

25. *Confidential and/or Otherwise Protected Materials.* To the extent any party to this proceeding wishes to submit materials or information that it would like withheld from the public record, it may do so in accordance with the procedures set forth in § 1.314 of the Commission's rules. The parties may also enter into a Protective Order. As stated above, requests for a Protective Order should be made in the parties' pre-conference submission in accordance with the schedule set forth in the Initial Case Order.

26. *Initial Decision.* The presiding officer shall issue an Initial Decision on the issues set forth herein, as well as any other issues designated for hearing in the course of the proceeding. This Initial Decision shall contain, at a minimum, findings of fact and conclusions of law, as well as the reasons or basis therefor, and the appropriate rule or order or policy and the sanction, relief or denial thereof, as appropriate.

27. Accordingly, *it is ordered* that the Petition for *De Novo* Review, filed on September 14, 2023, by Mongoose, *is granted.*

28. *it is further ordered* that, pursuant to the *RPC Appeals Procedures Public Notice*, this matter, as described above, *is designated for hearing* before an Administrative Law Judge, at a time and place to be specified in a subsequent order, on the following issues:

a. To determine whether the Bureau erred in determining that Mongoose had not met its burden of proof to demonstrate that the RPC erred in its classification of, and reimbursement for, the two antennas at issue;

b. To determine whether the Bureau erred in separately determining that the RPC properly classified the two antennas at issue based on Commission guidance; and

c. To determine whether the reimbursed amount of \$33,994 for the two antennas at issue should be adjusted to restore the disallowed amount of \$69,686.

29. *it is further ordered* that the burden of proceeding with the introduction of evidence and the burden of proof with respect to all issues specified herein SHALL BE UPON Mongoose.

30. *it is further ordered*, that Mongoose Works, Ltd. (Mongoose) is made a party to the proceeding pursuant to § 1.221(d) of the Commission's rules, 47 CFR 1.221(d). To avail itself of the opportunity to be heard, pursuant to § 1.221(e) of the Commission's rules, Mongoose, in person or by its attorneys, *shall file a written appearance*, stating its intention to appear on the date fixed

for the hearing and present evidence on the issues specified in this Hearing Designation Order. Such written appearance shall be filed within twenty (20) days of the mailing of this Order pursuant to Paragraph 32 below. If Mongoose fails to file an appearance within the time specified, it shall, unless good cause for such failure is shown, forfeit its hearing rights.

31. *it is further ordered* that the Chief, Enforcement Bureau, SHALL BE MADE A PARTY to this proceeding without the need to file a written appearance.

32. *it is further ordered* that a copy of this *Hearing Designation Order shall be sent*, via Certified Mail—Return Receipt Requested to: Mongoose Works, Ltd., c/o Mark Derbyshire, 4950 S El Camino Dr, Cherry Hills Village, CO 80111.

33. *it is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this Hearing Designation Order *shall be served* on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418-1420. Electronic service on counsel of record for the Enforcement Bureau shall be made using the following email address: *EBHearings@fcc.gov.*

34. *it is further ordered* that this *Hearing Designation Order* or a summary thereof SHALL BE PUBLISHED at the earliest practicable date in the **Federal Register**.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[RTID 0648-XD197]

Fisheries of the Exclusive Economic Zone off Alaska; Scallop Specification Process Flexibility

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

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted Amendment 18 to the Fishery Management Plan (FMP) for the Scallop Fishery off Alaska (Scallop FMP) to the Secretary of Commerce for review. If approved, Amendment 18 would revise timing requirements for Stock Assessment and Fishery Evaluation (SAFE) reports to allow more flexibility for non-annual assessments and to set scallop harvest specifications less frequently than on an annual basis. This would reduce the burden on staff and provide more time for the development of new stock assessment methods. Amendment 18 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Scallop FMP, and other applicable laws.

DATES: Comments must be received no later than January 2, 2024.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0094, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0094 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Gretchen Harrington, 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 <https://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 18 and the draft Analysis prepared for this action may be obtained from <https://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 a notice in the **Federal Register** announcing that the amendment is available for public review and comment. The Council has submitted Amendment 18 to the Secretary for review. This document announces that proposed Amendment 18 is available for public review and comment.

The scallop fishery in the exclusive economic zone off Alaska under the Scallop FMP is jointly managed by NMFS and the State of Alaska. The Council prepared the 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 679.

The Scallop FMP delegates many management aspects of the scallop fishery to the State of Alaska but maintains Federal oversight. This authority is limited by the Magnuson-Stevens Act and the FMP. While the FMP includes scallop stocks off the coast of Alaska, including weathervane scallop (*Patinopecten caurinus*), reddish scallop (*Chlamys rubida*), spiny scallop (*Chlamys hastata*), and rock scallop (*Crassadoma gigantea*), the weathervane scallop is the only commercially targeted stock at this time. Commercial fishing for weathervane scallops occurs in the Gulf of Alaska, Bering Sea, and waters off the Aleutian Islands. There is currently no formal stock assessment model for the scallop fishery. Instead, the State sets guideline harvest levels

(GHLs) informed by data collected through the scallop fishery observer program and fishery-independent scallop dredge surveys. Standardized catch per unit effort (CPUE) indices are estimated to account for depth, month, vessel, bed, and season variations.

Previously, the overfishing level (OFL) and acceptable biological catch (ABC) have been set based on the definition of optimal yield (OY). More recently, OFL and ABC have been based on the OY re-defined in 2012 (Amendment 13), when OY was re-defined as 0 to 1.29 million pounds (lb) (585 tons (t)) of shucked scallop meats to include estimated discards over the reference time frame. Annual specifications have been defined as: max OFL = OY, and ABC = 90 percent of OFL. Alaska scallop harvests have not exceeded OY in any year since it was first established.

In the absence of stock-size estimates, the status of the scallop stock relative to its overfished state is unknown. Consistent with assessments since the 2011/12 season, the 2022/23 OFL is set equal to the OY (1.284 million lb.; 582 t) as defined in the Scallop FMP and the 2022/23 ABC is set equal to the maximum ABC control rule value (90 percent of OFL or 1.156 million lb.; 524 t). Estimated total fishing removals (retained and discarded) for the 2021/22 and 2022/23 seasons were 311,978 lb (141.5 t) and 345,690 lb (156.8 t) of shucked meats, respectively (table 1). These estimates are less than 30 percent of the ABC/annual catch limit (ACL) and OFL; therefore, overfishing did not occur in 2021/22 or 2022/23.

Currently, the Scallop FMP requires the SAFE report to be created on an annual basis. The proposed

management measure in Amendment 18 would amend the FMP to allow flexibility for non-annual assessments. This would remove prescriptive language dictating that SAFE reports are produced on an annual basis. Amendment 18 would give the Council flexibility in modifying the assessment cycle with the potential to set multi-year specifications, based on a period of no more than 3 years, that best suit the needs of the stock. If a formal stock assessment model is developed, or there is a decrease in estimated stock abundance, the Council could request that the development of the SAFE report revert to being reviewed annually.

NMFS is soliciting public comments on proposed Amendment 18 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 18 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 18. 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: October 31, 2023.

Jennifer M. Wallace,

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

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