Magnuson-Stevens Fishery Management and Conservation Act (Magnuson-Stevens Act), the FMPs, and other applicable laws. NMFS is requesting comments from the public on Amendments 61/61/13/8, copies of which may be obtained from NMFS (see **ADDRESSES**).

**DATES:** Comments on Amendments 61/61/13/8 must be submitted by January 28, 2002.

**ADDRESSES:** Comments on proposed Amendments 61/61/13/8 should be submitted to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn:

Lori Gravel, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of Amendments 61/61/13/8 and the Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for Amendments 61/61/13/8 are available from the NMFS at the above address.

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, 907-586-7228 or email at kent.lind@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Act requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or plan amendment, immediately publish a notice in the *Federal Register* that the fishery management plan or plan amendment is available for public review and comment. This action constitutes such notice for Amendments 61/61/13/8. NMFS will consider the public comments received during the comment period in determining whether to approve Amendments 61/61/13/8.

#### Background on the AFA

On October 21, 1998, the President signed into law the AFA (Div. C, Title II, Pub. L. No. 105-277, 112 Stat. 2681 (1998)). The AFA is divided into two subtitles addressing the requirements for fishery endorsements for all U.S. fishing vessels, and providing for the reorganization and rationalization of the Bering Sea and Aleutian Islands Area (BSAI) pollock fishery, respectively.

*Subtitle I-Fisheries Endorsements* established a 25 percent foreign ownership and control limit for all U.S. documented fishing vessels over 100 ft (30.9 meters (m)) registered length. Subtitle I also limits new U.S. documented fishing vessels to no more than 165 ft (59.3 m) registered length, no more than 3,000 lbs (1.36 metric tons (mt)) shaft horsepower, and no more than 750 gross registered tons (680 mt). The provisions of this subtitle apply to all U.S. documented fishing vessels fishing anywhere in the U.S. EEZ and are being implemented by the Maritime Administration (MARAD) and the U.S. Coast Guard.

*Subtitle II-Bering Sea Pollock Fishery* mandated sweeping changes to the BSAI pollock fishery and to a lesser extent, affected the management of the other groundfish, crab, and scallop fisheries

off Alaska. The purpose of Amendments 61/61/13/8 is to implement the management program required by Subtitle II of the AFA.

Congress identified two primary objectives in passing the AFA. The first objective was to complete the process begun in 1976 to give U.S. interests a priority in the harvest of U.S. fishery resources. This objective was accomplished through the restrictions on foreign ownership and control that are set out in Subtitle I of the AFA. The second objective addressed by Subtitle II of the AFA was to significantly decapitalize the Bering Sea pollock fishery. Under the council system established by the Magnuson-Stevens Act, Congressional action is generally not needed to address fishery conservation and management issues in specific fisheries. However, Congress believed that the overcapacity in the BSAI pollock fishery prior to the AFA was due, in part, to mistakes in, and misinterpretations of, the 1987 Commercial Fishery Industry Vessel Anti-Reflagging Act (Anti-Reflagging Act). In passing the AFA, Congress noted that the Anti-Reflagging Act had allowed a flood of foreign-rebuilt catcher/processors into the BSAI pollock fishery and did not limit foreign control of such vessels in the manner in which Congress had intended. Without an Act of Congress, the Council and NMFS did not have authority to provide funds under the Federal Credit Reform Act to buyout and retire vessels from the BSAI pollock fishery, to strengthen U.S. controlling interest standards for fishing vessels, or to implement the inshore cooperative program contained in the AFA.

Subtitle 2 of the AFA contains numerous provisions that affect the management of the groundfish and crab fisheries off Alaska. Key provisions include:

1. The buyout of nine pollock catcher/processors and the subsequent scrapping of eight of these vessels through a combination of \$20 million in Federal appropriations and \$75 million in direct loan obligations;

2. A new allocation scheme for BSAI pollock that allocates 10 percent of the BSAI pollock total allowable catch (TAC) to the Community Development Quota (CDQ) program, and after allowance for incidental catch of pollock in other fisheries, allocates the remaining TAC as follows: 50 percent to vessels harvesting pollock for processing by inshore processors, 40 percent to vessels harvesting pollock for processing by catcher/processors, and 10 percent to vessels harvesting pollock for processing by motherships;

3. A fee of six-tenths (0.6) of 1 cent for each pound round weight of pollock harvested by catcher vessels delivering to inshore processors for the purpose of repaying the \$75 million direct loan obligation.

4. A prohibition on entry of new vessels and processors into the BSAI pollock fishery. The AFA lists by name vessels and processors and/or provides qualifying criteria for those vessels and processors eligible to participate in the non-CDQ portion of the BSAI pollock fishery;

5. New observer coverage and scale requirements for AFA catcher/processors;

6. New standards and limitations to guide the creation and operation of fishery cooperatives in the BSAI pollock fishery;

7. An individual fishing quota program for inshore catcher vessel cooperatives under which NMFS grants individual allocations of the inshore BSAI pollock TAC to inshore catcher vessel cooperatives that form around a specific inshore processor and agree to deliver at least 90 percent of their pollock catch to that processor;

8. The establishment of harvesting and processing limits known as "sideboards" on AFA pollock vessels and processors to protect the interests of fishermen and processors in other fisheries from spillover effects resulting from the rationalization of the BSAI pollock fishery,

9. A 17.5-percent excessive share harvesting cap for BSAI pollock and a requirement that the Council develop excessive share caps for BSAI pollock processing and for the harvesting and processing of other groundfish.

Some of the above provisions of the AFA already have been implemented by NMFS and other agencies. The buyout and scrapping of the nine ineligible factory trawlers were completed by NMFS in 1999 under the schedule mandated by the AFA. This action was accomplished by contract with the vessel owners rather than regulation. The inshore pollock fee program required by the AFA was implemented by NMFS through final regulations published February 3, 2000 (65 FR 5278). MARAD has implemented the new U.S. ownership requirements and size restrictions for U.S. fishing vessels through final regulations published July 19, 2000 (65 FR 44860). MARAD's regulations also set out procedures for review of compliance with excessive share harvesting limits contained in this proposed rule.

### Council Development of Amendments 61/61/13/8

Since the passage of the AFA in October 1998, NMFS and the Council have undertaken an extensive public process to develop the management program proposed under Amendments 61/61/13/8. Amendments 61/61/13/8 were developed and revised during the course of 12 Council meetings over the past 2 years and have been the subject of numerous additional public meetings held by the Council and NMFS to address specific aspects of the AFA. While the permanent management program proposed under Amendments 61/61/13/8 was under analysis and development by the Council and NMFS, the statutory deadlines in the AFA were met on an interim basis through several emergency interim rules, and was extended through the end of 2001 by Pub. L. No. 106-554, which mandated that all management measures in effect as of July 2000 would be extended through the end of 2001. The following time line provides a summary of the 2-year public process through which NMFS and the Council developed Amendments 61/61/13/8.

*November 1998.* After the passage of the AFA in October 1998, the Council held a special meeting in November 1998, in Anchorage, AK to address among other things, the new requirements of the AFA and the effect of the AFA on the fisheries under the jurisdiction of the Council. The Council made various recommendations to NMFS regarding the regulation of cooperatives in the catcher/processor sector and the management of sideboards for AFA catcher/processors for the upcoming 1999 fishery and began the process of identifying issues and alternatives for upcoming AFA-related actions.

*December 1998.* At its December 1998 meeting in Anchorage, AK the Council approved two emergency rules to implement required provisions of the AFA for the 1999 fishing year. The first emergency interim rule required two observers on all AFA-listed catcher processors and motherships, and established procedures for making inseason sideboard closures (64 FR 3435, January 22, 1999; extended at 64 FR 33425, June 23, 1999). The second emergency interim rule made several technical changes to the CDQ program regulations to accommodate the new requirements of the AFA (64 FR 3887, January 26, 1999; extended at 64 FR 34743, June 29, 1999). After extensive public testimony and input from the Council's Advisory Panel (AP) and Scientific and Statistical Committee

(SSC), the Council identified a suite of alternatives for the management program that subsequently became known as Amendments 61/61/13/8.

*February 1999.* At its February 1999 meeting in Anchorage, AK the Council finalized sideboard and AFA management measure alternatives with the intent that a draft analysis would be reviewed at the April 1999 meeting with a final decision scheduled for June 1999 to allow the Council to meet the July 1999 deadline imposed by the AFA for recommendation of sideboard measures. The Council also began preparation of a separate discussion paper to examine the structure of the inshore cooperative program. This separate analysis was in response to a proposal by a group of independent catcher vessel owners who advocated a change in the program to allow the formation of an independent vessel cooperative that would not be tied to a particular processor. A draft analysis was scheduled for review in June 1999, with further discussion in October 1999.

*April 1999.* At its April 1999 meeting in Anchorage, AK the Council reviewed its draft analysis for Amendments 61/61/13/8, and received extensive public testimony regarding alternatives and issues that should be considered under Amendments 61/61/13/8. The Council directed staff to make various revisions and additions to the analysis with the intent that the amendment package would be before the Council for final action in June 1999. The Council also reviewed its discussion paper on the structure of the inshore cooperative program and the proposed independent catcher vessel cooperative and requested that a broader analysis be prepared for initial review at the October 1999 meeting. In addition, the Council formed an inshore cooperative implementation committee to advise NMFS on many of the technical issues related to the formation and management of inshore cooperatives.

*May 1999.* The Council's inshore cooperative implementation committee held a public meeting with NMFS on May 10-13 in Seattle, WA to examine alternative management approaches for inshore catcher vessel cooperatives. The approach to implementing and managing inshore cooperatives developed at this meeting forms the basis of the inshore cooperative management program contained in this proposed rule.

*June 1999.* At its June 1999 meeting in Kodiak, AK the Council reviewed Amendments 61/61/13/8 and after extensive public testimony, approved a suite of AFA-related recommendations including restrictions on the formation

and operation of cooperatives, harvesting sideboards for catcher/processors and catcher vessels, and catch weighing and monitoring requirements. However, the Council was unable to reach a decision on two AFA-related issues: groundfish processing sideboards and excessive processing share caps. To address these issues, the Council established an industry committee to further examine alternatives and work with State of Alaska (State) and Federal managers to resolve implementation issues with the intent that the Council would review the committee's recommendations in October 1999.

*August 1999.* The Council's processing sideboard industry committee held a public meeting in Seattle, WA to examine alternatives for processing sideboards and excessive processing share caps. The committee was unable to reach complete consensus on a recommended approach for processing sideboard caps. However, the committee did develop some general recommendations for the Council and provided the Council with some requests for additional analysis and information.

*October 1999.* At its October 1999 meeting in Seattle, WA the Council reviewed its analysis on the structure of the inshore cooperative program, including the proposal to allow formation of independent catcher vessel cooperatives, and received extensive public discussion on this issue. However, the Council voted to postpone action until February 2000 and requested further analysis on this issue. The Council also re-examined its June 1999 catcher vessel sideboard exemption recommendations and requested that NMFS delay implementation of these measures until the Council had the opportunity to analyze and discuss possible revisions to its recommended catcher vessel sideboard exemptions. The Council announced that it would be revising its sideboard exemption recommendations at its December 1999 meeting. Finally, the Council reviewed what had now become a separate analysis of groundfish processing sideboards and excessive processing share caps. After extensive discussion and public comment on this issue, the Council chose to expand and revise its analysis with intent to review the issue again in February 2000 with final action scheduled for June 2000.

*December 1999.* At its December 1999 meeting in Anchorage, AK the Council approved two emergency interim rules to implement required provisions of the AFA for the 2000 fishing year. These

measures were necessary to meet certain statutory deadlines in the AFA while the comprehensive suite of permanent management measures under Amendments 61/61/13/8 continued to undergo development, revision, and analysis by the Council and NMFS. The first emergency interim rule set out permit requirements for AFA vessels, processors, and cooperatives (65 FR 380, January 5, 2000; extended at 65 FR 39107, June 23, 2000). The second emergency interim rule established sector allocations, cooperative regulations, sideboards, and catch monitoring requirements for the AFA fleets (65 FR 4520, January 28, 2000; extended at 65 FR 39107, June 23, 2000).

*February 2000.* At its February 2000 meeting in Anchorage, AK the Council reviewed its revised analysis of groundfish processing sideboards and excessive share processing caps and requested analysis of several additional issues with the stated intent that the analysis would be reviewed again in June 2000. The Council postponed action on proposed changes to the structure of the inshore cooperative program and independent catcher vessel proposal until June 2000. Finally, at that meeting, the Council and NMFS decided it would be appropriate to expand the environmental assessment prepared for Amendments 61/61/13/8 into an EIS given the magnitude of the proposed management program to implement the AFA.

*April 2000.* At its April 2000 meeting in Anchorage, AK the Council received extensive testimony from industry on several elements of Amendments 61/61/13/8. Catcher vessel owners requested that the Council consider revising several of its recommendations related to catcher vessel sideboards, retirement of vessels, and the formula for calculating inshore cooperative allocations. The Council requested preparation of a supplemental analysis of these issues for consideration in June 2000. The Council also received testimony from crab fishermen who opposed the crab processing caps implemented in 2000 through an emergency interim rule. The Council announced its intent to examine alternatives for crab processing caps at its June 2000 meeting with final action on any changes scheduled for September 2000. In addition, the April Council meeting was used as a scoping meeting to solicit input from the public on issues and alternatives that should be addressed in the EIS under preparation for Amendments 61/61/13/8.

*June 2000.* At its June 2000 meeting in Portland, OR the Council reviewed its

analysis of proposed structural changes to the inshore cooperative program including the independent catcher vessel proposal. The Council did not adopt changes promoted by independent catcher vessel owners that would have allowed greater flexibility in choosing which cooperative a vessel could join. Instead, the Council recommended two changes related to retirement of vessels and allocation formulas that would supersede the measures set out in the AFA. These changes were incorporated as revisions to Amendments 61/61/13/8. The Council also examined the issue of groundfish processing sideboards and excessive processing share caps and voted to release its analysis for public review with intent to take final action on these measures at its October 2000 meeting. The Council's original intent was to include groundfish processing sideboards and excessive processing share caps in Amendments 61/61/13/8. However, due to the extensive additional analysis required for these two issues, the Council decided to address these issues on a separate timetable with a separate analysis.

*September 2000.* At its September 2000 meeting in Anchorage, AK the Council examined proposed changes to crab processing sideboard limits and recommended that the 1995-1997 formula used to calculate crab processing caps under the AFA be revised by adding 1998 processing history and giving it double-weight. In other words, 1995-1998 would be used to determine crab processing history with the 1998 year counting twice. The purpose of this change was to give greater emphasis to recent processing history in consideration of changes to the crab processing industry that have occurred since 1995.

*October 2000.* At its October 2000 meeting in Sitka, AK the Council considered the issues of BSAI pollock excessive processing share limits and groundfish processing sideboard limits. The Council adopted a 30-percent excessive processing share limit for BSAI pollock that would be applied using the same 10 percent entity rules set out in the AFA to define AFA entities for the purpose of the 17.5 percent excessive harvesting share limit contained in the AFA. This action represents the Council's final revision to Amendments 61/61/13/8 before official submission of the Amendments to the Secretary of Commerce for review and approval. With respect to non-pollock groundfish processing sideboards, the Council took no action. The Council believed that placing non-pollock groundfish processing limits on AFA

processors could have negative effects on markets for both AFA and non-AFA catcher vessels. In addition, the Council concluded that its suite of harvesting sideboard restrictions on AFA catcher vessels and catcher/processors also serve to protect non-AFA processors in the BSAI, which are primarily non-AFA catcher/processors. Instead of imposing non-pollock processing limits on AFA processors, the Council indicated its intent to explore revisions to its Improved Retention/Improved Utilization program set out at 50 CFR 679.27. Testimony from non-AFA processors indicated that such changes could be a more effective means of providing a more level playing field for non-AFA catcher/processors.

Public comments are being solicited on Amendments 61/61/13/8 through the end of the comment period specified in this document. A proposed rule that would implement Amendments 61/61/13/8 may be published in the **Federal Register** for public comment following evaluation by NMFS under the Magnuson-Stevens Act procedures. All comments received by the end of the comment period specified in this document, whether specifically directed to Amendments 61/61/13/8 or to the proposed rule, will be considered in the decision to approve, disapprove, or partially approve Amendments 61/61/13/8.

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

Dated: November 20, 2001.

**Jon Kurland,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[I.D. 053001D]

#### Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska

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

**ACTION:** Notice of intent to revise the Alaska Groundfish Fisheries Draft Programmatic Supplemental Environmental Impact Statement (SEIS).

**SUMMARY:** NMFS announces its intent to revise the Alaska Groundfish Fisheries