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## Classification

These actions are authorized by the Pacific Coast groundfish FMP and its implementing regulations, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the trip limit adjustments for most species or species groups are scheduled to begin October 1, 2002, and affording prior notice and opportunity for public comment would impede the agency's function of managing fisheries to approach without exceeding the OY for federally managed species. Delaying implementation of these trip limit adjustments past October 1, 2002, may cause unnecessary hardship among the West coast groundfish fleets. In 2002, the West coast groundfish fleet has suffered severe cutbacks in seasons, areas, and species available to be fished in an effort by the Pacific Council to primarily protect darkblotched and bocaccio rockfish, both overfished species. Most of the trip limit adjustments in this document are increases from the status quo. Increases to trip limits for healthy stocks must be implemented in a timely manner to alleviate some of the economic and social burden fishermen and fishing communities have to bear to protect overfished and depleted groundfish species. Delaying implementation of these trip limit adjustments would restrict fishermen to the reduced trip limits put in place by both the July inseason trip limits and the September emergency rule that were previously scheduled for the September-October and November-December cumulative period. In addition, some changes are closures in order to prevent incidental catch of overfished species. Delaying implementation of these closures would allow fishermen to continue harvesting certain species and may cause the fisheries to exceed the OYs for overfished rockfish species.

The AA also finds good cause to waive the requirement to provide prior notice and opportunity for public comment on the correction and re-

classification of certain species (i.e., Petrale sole and rex sole within flatfish) as such prior notice and opportunity for public comment is unnecessary. It is unnecessary because these are minor technical amendments upon which the public most likely has little interest in commenting. For the above reasons, good cause also exists to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3).

The declaration process mentioned in this inseason action, if implemented, will be a requirement of the States of Washington and Oregon. The State declaration process therefore would not be subject to Federal Paperwork Reduction Act requirements.

These actions are taken under the authority of 50 CFR 660.323(b)(1) and are exempt from review under Executive Order 12866.

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

**Dated:** October 1, 2002.

**Virginia M. Fay,**

*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. 092602D]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Overfished Fisheries

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

**ACTION:** Notification of overfished stock.

**SUMMARY:** NMFS has identified the Pribilof Islands blue king crab (*Paralithodes platypus*) stock as overfished. This document is intended to notify the public that the North Pacific Fishery Management Council (Council) has been informed that this stock is overfished and that the Council has been directed to initiate action to rebuild the stock. This notification is necessary to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which requires identification of overfished stocks and subsequent implementation of management measures to rebuild overfished stocks.

**FOR FURTHER INFORMATION CONTACT:** Nina Mollett, 907-586-7462.

**SUPPLEMENTARY INFORMATION:** Section 304(e) of the Magnuson-Stevens Act requires that, if the Secretary of Commerce (Secretary) determines that a fishery is overfished, the Secretary shall immediately notify the appropriate fishery management council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks. The fishery management council has one year from the date of notification to prepare a plan to end overfishing in the fishery and to rebuild affected stocks.

On March 3, 1999, the Secretary approved Amendment 7 to the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) (64 FR 11390, March 9, 1999). Pursuant to section 303(a)(10) of the Magnuson-Stevens Act, and the national standard guidelines (50 CFR part 600), the amendment revised the definitions of overfishing, maximum sustainable yield, and optimum yield for the king and Tanner crab stocks of the Bering Sea and Aleutian Islands.

A stock is considered overfished when the total spawning biomass is below the minimum stock size threshold (MSST) as defined in the FMP. The MSST for Pribilof Islands blue king crabs is 6.6 million lb (2,994 mt) of total mature biomass (TMB).

The Alaska Fisheries Science Center (AFSC) has determined that the stock has declined below its MSST. This determination is based on a joint NMFS and Alaska Department of Fish & Game (ADF&G) assessment of stock conditions, which incorporates the 2002 NMFS Eastern Bering Sea trawl survey data.

NMFS, as required by section 304(e), notified the Council by letter on September 23, 2002, that the Pribilof Islands blue king crab stock is overfished and that the Council must develop a rebuilding plan within one year. The time period for a rebuilding program must be as short as possible, but not exceed 10 years, unless the biology of the stock or other environmental conditions dictate otherwise.

According to the national standard guidelines at 50 CFR 600.310(d)(4)(ii) and (e)(3), the Council has two alternatives for remedial action. First, under the guidelines, if the stock is declining due to changes in environmental conditions that affect its long-term productivity, the Council must respecify the MSST. Second, if the stock or stock complex is overfished or if a threshold is being approached, the Council must take remedial action by preparing an FMP amendment designed

to rebuild the stock to the maximum sustainable yield level within an appropriate time frame.

#### Management Background

The situation with Pribilof Islands blue king crab is somewhat unusual in that NMFS is declaring the fishery overfished even though it has been closed since 1999, the stock is protected by existing Council, State of Alaska, and NMFS management measures, its habitat is protected by the Pribilof Islands habitat conservation area, and Pribilof Islands blue king crab are not caught as bycatch in any fishery.

Since 1980, when the harvest from this stock reached 11.0 million lb (4,990 mt), the Pribilof Islands blue king crab stock has declined substantially in abundance. The fishery was closed from 1988 to 1994 due to low stock abundance. Although this stock was estimated to be above the MSST during the early 1990s, abundance estimates of this stock were considered too unreliable to justify reopening the fishery. By 1995, the estimates had improved enough to open the fishery. However, from 1995 through 1998, harvests fell from 1.3 million lb (590 mt) to 0.5 million lb (227 mt). In 1999 the

fishery was again closed due to several factors, including the declining abundance trend, low level of prerecruits, low precision of estimates, and poor fishery performance in the preceding two seasons.

Since 1999 the fishery has remained closed. Data from the 2001 NMFS Eastern Bering Sea trawl survey indicated that the stock was continuing its decline in abundance from mid-1990s levels. The stock's TMB for 2001 was estimated at 7.0 million lb (3,175 mt). Although that was above the MSST of 6.6 million lb (2,994 mt), the fishery remained closed because the abundance of mature males fell below the 0.77 million lb (349 mt) threshold level for mature males that the Alaska Department of Fish and Game (ADF&G) established under its harvest strategy for this stock. Furthermore, the stock level and trend raised concerns that the stock could fall below the MSST by 2002.

These concerns were borne out in 2002, when the stock's TMB was estimated to be below the MSST, at 4.5 million lb (2,041 mt). Mature male abundance for 2002 was estimated at 0.338 million lb (153 mt); this again was below the harvest strategy threshold for a fishery opening.

Although poor precision in abundance estimates makes year-to-year comparisons difficult, the trend in estimates since the mid-1990s indicates that this stock is depressed, in decline, and below MSST. Estimates of abundance for all male size classes are low and provide no suggestion of recruitment to the mature or legal component in the near future. A total of only 12 male blue king crabs were caught at six stations in the Pribilof District during the 2002 survey. Of these, only one was sub-legal size, and most of the rest were old-shell post recruit crabs.

ADF&G concurs with the results of the analysis of the 2002 NMFS trawl survey. The Council is aware of the results of the trawl survey and anticipated this determination. Industry has not been dependent on this fishery, which has been closed for several years.

Dated: September 27, 2002.

**Virginia M. Fay,**

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