

To Do List and Actions for **Crab FMP** in Order to Comply with “Mandatory” Provisions of NS1 Guidelines:

1. The Crab FMP does not include an estimate of **MSY**. It must. See 50 C.F.R. § 600.310(c) (“For all stocks and stock complexes that are ‘in the fishery’ (see paragraph (d)(2) of this section), the Councils must evaluate and describe the following items in their FMPs and amend the FMPs, if necessary, to align their management objectives to end or prevent overfishing: 1) MSY and SDC (see paragraphs (e)(1) and (2) of this section).”). Prior to Amendment 24, the FMP did include an estimate of MSY at the stock level.
 - a. One additional mandatory provision is relevant to the estimate of MSY: “Because MSY is a long-term average, it need not be estimated annually, but it must be based on the best scientific information available (see § 600.315), and should be re-estimated as required by changes in long-term environmental or ecological conditions, fishery technological characteristics, or new scientific information.” 50 C.F.R. § 600.310(e)(1)(iv).

Action 1: Housekeeping modification to indicate that MSY is annually estimated by stock (for which biomass estimates are available) and reported by individual assessment in the annual SAFE reports.

2. The Crab FMP does not include an estimate of **OY** or the specification analysis. It must. See 50 C.F.R. §§ 600.310(c) (FMP must evaluate and describe OY at the stock, stock complex, or fishery level, and provide the OY specification analysis); (e)(3)(ii) (same). Several additional mandatory provisions relate to the specification and analysis of OY:
 - a. “A Council must identify those economic, social, and ecological factors relevant to management of a particular stock, stock complex, or fishery, and then evaluate them to determine the OY. The choice of a particular OY must be carefully documented to show that the OY selected will produce the greatest benefit to the Nation and prevent overfishing.” 50 C.F.R. § 600.310(e)(3)(ii).
 - b. (e)(3)(iv) “OY cannot exceed MSY in any circumstance, and must take into account the need to prevent overfishing and rebuild overfished stocks and stock complexes. OY is prescribed on the basis of MSY as reduced by social, economic, and ecological factors. To the extent possible, the relevant social, economic, and ecological factors used to establish OY for a stock, stock complex, or fishery should be quantified and reviewed in historical, short-term, and long-term contexts. Even where quantification of social, economic, and ecological factors is not possible, the FMP still must address them in its OY specification. The following is a non-exhaustive list of potential considerations for each factor. An FMP must address each factor but not necessarily each example.”
 - c. “All catch must be counted against OY, including that resulting from bycatch, scientific research, and all fishing activities.” 50 C.F.R. § 600.310(e)(3)(v)(C).

- d. “The FMP must include an assessment to address the following, as required by section 303(a)(4) of the Magnuson-Stevens Act: [DAH, DAP & JVP]”; “Councils and/or the Secretary must consider the capacity of, and the extent to which, U.S. vessels will harvest the OY on an annual basis”; “Each FMP must assess the capacity of U.S. processors. It must also assess the amount of DAP, which is the sum of two estimates: The estimated amount of U.S. harvest that domestic processors will process, which may be based on historical performance or on surveys of the expressed intention of manufacturers to process, supported by evidence of contracts, plant expansion, or other relevant information; and the estimated amount of fish that will be harvested by domestic vessels, but not processed (e.g., marketed as fresh whole fish, used for private consumption, or used for bait).” 50 C.F.R. § 600.310(e)(3)(vi).

Action 2: A housekeeping amendment to include the OY as indicated in the amendment 24 analysis (merely omitted in amendment text but included in the analysis). Additional justification and discussion will need to be included (more so than in the actual amendment 24 analysis which specified it) to address a-d above.

3. The Crab FMP does not include an acceptable biological catch (**ABC Control Rule**). It must. 50 C.F.R. § 600.310(c)(3); *see also* 50 C.F.R. § 600.310(f)(4). Several additional mandatory provisions, both procedural and substantive, relate to the establishment of the ABC Control Rule and the specification of ABC:
 - a. The Council must establish the ABC Control Rule based on scientific advice from the SSC. 50 C.F.R. § 600.310(f)(4).
 - b. “The ABC control rule must articulate how ABC will be set compared to the OFL based on the scientific knowledge about the stock or stock complex and the scientific uncertainty in the estimate of OFL and any other scientific uncertainty.” 50 C.F.R. § 600.310(f)(4).
 - c. ABC may not exceed OFL. 50 C.F.R. § 600.310(f)(3).
 - d. The SSC must recommend the ABC to the Council. 50 C.F.R. § 600.310(f)(3). If the SSC recommends an ABC that differs from the result of the control rule, it must explain why. *Id.*
 - e. “For overfished stocks and stock complexes, a rebuilding ABC must be set to reflect the annual catch that is consistent with the schedule of fishing mortality rates in the rebuilding plan.” 50 C.F.R. § 600.310(f)(3)(ii).

Action 3-Major FMP amendment analysis to establish ABC control rules for crab stocks under the FMP. Additionally the process by which OFLs are currently specified may need to be modified to include explicit ABC recommendations by the SSC for all crab stocks. Currently the OFL process includes recommendations on tier levels and model parameterization (by CPT and then SSC) but NOT actual OFL recommendations for all stocks (those which depend upon summer survey data for the annual assessment). It may be necessary to modify this process in some way to include this explicit SSC recommendation. This could occur in multiple ways: additional SSC meeting after assessments are completed to include survey data (e.g after August and before TAC-setting October 1) solely to recommend Crab ABCs in time for TAC setting,

moving the annual timing of the late Sept/Oct SSC meeting to allow for timing of ABC recommendations prior to TAC setting or delaying the timing of TAC-setting by the State (and subsequent federal quota share issuance) to allow for review and recommendations by the SSC at the annual late Sept/October meeting.

4. The Crab FMP does not appear to include a mechanism for the Council to specify **ACLs** (or TACs) relative to ABC. It must. 50 C.F.R. § 600.310(c)(4); see 50 C.F.R. § 600.310(b)(2)(v)(D) (“Each Council shall develop ACLs for each of its managed fisheries that may not exceed the fishing level recommendations of its SSC.... The SSC recommendation that is most relevant to ACLs is ABC, as both ACL and ABC are levels of annual catch.”), 16 U.S.C. § 1852(h)(6).
 - a. The crab FMP does presently defer to the State to establish TAC and ABC annually. If the FMP is amended to include an ABC control rule and to ensure that the SSC recommends ABC to the Council annually, the general requirement that all management measures be consistent with the Magnuson-Stevens Act, Crab FMP at § 8.0, should ensure that the State will set a TAC that does not exceed the SSC’s ABC recommendation, and therefore conforms to statutory requirements.
 - b. Provided there is sufficient opportunity for the Council and/or NMFS to participate in the State process for setting TACs and to review the TACs established by the State, it may be permissible for the State to continue to set TACs; however, this question warrants further consideration.

Action 4: Minor housekeeping amendment to define ACT = TAC but no major change needed to current TAC specification by the State of Alaska (i.e. management responsibilities as specified in the FMP whereby the State solely specifies TAC).