AMENDMENT 1 - TEXT TO AMEND THE FISHERY MANAGEMENT PLAN FOR THE SCALLOP FISHERY OFF ALASKA

1. In Chapter 1, the last two paragraphs of the section entitled "1.1 Scallop Management Background are revised and an additional paragraph is added to read as follows:

1.1 Scallop Management Background

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To respond to the need for Federal management of the scallop fishery once the emergency rule expires, the Council prepared the proposed Fishery Management Plan for the Scallop Fishery off Alaska (FMP) under section 304(c) of the Magnuson Act. The FMP originally authorized an interim closure of Federal waters to fishing for scallops. The intent of the FMP was to prevent an unregulated and uncontrolled fishery for scallops in Federal waters that could result in overfishing of scallop stocks during the period of time an alternative fishery management plan is prepared that would authorize fishing for scallops under a Federal management regime. The Council pursued this approach because it determined that the suite of alternative management measures necessary to support a controlled fishery for scallops in Federal waters could not prepared, reviewed, and implemented before the emergency rule expires. Instead, the Council prepared the proposed FMP to protect the long-term productivity of scallops stocks off Alaska necessary to support the future harvest of optimum yield on a continuing basis without the "boom and bust" syndrome that other scallop fisheries historically have portrayed.

In June 1995 the Council adopted Amendment 1 to the FMP which would establish a Federal management regime to replace the interim closure of Federal waters to fishing for scallops. The Council's preferred alternative for Amendment 1 was to federalize the State's management regime and implement a vessel moratorium, based on criteria adopted in April 1994, and reaffirmed in January 1995. 18 vessels would qualify under the moratorium. The Council has subsequently separated the vessel moratorium from Amendment 1 and will propose the vessel moratorium as Amendment 2 in order to prevent vessel moratorium issues from delaying reopening of the fishery.

Amendment 1 to the FMP establishes a Federal management regime to replace the interim closure of Federal waters to fishing for scallops (paragraphs 2.3 through 2.5 of the FMP). This new Federal management regime has been developed in coordination with the Council and the State of Alaska (State) and is designed to be consistent with current State management of the scallop fishery. The Federal management regime established under Amendment 1 does not preclude the Alaska Department of Fish and Game (ADF&G) from imposing any additional regulations on State-registered vessels. A description of the scallop fishery off Alaska, as well as harvest amounts and the number of vessels annually participating in the fishery is presented in Appendix A.

2. In Chapter 2, the section entitled "2.2.2 Specification of OY and overfishing" is revised to read as follows:

2.2.2 Specification of OY and overfishing

Instead of specifying OY as a fishing rate or constant catch level, the long-term OY specification for the scallop resource in Federal waters off Alaska (all species) is specified as a numerical range. In the absence of biomass estimates needed to implement an exploitation rate harvest strategy, the OY is specified as the long-term productivity. The OY range is zero to 1.8 million lbs (814 mt) of shucked scallop meats, and is derived from historical catches from State and Federal waters in the GOA and BSAI. The low end of the range is the lowest catch on record (zero pounds in 1978). The high end of the OY approximates the highest catch taken from the GOA and BSAI since the 'fishing up' period (1.8 million pounds in 1993).

As discussed above in section 2.2.1, the lack of biological information on Alaskan scallops inhibits the numerical specification of overfishing. Although it is difficult to define precisely the level at which overfishing jeopardizes recovery of a stock, there are indicators of existing or impending overfishing that should be heeded. For the reasons discussed above, recent harvest levels of scallops off Alaska may not be sustainable. This concern, as well as other uncertainties about the scallop biomass and stock dynamics must be taken into account in developing an overfishing definition. Although overfishing could be defined as a fishing mortality rate for weathervane scallops, based on existing life history data, the lack of stock assessment information (surveys, population age or size structure) limit the use of a mortality rate-based overfishing definition at this time. As in the case for other stocks where very little biological information is available (Rosenberg et al. 1993), overfishing can be defined as landings that exceed optimum yield. As data collected from the fisheries and/or assessment surveys of the scallop resource are analyzed, overfishing for scallops may be defined on a fishing mortality rate basis. Until better information becomes available, overfishing is defined as landings that exceed optimum yield. The scallop FMP must ensure that fishing effort on the scallop stocks will not cause OY (and the overfishing level) to be exceeded.

Because scallops have only been harvested by U.S. vessels in the past, and effort remains high, it is likely that the OY can be fully harvested by U.S. vessels, and fully processed by U.S. processors in future years. In fact, current capacity of the U.S. scallop fleet in Alaska exceeds current guideline harvest levels for scallops. Hence, no considerations have been made to allow a foreign fishery on Alaskan scallops.

3. In Chapter 2, the section entitled "2.3 Management Measures" is revised as follows:

a. Paragraphs "2.3.1 Closure of Federal waters" and "2.3.4 Impact on the fishery" are deleted.

b. Paragraph "2.3.2 Data assessment and collection" is redesignated as paragraph 2.6

c. The first and last sentences of Paragraph "2.3.3 Administrative and enforcement costs" are deleted and the paragraph is redesignated as paragraph 2.7.

d. New paragraphs 2.3 through 2.5 are added so that paragraphs 2.3 through 2.7 read as follows:

2.3 Management Areas

The cooperative State-Federal management approach outlined in the FMP will be facilitated if ADF&G and NMFS use the same registration areas to manage the scallop fishery. For the purpose of managing the scallop fishery, the FMP area is divided into nine scallop registration areas (Figure 4) composed of the Federal waters and adjacent State waters described in each area. These registration areas are identical to the State of Alaska scallop registration areas set out at 5 AAC 38.076(b). The Yakutat, Cook Inlet, and Kodiak Registration Areas are further divided into districts.

Registration Area A (Southeastern Alaska) has as its southern boundary the international boundary at Dixon Entrance, and as its northern boundary Loran-C line 7960-Y-29590, which intersects the western tip of Cape Fairweather at 58° 47' 58" N. lat., 137° 56' 30" W. long., except for ADF&G District 16 defined as all waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

Registration Area D (Yakutat) has as its western boundary the longitude of Cape Suckling (143° 53' W. long.), and as its southern boundary Loran-C line 7960-Y-29590, which intersects the western tip of Cape Fairweather at 58° 47' 58" N. lat., 137° 56' 30" W. long., and ADF&G District 16 defined as all waters all waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

Registration Area E (Prince William Sound) has as its western boundary the longitude of Cape Fairfield (148° 50' W. long.), and its eastern boundary the longitude of Cape Suckling (143° 53' W. long.).

Registration Area H (Cook Inlet) has as its eastern boundary the longitude of Cape Fairfield (148° 50' W. long.) and its southern boundary the latitude of Cape Douglas (58° 52' N. lat.).

Northern District: north of a line extending from Boulder Point at 60 46' 23" N. lat., to Shell Platform C, then to a point on the west shore at 60° 46' 23" N. lat.

Central District: all waters between a line extending from Boulder Point at 60° 46' 23" N. lat., to Shell Platform C, to a point on the west shore at 60° 46' 23" N. lat., and the latitude of Anchor Point Light (59° 46' 12" N. lat.).

Southern District: all waters enclosed by a line from Anchor Point Light west to 59° 46' 12" N. lat., 152° 20' W. long., then south to 59° 03' 25" N. lat., 152° 20' W. long., then in a northeasterly direction to the tip of Cape Elizabeth at 59° 09' 30" N. lat., 151° 53' W. long., then from the tip of Cape Elizabeth to the tip of Point Adam at 59° 15' 20" N. lat., 151° 58' 30" W. long.

Kamishak Bay District: all waters enclosed by a line from 59° 46' 12" N. lat., 153° 00' 30" W. long., then east to 59° 46' 12" N. lat., 152° 20' W. long., then south to 59° 03' 25" N. lat., 152° 20' W. long., then southwesterly to Cape Douglas (58° 52' N. lat.). The seaward boundary of the Kamishak Bay District is three nautical miles seaward from the shoreline between a point on the west shore of Cook Inlet at 59° 46' 12" N. lat., 153° 00' 30" W. long., and Cape Douglas at 58° 52' N. lat., 153° 15' W. long., including a line three nautical miles seaward from the shorelines of Augustine Island and Shaw Island, and including the line demarking all state waters shown on NOAA chart 16640, 21st Ed., May 5, 1990.

Barren Island District: all waters enclosed by a line from Cape Douglas (58° 52' N. lat.) to the tip of Cape Elizabeth at 59° 09' 30" N. lat., 151° 53' W. long., then south to 58° 52' N. lat., 151° 53' W. long., then west to Cape Douglas.

Outer District: all waters enclosed by a line from the tip of Point Adam to the tip of Cape Elizabeth, then south to 58° 52' N. lat., 151° 53' W. long., then east to the longitude of Aligo Point (149° 44' 33" W. long.), then north to the tip of Aligo Point.

Eastern District: all waters east of the longitude of Aligo Point (149° 44' 33" W. long.), west of the longitude of Cape Fairfield (148° 50' W. long.), and north of 58° 52' N. lat.

Registration Area K (Kodiak) has as its northern boundary the latitude of Cape Douglas (58° 52' N lat.), and as its western boundary the longitude of Cape Kumlik (157° 27' W. long.).

Northeast District: all waters northeast of a line extending 168° from the easternmost tip of Cape Barnabas, east of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, east of 152° 30' W. long. in Shuyak Strait, and east of the longitude of the northernmost tip of Shuyak Island (152° 20' W. long.).

Southeast District: all waters southwest of a line extending 168° from the easternmost tip of Cape Barnabas and east of a line extending 222° from the southernmost tip of Cape Trinity.

Southwest District: all waters west of a line extending 222° from the southernmost tip of Cape Trinity, south of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak and east of the longitude of Cape Kilokak (156° 19' W. long.).

Semidi Island District: all waters west of the longitude of Cape Kilokak at 156° 19' W. long and east of the longitude of Cape Kumlik at 157° 27' W. long.

Shelikof District: all waters north of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak, west of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, west of 152° 30' W. long., in Shuyak Strait, and west of the longitude of the northernmost tip of Shuyak Island (152° 20' W. long.).

Registration Area M (Alaska Peninsula) has as its eastern boundary the longitude of Cape Kumlik (157° 27' W. long.), and its western boundary the longitude of Scotch Cap Light. The registration area also includes all waters of Bechevin Bay and Isanotski Strait south of a line from the easternmost tip of Chunak Point to the westernmost tip of Cape Krenitzen.

Registration Area O (Dutch Harbor) has as its northern boundary the latitude of Cape Sarichef (54° 36' N. lat.), as its eastern boundary the longitude of Scotch Cap Light, and as its western boundary 171° W. long., excluding the waters of Statistical Area Q.

Registration Area Q (Bristol Bay-Bering Sea) has as its southern boundary a line from Cape Sarichef (54° 36' N. lat.), to 54° 36' N. lat., 171° W. long., to 55° 30' N. lat., 171° W. long., to 55° 30' N. lat., 173° 30' E. long., as its northern boundary the latitude of Point Hope (68° 21' N. lat.).

Registration Area R (Adak) has as its eastern boundary 171° W. long., and as its northern boundary 55° 30' N. lat.

Figure 4. Scallop Registration Areas

2.4 Framework Measures

The Council may control the scallop fishery by quotas, for target and crab bycatch species, fishing seasons, gear restrictions, processing efficiency restrictions, area closures, and observer coverage requirements.. The measures authorized for management of scallops under the FMP fall into two categories: Framework measures and conventional measures. Framework measures often require frequent adjustment on an annual basis, for example, the setting of the annual yield to fall within the OY range or the establishment of crab bycatch limits. They are administratively designed to let the Council rapidly respond to biological and socioeconomic changes within a fishery without amending the plan. Often framework measures have a range of management options which are implemented according to specified criteria.

2.4.1 Setting harvest limits

In areas of Alaska where the scallop fishery has traditionally occurred, ADF&G has established annual guideline harvest levels (GHLs) which are equivalent to total allowable catch (TAC) amounts. These areas include all or parts of Scallop Registration Areas A (Southeast), D (Yakutat), E (Prince William Sound), H (Cook Inlet), K (Kodiak) and O (Dutch Harbor). In areas where crab bycatch is of concern, ADF&G has also established bycatch limits for red king crab and Tanner crab species. These areas include all or parts of Scallop Registration Areas K (Kodiak), M (Alaska Peninsula), O (Dutch Harbor), Q (Bering Sea) and R (Adak). In areas where an adequate historic scallop catch record does not exist (areas M, Q and R) ADF&G has not established GHLs and has managed the fishery on the basis of crab bycatch limits alone.

NMFS and the Council will, to the extent possible, coordinate with ADF&G in the establishment of TAC amounts and crab bycatch limits (CBLs) that are consistent with current State harvest limits. TAC amounts and CBLs will apply to both the Federal and State waters within each scallop registration area so that the fishery in each registration area is managed as a unit throughout its range. The following procedure has been established for setting annual harvest levels:

1. On an annual basis, prior to the April Council meeting, the Council will distribute a summary of the State's most recent TAC and CBL recommendations and supporting documentation to the public through its mailing list, as well as provide copies of the recommendations, documentation and the annual Stock Assessment and Fishery Evaluation (SAFE) report to the public upon request. The Council will notify the public of its intent to develop final recommendations at the April Council meeting and solicit public comment both before and during the April Council meeting.

2. Following the April Council meeting, the Council will submit its TAC and CBL recommendations along with rationale and supporting information to NMFS for review and implementation.

3. As soon as practicable after receiving recommendations from the Council, NMFS will publish in the Federal Register annual specifications of TAC amounts and CBLs for the succeeding 12-month period extending from July 1 through June 30 of the following year.

2.4.2 Total allowable catch (TAC)

2.4.2.1 Registration Areas A, D, E, H, K and O

The annual TAC amounts specified for scallops in registration areas A, D, E, H, K, and O shall be established as a weight in pounds of shucked scallop meats based on a review of the following:

1. Assessments of the biological condition of each scallop species. Assessment will include, where practicable, updated estimates of MSY and ABC; historical catch trends and current catch

statistics, assessments of alternative harvesting strategies; and relevant information relating to changes in scallop markets.

2. Socioeconomic considerations that are consistent with the goals and objectives of the FMP.

2.4.2.2 Registration Areas M, R, and Q

The annual TAC amounts of scallops in Registration Areas M, R, and Q shall be equal to the weight in pounds of shucked scallop meats harvested under the CBLs specified for these areas.

2.4.2.3 Time periods

Annual scallop TAC amounts will be specified for the time period extending from July 1 through June 30 of the following year.

2.4.3 Crab bycatch limits (CBLs)

Annual CBLs may be specified for red king crab and Tanner crab species in each registration area or district thereof.

2.4.3.1 Registration Area Q

The annual CBLs in Registration Area Q shall equal the following amounts:

1. The CBL of red king crab caught while conducting any fishery for scallops shall be within the range of 500 to 3,000 crab based on the considerations listed in paragraph 2.4.3.2.

2. The CBL of C. opilio Tanner crab caught while conducting any fishery for scallops is 0.003176 percent of the most recent estimate of C. opilio abundance in Registration Area Q.

3. The CBL of C. bairdi Tanner crab caught while conducting any fishery for scallops is 0.13542 percent of the most recent estimate of C. bairdi abundance in Registration Area Q.

2.4.3.2 All other registration areas

Except as provided for under 2.4.3.1, CBLS will be based on the biological condition of each crab species, historical bycatch rates in the scallop fishery, and other socioeconomic considerations that are consistent with the goals and objectives of the FMP.

2.4.3.3 Time period for CBLs

Annual CBLs will be specified for the time period from July 1 through June 30 of the following year.

2.4.4 Notices of closure

If the Regional Director determines that a TAC amount or CBL has been or will be reached, NMFS will publish a notice in the Federal Register declaring that the taking or retention of scallops is prohibited in the area or part thereof where the notice is applicable.

2.4.5 Inseason adjustments

Inseason adjustments may be issued by NMFS to implement the closure, extension, or opening of a season in all or part of a scallop registration area; and the adjustment of TAC amounts and CBLs.

2.5 Conventional Measures

Conventional measures are specific in their application and can only be changed by amendment to the FMP. Conventional measures are not anticipated to require frequent adjustment and include catch restrictions, area closures, seasons, gear restrictions, efficiency limits, and observer requirements.

2.5.1 Catch restrictions

This FMP authorizes the commercial harvest of scallops species listed in Chapter 1.3 of this plan. It is prohibited for a person to take or retain scallops in the Federal waters of any registration area unless the season for that species within those waters is open. It is prohibited for a person to possess, purchase, barter, sell, or transport scallops if that person knows or has reason to know that such shellfish were taken or possessed in contravention of this FMP.

2.5.2 Prohibited Species

It is prohibited to retain any species of salmon, halibut, king crab, Tanner crab, and herring. Species identified as prohibited must be avoided while fishing and must be immediately returned to the sea with a minimum of injury when caught and brought aboard.

2.5.3 Gear Limitations

The following gear restrictions apply to the taking of scallops under this FMP:

1. The inside ring diameter on all dredges used or carried by a vessel fishing for weathervane scallops (Patinopectin caurinus) must be four inches (10.16 cm) or larger.

2. The inside ring diameter on all dredges used or carried by a vessel fishing for scallops other than weathervane scallops must be three inches (7.62 cm) or larger.

3. No person may use chafing gear or other devices that decrease the legal inside ring diameter of a scallop dredge.
4. Except as provided in item 5, no more than two scallop dredges may be operated at one time from a vessel, and the opening of a scallop dredge must be equal to or less than 15 feet (4.57 meters) wide.

5. In the Kamishak, Southern, and Central Districts of Scallop Registration Area H, no more than one scallop dredge may be operated at one time from a vessel, and the opening of a dredge may not be more than six feet (1.83 meters) in width.

2.5.4 Efficiency limits

1. Scallops must be shucked by hand only. A shucking machine must not be on board a vessel that is fishing for scallops or that has scallops on board.

2. No vessel fishing for scallops in Federal waters may have aboard more than 12 persons, exclusive of ADF&G or NMFS observers.

2.5.5 Closed areas

Regulations implementing the FMP may include time and area closures designed to minimize crab bycatch and protect crab habitat. Closed areas will be specified in regulations.

2.5.6 Seasons

Scallops may be taken in the Federal waters of Scallop Registration Areas D and E from 12 noon A.l.t., January 10 until 12 midnight, December 31, subject to the other provisions of the FMP.

Scallops may be taken in the Federal waters of Scallop Registration Areas K, M, O, Q and R from 12 noon A.l.t., July 1 through 12 noon A.l.t., February 15 of the following year, subject to the other provisions of the FMP.

Scallops may be taken in the Federal waters of the Kamishak District of Scallop Registration Area H from 12 noon A.l.t., August 15 through 12 noon A.l.t., October 31. In the Federal waters of other districts of Scallop Registration Area H, scallops may be taken from 12 noon, January 1 until 12 midnight, December 31, subject to the other provisions of the FMP.

2.5.7 Observer requirements

Scallop vessels fishing in the Federal waters off Alaska must carry an NMFS or ADF&G-certified scallop observer when required to do so. Observer coverage requirements for these vessels will be specified in regulations. No one shall forcibly assault, resist, impede, intimidate, or interfere with an observer placed aboard a fishing vessel under this FMP.

2.6 Data assessment and collection

NMFS, in coordination with other management agencies, should initiate efforts to identify and gather the data needed to improve management agency understanding of the dynamics of the scallop resource and the effect of exploitation on the stocks capacity to produce MSY on a continuing basis. The type of information that should be pursued Alaska include (1) stock abundance and size/age structure, (2) scallop biology, life history, and stock production parameters, (3) analyses of population thresholds and recruitment overfishing; (4) estimation of optimum dredge ring size or minimum shell height based on studies of rates of growth and mortality; (5) investigations of exploitation rates and alternative management strategies; (6) genetic stock structure; and (7) new gear designs to reduce bycatch and to minimize adverse effects on bottom habitat. This objective may be attained, in part, with data collected by the Alaska State observer program. However, assessments of the scallop resource off Alaska, as well as the conduct of other scallop research will be dependent on Federal funding, State of Alaska general fund appropriations, or future amendments to the FMP that would authorize experimental fishing under Federal permit conditions.

2.7 Administrative and enforcement costs

Administrative costs will increase as staff resources are required to develop future management measures. Significant costs would result from a meaningful data collection program that, ideally would include a resource assessment of the Alaska scallop stocks. A comprehensive survey of the sea scallop grounds in the Gulf of Alaska and the Bering sea would require a 90-day cruise. Such a cruise probably cannot be part of ongoing groundfish research cruises because a different type of sampling gear, such as a specialized scallop dredge, likely would be required. The estimated cost of such a survey would be about $540,000 (assume a vessel charter with scientific personnel cost at $6,000 per day for a 90-day cruise). There would also be a need for data entry, data workup, and general staffing functions to make the information useable, estimated to be one staff -year. A desirable part of the data collection program would involve collection of fisheries statistics and biological specimens from the fisheries for status of stocks analyses.