

September meeting. This resulted in a surf clam quota recommendation of 2.565 million bushels, as initially recommended by the Council staff and SAW 22. The ocean quahog quota recommendation remained unchanged at 4 million bushels. The rationale for the reduction in this quota is biologically based, and the recommendation was not reconsidered at the September Council meeting.

The proposed quotas for the 1998 Atlantic surf clam and ocean quahog fisheries are as follows:

Proposed 1998 SURF CLAM/Ocean QUAHOG Quotas

Fishery	1998 final quotas (bu)	1998 final quotas (hL)
Surf clam	2,565,000	1,362,000
Ocean quahog	4,000,000	2,122,000

Classification

This action is authorized by 50 CFR part 648, complies with the National Environmental Policy Act, and has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an Initial Regulatory Flexibility Analysis (IRFA), as part of the Regulatory Impact Review (RIR), that describes the impact the proposed specification, if adopted, would have on small entities. The proposed 1998 fishing quota for surf clams of 2.565 million bushels is unchanged from the 1996 and 1997 quotas. This quota is based on management advice from the Stock Assessment Review Committee for the 22nd Northeast Regional Stock Assessment Workshop, which recommended no change in the quotas until a new stock assessment is available with abundance estimates based on fishery catch rate and research survey data.

The proposed 1998 fishing quota for ocean quahogs of 4.000 million bushels is a 317,000 bushel reduction from the 1997 quota of 4.317 million bushels, a decrease of 7.3 percent. This Council quota recommendation reflects the lowest quota specification possible within the range of 4.000 and 6.000 million bushels specified in the fishery management plan. The Council staff recommendation for quahogs was to maintain the 1997 quota of 4.317 million bushels. The Science and Statistics and the Surf Clam and Ocean Quahog Committees of the Council both endorsed the staff recommendation. However, the Council's rationale for the reduction of the ocean quahog quota is biologically based and involves the

conservation of the resource and preservation of the fishery.

All of the 56 vessels participating in the surf clam and ocean quahog fisheries in 1996 are small entities. Twenty fished exclusively for surf clams, 14 fished for surf clams and ocean quahogs, and 22 fished exclusively for ocean quahogs. The proposed quota for the ocean quahog fishery for 1998 is 7.3 percent less than the quotas for both 1996 and 1997. Because 22 of the 36 vessels participating in the ocean quahog fishery (61 percent) harvest ocean quahog only, it is assumed that most or all of those vessels will have a reduction of 5 percent or more in ex-vessel revenues in 1998 compared to 1996, the most recent year for which data are complete. Meanwhile, the analyses indicate that no vessels will cease operations and compliance costs will not increase total costs of production of more than 5 percent for 20 percent or more of the affected small entities as a result of the proposed specifications. A copy of the RIR/IRFA is available from the Council (see ADDRESSES).

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

Dated: November 18, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971110265-7265-01; I.D. 101797A]

RIN: 0648-AJ98

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Change in Season Dates

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to change the dates of the scallop fishing season for Registration Area D (Yakutat) and Registration Area E (Prince William Sound), and Registration Area H exclusive of the Kamishak District. The new fishing season would begin on July 1 and end on February 15 of the following year. The intended effect of

this action is to consolidate the scallop fishing seasons in Alaska in the summer months to improve vessel safety and product quality, and to maintain consistency between Federal and State of Alaska fishing season regulations. This action is necessary to promote the conservation and management objectives of the Fishery Management Plan for the Scallop Fishery off Alaska (FMP).

DATES: Comments must be received by December 9, 1997.

ADDRESSES: Comments on the proposed rule must be sent to the Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel. Copies of the Environmental Assessment/ Regulatory Impact Review (EA/RIR) prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Management Authority

The scallop fishery in the exclusive economic zone (EEZ) off Alaska is managed by NMFS under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act and approved by NMFS on July 26, 1995. Regulations implementing the FMP are set out at 50 CFR part 679. General regulations that also affect fishing in the EEZ are set out at 50 CFR part 600. Amendment 1 to the FMP established a cooperative State-Federal management regime under which each management action by the State of Alaska (State) is mirrored by a parallel Federal management action. The purpose of this cooperative management regime is to give primary management responsibility to the State while preventing unregulated fishing in Federal waters.

In March 1997, the Alaska State Board of Fisheries (Board) approved an industry proposal to change the scallop season dates in the Yakutat and Prince William Sound Registration Areas. Previously, the scallop fishery in those areas opened on January 10 and closed on June 30 of each year. The Board's action changes State regulations by specifying a season opening of July 1 and a closure of February 15 of the following year. The Board recommended that a parallel season change be made in Federal regulations to prevent conflicting regulations at the State and Federal levels. The following two reasons were cited in the Board's

decision to move the scallop season dates for these areas.

Changing circumstances in the scallop fishery. The historic reason for a January opening in the Yakutat and Prince William Sound Registration Areas no longer exists under the current management regime. Prior to 1993, the Alaska Department of Fish and Game (ADF&G) did not establish Guideline Harvest Levels (GHLs) for each registration area. Instead, winter and summer openings were used in different areas to spread effort and to mirror the historic pattern of scallop fishing throughout the State. However, under Amendment 1 to the FMP, approved July 10, 1996, ADF&G and NMFS now establish GHLs or total allowable catch (TAC) amounts for each scallop registration area. As a consequence, the January openings for Yakutat and Prince William Sound are no longer necessary to distribute effort between registration areas because the separate TACs established for each registration area accomplish the same objective.

Safety issues. At its March 1997 meeting, the Board received extensive testimony from scallop fishermen who reported that January is an unsafe time to fish for scallops in the smaller vessels that compose most of the fleet. Fishing conditions are much safer in July than in January when severe winter storms are common in the Gulf of Alaska. Historically, the summer fishery in the western registration areas would extend into the fall and winter months. Vessel operators would typically begin scallop fishing in the Bering Sea and Alaskan Peninsula during July and move to the more sheltered waters of Yakutat and Prince William Sound in the winter. However, in recent years, TAC limits and/or crab bycatch limits are reached relatively quickly in the western registration areas. No reason exists to delay the Yakutat and Prince William Sound scallop fisheries until January when the worst winter weather occurs.

Federal response to Board action. The Board has already amended State regulations to establish a scallop fishing season of July 1 through February 15 for the areas in question. Therefore, the goal under Amendment 1 to the FMP to maintain consistency between State and Federal scallop regulations requires NMFS to implement a parallel change in

Federal regulations. This revision to Federal regulations is necessary to prevent conflicting fishing seasons at the State and Federal level and the resulting disruption to industry. If no action is taken, cooperative State-Federal management of the fishery would be impossible. State waters in Prince William Sound and Yakutat would open on July 1 while Federal waters would open on January 10. Furthermore, ADF&G and NMFS would be forced to split the TACs between State and Federal waters and manage separately each portion of the TAC.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities as follows:

In the past two years, eight of the eleven scallop vessels active in Alaska have participated in the scallop fishery in Yakutat or Prince William Sound. This is a "substantial number" of small entities, as NMFS has interpreted this term to mean 20 percent of the total universe of small entities affected by the regulation. However the proposed action would not impose any compliance costs on small entities. Furthermore, the likely effects of the proposed action are positive and include: Safer fishing conditions for vessels and crews, and a consolidated fishing season that will reduce the overhead costs that are associated with conducting scallop fishing during two separate times of the year. Therefore, this action would not have a "significant impact," as NMFS has interpreted that term to mean a reduction in annual gross revenues by more than 5 percent, an increase in total costs of production by more than 5 percent, or compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities.

This regulatory change was requested by industry to consolidate the scallop fishing seasons off Alaska and to

improve safety in the fishery. While industry indicates that this regulatory change will improve safety, it will not have a significant economic impact on a substantial number of small entities because the scallop harvest quotas and other management measures for the fishery will remain unchanged. As a result, a regulatory flexibility analysis was not prepared. Copies of the EA/RIR are available from NMFS (see ADDRESSES).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 18, 1997.

David L. Evans,

Acting 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. 1801 *et seq.*, 773 *et seq.*, and 3631 *et seq.*

2. Section 679.64 is revised to read as follows:

§ 679.64 Seasons.

(a) Fishing for scallops in the Federal waters off Alaska is authorized from 0001 hours, A.l.t., July 1, through 1200 hours, A.l.t., February 15 of the following year, subject to the other provisions of this part, except as provided in paragraphs (b) and (c) of this section.

(b) Fishing for scallops in the Federal waters of the Kamishak District of Scallop Registration Area H is authorized from 1200 hours, A.l.t., August 15 through 1200 hours, A.l.t., October 31, subject to the other provisions of this part.

(c) Fishing for scallops in the Federal waters of Registration Area A is authorized from 1200 hours A.l.t., January 10 through 1200 hours, A.l.t., June 30, subject to the other provisions of this part.

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