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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RTID 0648-XY104

Fisheries of the Exclusive Economic Zone Off Alaska; St. Matthew Blue King Crab Rebuilding Plan in the Bering Sea and Aleutian Islands

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

ACTION: Availability of proposed amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendment 50 to the Fishery Management Plan (FMP) for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (Crab FMP) (Amendment 50), to the Secretary of Commerce for review. If approved, Amendment 50 would add a new rebuilding plan for St. Matthew blue king crab (SMBKC) to the Crab FMP. The objective of this amendment is to rebuild the SMBKC stock. In order to comply with provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), this action is necessary to implement a rebuilding plan prior to the start of the 2020/2021 fishing season. Amendment 50 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Crab FMP, and other applicable laws.

DATES: Comments on Amendment 50 must be received no later than [*INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2020-0080, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0080, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of proposed Amendment 50 and the draft Environmental Assessment (referred to as the “Analysis”) prepared for this action may be obtained from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish notification in the **Federal Register** announcing that the amendment is available for public review and comment. The North Pacific Fishery Management Council (Council) has submitted Amendment 50 to the Secretary for review. This document announces that proposed Amendment 50 is available for public review and comment.

NMFS manages the crab fisheries in the exclusive economic zone under the Crab FMP. The Council prepared the Crab FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 680.

Through the Crab FMP, the State of Alaska (the State) is delegated management authority over certain aspects of the SMBKC fishery consistent with the Magnuson-Stevens Act and the FMP. Specific to this Crab FMP amendment, the State has established a harvest strategy to set total allowable catch (TAC) levels and guideline harvest levels (GHLs), and season or area closures when the TAC or GHL is reached. The State's SMBKC harvest strategy is provided in the Alaska Administrative Code at 5 AAC 34.917 and that strategy applies during rebuilding. The State harvest strategy is more conservative than the Crab FMP's control rule parameters for SMBKC because, under the State harvest strategy, directed fishing is prohibited at or below a larger biomass level than under the overfishing level (F_{OFL}) control rule.

The SMBKC stock was declared overfished on October 22, 2018, because the estimated spawning biomass was below the minimum stock size threshold specified in the Crab FMP. In order to comply with provisions of the Magnuson-Stevens Act, a rebuilding plan must be implemented prior to the start of the 2020/2021 fishing season.

In June 2020, the Council chose a rebuilding plan for SMBKC that would only allow directed harvest during rebuilding if estimates of stock biomass are sufficient to open the fishery under the State's crab harvest strategy. The proposed rebuilding plan is consistent with the Magnuson-Stevens Act (16 U.S.C. 1854(e)), with the National Standards (see Analysis Section 4.1), and with National Standard Guidelines (50 CFR 600.310) on time for rebuilding, specifically rebuilding within a time (T_{target}) that is as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish with the marine ecosystems. This rebuilding plan would allow directed fishing pursuant to the State's harvest strategy because such fishing, though limited, may provide important economic opportunities for harvesters, processors, and Alaska communities. Maintaining this economic opportunity for a limited directed commercial fishery under the State harvest strategy is important for harvesters, processors, and communities, particularly during this time when the majority of commercial crab stocks are in a state of decline and future openings are likely to be limited and/or closed. Fishermen and communities must be able to diversify their portfolios and be flexible enough to take advantage of fishing opportunities as they come each season to remain viable.

Under the Magnuson-Stevens Act, the time period specified for rebuilding a fishery generally should not exceed 10 years unless the biology of the stock or environmental conditions dictate otherwise, as is the case for SMBKC. Because ecological conditions represent the primary constraint on rebuilding the SMBKC fishery, the projected time for rebuilding, taking into account the biology of the species and current environmental conditions, is 25.5 years.

The directed fishery has been closed since 2016 under the State harvest strategy, and has only been open 6 out of the past 20 years. In addition to the State's conservative SMBKC harvest policy, multiple measures for habitat protection and bycatch reduction are in place for the stock. The St. Matthew Island Habitat Conservation Area (SMIHCA) was created in 2008 and expanded through Amendment 94 to the BSAI Groundfish FMP to protect blue king crab habitat. Vessels fishing with non-pelagic trawl gear are prohibited from fishing in the SMIHCA. Other fishery closure areas include a 20 nautical miles (nm) closure around the southern tip of Hall Island to trawling, hook-and-line, and pot fisheries for pollock, Pacific cod, and Atka mackerel to protect Steller sea lions, but it also serves to limit potential fishing effort in areas occupied by SMBKC. In addition, State jurisdictional waters (0 to 3 nm from shore) surrounding St. Matthew, Hall, and Pinnacle Islands are closed to the taking of king and Tanner crab and to commercial groundfish fishing.

Fishing mortality is not considered to be the primary constraining factor for SMBKC. The groundfish fisheries incur low levels of bycatch of SMBKC, but in analytical projections, average bycatch rates had no constraining effect on rebuilding. Instead, rebuilding will depend on successful recruitment of crab under ecosystem

conditions that have recently been very unfavorable. Warm bottom temperatures, low pre-recruit biomass, and northward movement of predator species, primarily Pacific cod, have constrained stock growth (see Analysis Section 3.3.6). For this reason, the rebuilding plan aims to maintain existing low levels of fishing mortality with the hope that future ecosystem conditions will support SMBKC stock growth.

Amendment 50 would add Section 6.2.5 to the Crab FMP to include the proposed rebuilding plan for SMBKC. Under the proposed rebuilding plan, ecosystem indicators developed for the stock would be monitored in the coming years. The NMFS eastern Bering Sea bottom-trawl survey provides data for the annual assessment of the status of crab stocks in the BSAI, including SMBKC, and this survey and assessment would continue throughout rebuilding. The Council's BSAI Crab Plan Team would report stock status and progress towards the rebuilt level in the Stock Assessment and Fishery Evaluation (SAFE) Report for the king and Tanner crab fisheries of the BSAI. Additionally, the State and NMFS monitor directed fishery catch and bycatch of blue king crabs in other fisheries. When the fishery is open, the State requires full observer coverage (100 percent) for both catcher vessels and catcher processors participating in the crab fishery. Observers monitor harvest at sea and landings by catcher vessels shoreside processors. The State reports the total harvest from the commercial crab fishery and that report will be included annually in the SAFE. The contribution of the rebuilding plan to stock recovery would be additive to measures already in place that limit the effects of fishing activity on SMBKC.

NMFS is soliciting public comments on proposed Amendment 50 through the end of the comment period (see **DATES**). All relevant written comments received by the end

of the applicable comment period will be considered by NMFS in the approval/partial approval/disapproval decision for Amendment 50 and addressed in the response to comments in the final decision. Comments received after the end of the applicable comment period will not be considered in the approval/disapproval decision on Amendment 50. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

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

Dated: July 10, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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