

disclosed use of a scheduled drug or substance. Use of a substance abuse professional, see 49 CFR 40.3 and 40.281, is not required as part of a non-Department of Transportation drug test.

*K. Medical Advisory Criteria for 49 CFR 391.41(b)(13)*

1. The phrase “current clinical diagnosis of” alcoholism is specifically designed to encompass a current alcoholic illness or those instances where the individual’s physical condition has not fully stabilized.

2. When in remission, the medical examiner may certify an individual who has a prior clinical diagnosis of alcoholism.

3. The medical examiner may request a non-Department of Transportation alcohol test to aid in the physical qualification determination, including when the individual discloses excessive use of alcohol or the medical examiner observes signs of alcoholism. The use of a substance abuse professional, see 49 CFR 40.3 and 40.281, is not required. The medical examiner may request that individuals provide documentation from a professional qualified to conduct an alcohol use assessment that includes an opinion concerning whether a current clinical diagnosis of alcoholism is present or the individual is in remission prior to making a medical certification determination.

Issued under authority delegated in 49 CFR 1.87.

**Robin Hutcheson,**  
*Administrator.*

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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 agency decision.

**SUMMARY:** The National Marine Fisheries Service (NMFS) announces the approval of Amendment 18 to the Fishery Management Plan (FMP) for the Scallop Fishery off Alaska (Scallop FMP). Amendment 18 revises timing requirements for the Stock Assessment and Fishery Evaluation (SAFE) report to allow more flexibility for non-annual assessments and to set scallop harvest specifications less frequently than on an annual basis. This will 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:** The amendment was approved on January 11, 2024.

**ADDRESSES:** Electronic copies of Amendment 18, the Analysis, and the Categorical Exclusion (CE) prepared for this action may be obtained from <https://www.regulations.gov> under the docket NOAA–NMFS–2023–0094.

**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 Notice of Availability (NOA) for Amendment 18 was published in the **Federal Register** on November 3, 2023 (88 FR 75535) with a 60-day comment period that ended on January 2, 2024. NMFS received one comment during the public comment period on the NOA. NMFS summarized and responded to this comment under Comments and Responses, below.

NMFS determined that Amendment 18 is consistent with the Magnuson-Stevens Act and other applicable laws, and the Secretary of Commerce approved Amendment 18 on January 11, 2024. The November 3, 2023, NOA (88 FR 75535) contains additional information on this action. No changes to Federal regulations are necessary to implement the Amendment.

The scallop fishery in the exclusive economic zone off Alaska under the Scallop FMP is jointly managed by NMFS and the State of Alaska (State). The Council prepared the Scallop FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations governing U.S. fisheries and implementing the Scallop FMP appear at 50 CFR parts 600 and 679.

The Scallop FMP delegates many management aspects of the scallop fishery to the State 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 informed by data collected through the scallop fishery observer program and fishery-independent scallop dredge surveys. Standardized catch per unit effort 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. These estimates are less than 30 percent of the ABC/annual catch limit 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 management measures in Amendment 18 will amend the FMP to allow flexibility for non-annual assessments. This will remove prescriptive language dictating that the SAFE report is produced on an annual basis. Amendment 18 will 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 task the Scallop Plan Team to develop the scallop SAFE report annually.

#### Comments and Responses

During the public comment period for the NOA for Amendment 18, NMFS received one unique comment from one

member of the public. NMFS' response to this comment is presented below.

*Comment 1:* One commenter expressed concern about the impacts of offshore wind farms on scallops.

*Response:* This comment is outside the scope of this action. This action is limited to providing flexibility in the timing for non-annual SAFE reports, as

well as multi-year specifications, for scallops.

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

Dated: January 11, 2024.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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