



D1 Red King Crab Savings Area Extension

December 2021 Council Meeting

Action Memo

- Council Staff: Jon McCracken
- Other Presenters: Kelly Cates (NMFS AKRO SF), Josh Keaton (NMFS AKRO SF), and Krista Milani (NMFS AKRO SF)
- Action Required:
1. Review analysis of Red King Crab Savings Area extension considerations
 2. Consider whether to expand Red King Crab Saving Area through emergency rule

Background

During the October 2021 meeting, the Council requested an analysis of the likely conservation benefits and impacts of shifting the Red King Crab Savings Area boundary further northward through emergency rule. The Council request stems from the results of the 2021 eastern Bering Sea bottom trawl survey which showed a continued decrease in mature female red king crab and the State of Alaska calculated abundance estimate for mature female red king crab of 7.9 million crab, which is below the threshold of 8.4 million female red king crab necessary for a directed fishery. Recognizing the continued downward trend of the Bristol Bay red king crab biomass, the Council requested the analysis to assess whether an emergency rule extending the Red King Crab Savings Area northern boundary from 57° 00.0' N to 57° 30.0' N would improve the likelihood of a directed red king crab fishery in the future. The analysis assesses the immediate conservation benefits for female red king crab and whether an emergency rule improves the likelihood of holding a directed fishery. The analysis also evaluates the impacts of the boundary extension on red king crab abundance, other PSC species, and harvests of groundfish species. The analysis was made available to the Council and the public on November 24, 2021.

Section 305(c) of the Magnuson-Stevens Act provides authority for rulemaking to address an emergency. Under that section, a Council may request emergency rulemaking if it finds an emergency exists.

NMFS's Policy Guidelines for the Use of Emergency Rules provide that the legal prerequisite for such rulemaking is that an emergency must exist, and that NMFS must have an administrative record justifying emergency regulatory action and demonstrating compliance with the Magnuson-Stevens Act and the National Standards. Emergency rulemaking is intended for circumstances that are "extremely urgent," where "substantial harm to or disruption of the fishery would be caused in the time it would take to follow standard rulemaking procedures." The guidelines include three criteria that define an emergency:

1. Results from recent, unforeseen events or recently discovered circumstances;
2. Presents serious conservation or management problems in the fishery; and
3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rule making process.