

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

RIN 0648–BH05

#### Fisheries of the Exclusive Economic Zone Off Alaska; Reclassifying Squid Species in the BSAI and GOA

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

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

**SUMMARY:** The North Pacific Fishery Management Council submitted Amendment 117 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 106 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP), (collectively Amendments 117/106) to the Secretary of Commerce for review. If approved, Amendments 117/106 would classify squid in these fishery management plans (FMPs) under the ecosystem component (EC) category. This action is necessary to ensure the squid complex is accurately classified in the FMPs based on the best available scientific information. Amendments 117/106 are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable laws.

**DATES:** Comments must be received no later than May 29, 2018.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2017–0090, 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=](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0090)

NOAA–NMFS–2017–0090, 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: Ellen Sebastian. 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](http://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 Amendments 117/106 and the Environmental Assessment/Regulatory Impact Review prepared for this action (collectively the “Analysis”) may be obtained from [www.regulations.gov](http://www.regulations.gov).

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

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council (“regional council”) submit any fishery management plan 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 a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendments 117/106 to the FMPs are available for public review and comment.

NMFS manages the groundfish fisheries in the exclusive economic zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S.

fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Section 3.1.2 of the FMPs define two broad classifications for stocks or stock complexes (*i.e.*, species or species groups). The first classification is for stocks “in the fishery” that include target stocks in need of conservation and management that fishers seek to catch, and non-target stocks in need of conservation and management that are caught incidentally during the pursuit of target stocks. The second classification is for ecosystem component (EC) species that do not require conservation and management, but may be listed in an FMP in order to achieve ecosystem management objectives. Under the groundfish FMPs, NMFS must establish an overfishing level (OFL), an acceptable biological catch (ABC) and a total allowable catch (TAC) for each stock or stock complex (*i.e.*, species or species group) that are not in the EC.

The FMPs define the OFL as the level above which overfishing is occurring for a species or species group. NMFS manages fisheries in an effort to ensure that no OFLs are exceeded in any year. The FMPs define the ABC as the level of a species or species group’s annual catch that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. The ABC cannot exceed the OFL. The FMPs define the TAC as the annual catch target for a species or species group, derived from the ABC by considering social and economic factors and management uncertainty.

In 2010, Amendments 96/87 to the BSAI and GOA FMPs, respectively, established the EC category and designated prohibited species (salmon, steelhead trout, crab, halibut, and herring) and forage fish species (as defined in Table 2c to 50 CFR part 679 and § 679.20(i)) as EC species in the groundfish FMPs. Additional detail is provided in the final rule implementing Amendments 96/87, and is not repeated here (75 FR 61639, October 6, 2010).

In 2015, NMFS implemented Amendments 100/91 to the BSAI and GOA FMPs, respectively, to add grenadiers (family *Macrouridae*) to the EC category (80 FR 11897, March 5, 2015). The Council and NMFS added grenadiers to the FMPs in the EC category because grenadiers did not require conservation and management,

but acknowledged their role in the ecosystem and limited the groundfish fisheries' potential impact on grenadiers. Adding grenadiers to the EC category allowed for improved data collection and catch monitoring appropriate for grenadiers given their abundance, distribution, and catch. Additional detail is provided in the final rule implementing Amendments 100/91, and is not repeated here (80 FR 11897, March 5, 2015).

Squids are currently classified as "in the fishery" in section 3.1.2 of the groundfish FMPs. Since 2010, the Council's non-target committee, Plan Teams, and Scientific and Statistical Committee have recommended that the Council explore reclassifying squids as EC category species because there is no demand for squid and squid have not been targeted or open to directed fishing in either the BSAI or GOA for many years (see Analysis section 1.2). Further, there is no conservation concern for squids because they are extremely short-lived and highly productive, the current fishing mortality is considered insignificant at a population level, and they are unlikely to be overfished in the absence of a directed fishery (see Analysis section 3.2.5).

Under the groundfish FMPs, NMFS must establish an overfishing level (OFL), an acceptable biological catch (ABC) and a TAC for squids. Current OFLs and ABCs for squids are based on average catch calculations. While these limits are based on the best available scientific information, they are poorly linked to abundance. Most squids in the BSAI and GOA are associated with the pelagic environment, occurring in the water column and are almost certainly underestimated as described in section 3.2 of the Analysis.

Because squid have only been taken as incidental catch in recent years, historical removal levels are likely to be much lower than maximum sustainable yield. Ecosystem models indicating the amount of predator consumption of squids in the BSAI and GOA, provide further evidence that the catch-based estimates of OFLs and ABCs for squids are highly underestimated (see section 3.2.2 of the Analysis).

Under the current stock classification for squids, if the total TAC of squid is caught in the BSAI or GOA, retention is prohibited in that management area for the remainder of the year. If directed fisheries for groundfish species which incidentally catch squid would cause squid to exceed its OFL, NMFS may close those fisheries to directed fishing for those groundfish species in a management area to prevent exceeding

the squid OFL (see regulations at § 679.20(d)(3)).

Section 3.2.3 of the Analysis provides a detailed description of incidental catch of squids in the BSAI and GOA groundfish fisheries. Historically, the Bering Sea pollock fishery has taken the largest amount of squids relative to the TAC, ABC, and OFL for BSAI squids. Although NMFS has not closed the Bering Sea pollock fishery, or other groundfish fisheries in the BSAI or GOA, to directed fishing to prevent exceeding an OFL for squids, the Bering Sea pollock fishery has undertaken measures to avoid the incidental harvest of squids and exceeding the OFL for squids in the BSAI.

Section 302(h)(1) of the Magnuson-Stevens Act requires a council to prepare an FMP for each fishery under its authority that is in need of conservation and management. "Conservation and management" is defined in section 3(5) of the Magnuson-Stevens Act. The National Standard (NS) guidelines at § 600.305(c) (revised on October 18, 2016, 81 FR 71858), provide direction for determining which stocks will require conservation and management and provide direction to regional councils and NMFS for how to consider these factors in making this determination. Specifically, the guidelines direct regional councils and NMFS to consider a non-exhaustive list of ten factors when deciding whether stocks require conservation and management.

Section 2.2.1 in the Analysis considers each of the ten factors' relevance to squids. The analysis showed that squids are an important component of the marine environment, particularly due to their importance as prey for marine mammals, fish and other squids. However, despite being classified as a target species, there are currently no directed fisheries for squids. Squids are not important to commercial, recreational or subsistence users, and the fisheries for BSAI and GOA squids are not an important fishery to the Nation or regional economy. There are no developing fisheries for squids in the EEZ off Alaska nor in waters of the State of Alaska (State). Currently, the State adopts the MRAs established in the Federal fisheries for fisheries in State waters. In the absence of a directed fishery, squids are unlikely to become overfished. Therefore, maintaining squids in the FMPs for conservation and management is not likely to improve or maintain the condition of the stock.

In June of 2017, the Council recommended and NMFS proposes Amendments 117/106 to reclassify

squids as EC category species in the FMPs. Based on a review of the scientific information, and after considering the revised NS guidelines, the Council and NMFS determined that squids are not in need of conservation and management, and that classifying squids in the EC category is an appropriate action.

While the Council determined that squids are not in need of conservation and management as defined by the Magnuson-Stevens Act, and after considering the revised NS guidelines, the Council and NMFS determined that there are benefits to retaining squids as an EC species complex in the FMPs, especially given their ecological importance in the BSAI and GOA.

Amendments 117/106 would amend section 3.1.2 of the FMPs to establish the squids EC species complex in the FMPs. Amendments 117/106 would allow NMFS to prohibit directed fisheries for squids and limit the retention and commercial exchange of squids. By virtue of being classified as EC species, catch specifications for squids (OFL, ABC, and TAC) would no longer be required.

NMFS is soliciting public comments on proposed Amendments 117/106 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendments 117/106, following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendments 117/106 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendments or the proposed rule will be considered by NMFS in the approval/disapproval decision for Amendments 117/106 and addressed in the response to comments in the final decision. Comments received after end of the applicable comment period will not be considered in the approval/disapproval decision on Amendments 117/106. 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: March 22, 2018.

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