

Bering Sea/Aleutian Islands Groundfish Fishery Management Plan

Amendment Action Summaries

May 2016





The fishery management program in the North Pacific is widely considered to be among the best in the world, and has resulted in 40 years of sustainable and profitable fisheries off Alaska. Program policies and measures are developed by the North Pacific Fishery Management Council through the preparation and maintenance of fishery management plans (FMPs) for groundfish, crabs, and scallop fisheries in the Bering Sea and Gulf of Alaska, as well as for all future fisheries in the Arctic Ocean. The FMPs are frequently amended by the Council to respond to new scientific information, changes in the environment, changes in policy, and operational changes in the fisheries. The plan amendments, together with regulatory amendments, are developed through the Council's open and transparent regulatory process and implemented by the NMFS Alaska Regional Office.

The existing management program has evolved greatly over time, with the FMPs being built and modified meeting by meeting, amendment by amendment. To fully appreciate and understand this evolution, the Council staff has prepared summaries of each amendment to the FMPs. These summaries provide an overview of the purpose and need, analysis, regulation, and results of each action, and are meant as a resource for anyone interested in understanding the development of a successful federal fishery management program in the North Pacific.

In this volume, we provide summaries of amendments to the Bering Sea/Aleutian Islands (BSAI) Groundfish FMP. Other volumes containing amendment action summaries for other FMPs are forthcoming. We hope you find them useful.

For more information about BSAI Groundfish FMP or the Council process, I encourage you to visit the NPFMC website at www.npfmc.org.

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Introduction

Fishery Management Councils and the Management Process

The Magnuson-Stevens Fishery Conservation and Management Act of 1976 (MSA) assigned Federal fisheries management authority to eight regional councils: North Pacific, Western Pacific, Pacific, Gulf of Mexico, New England, Mid-

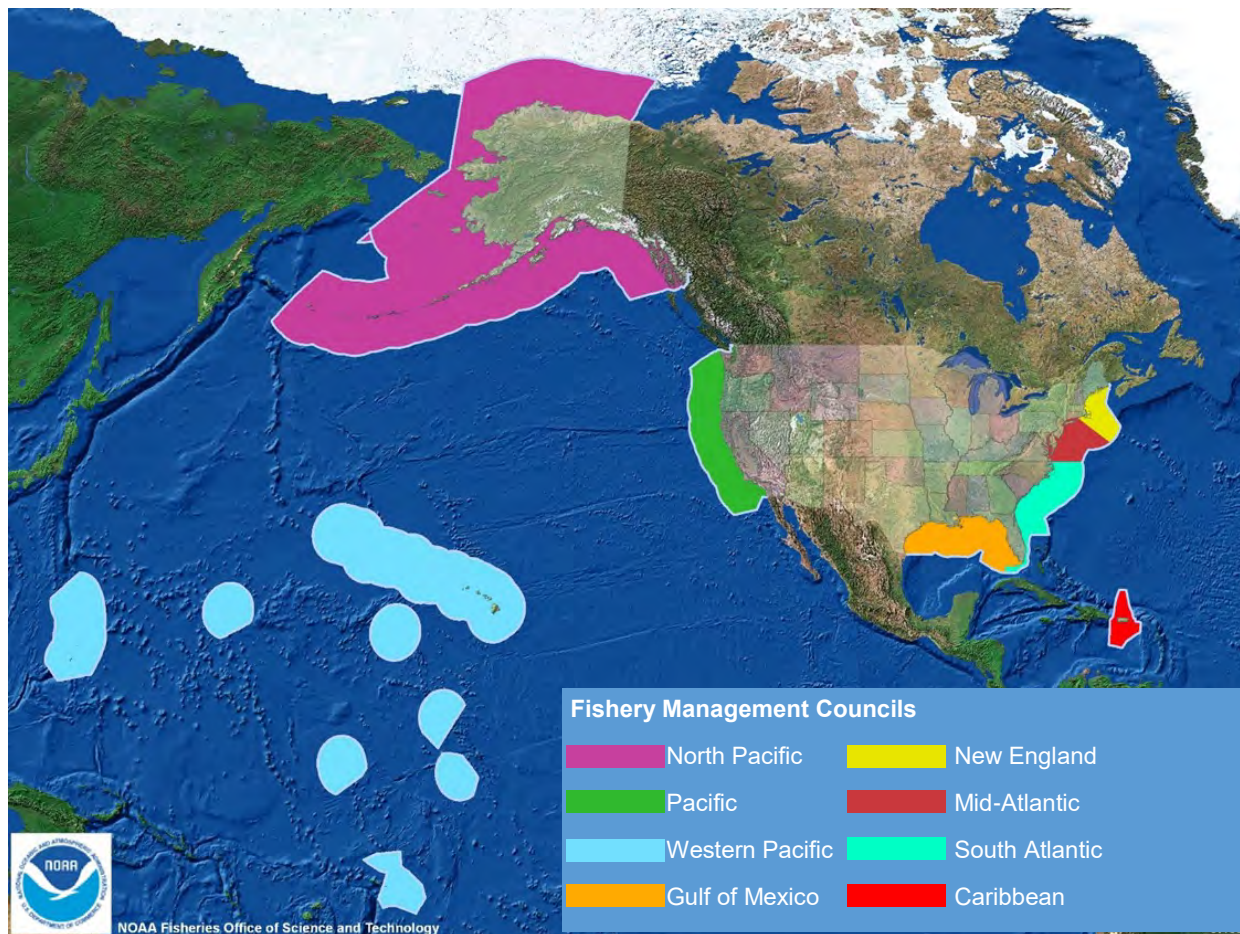
Atlantic, South Atlantic, and Caribbean. Each council was charged with preparing and maintaining Fishery Management Plans (FMPs) that reflect both the National Standards and determine the management and conservation objectives and specifications for each region. FMPs delineate regional management priorities and are responsive to unique challenges and concerns of each region while fulfilling

the goals defined in the MSA. Under the Magnuson-Stevens Act, the councils are authorized to prepare and submit to the Secretary of Commerce for approval, disapproval or partial approval, a FMP and any necessary amendments, for each fishery under its authority that requires conservation and management. The Council conducts public hearings so as to allow all interested persons an opportunity to be heard in the development of FMPs and amendments, and reviews and revises, as appropriate, the assessments and specifications with respect to the optimum yield from each fishery.

Fishery Management Plans

The FMPs are amended to respond to changes in fishery participation and ecological concerns, and are continuously updated to reflect the best available science. FMPs are also amended to ensure consistency with changes in federal policy such as the Sustainable Fisheries Act in 1996 and the Magnuson-Stevens Reauthorization Act of 2007. To best fulfill the intent of regional fishery management plans, Councils may further refine regions into smaller management areas. These management areas represent unique geographical areas within the region. Management areas are characterized by unique biodiversity, physical characteristics, and fishery participation and dependence.

Within the North Pacific there are three distinct Management Areas: Bering Sea/Aleutian Islands (BSAI), Gulf of Alaska (GOA), and Arctic, and the North Pacific Fishery Management Council (NPFMC) manages fisheries relative to the specific management area. While there are similar management objectives, different fishery FMPs for given management areas provides the NPFMC the flexibility to tailor fishery management and conservation strategies to address area-specific challenges. As such, the FMPs prepared and maintained by the NPFMC include BSAI and GOA Groundfish, BSAI King and Tanner Crab, and an Arctic FMP. Additionally, joint management authority with the State of Alaska is provided through an Alaska Salmon FMP and Scallop FMP.



Regional Fishery Management Councils as defined in the Magnuson-Stevens Fishery Conservation and Management Act.



Bering Sea/Aleutian Islands Groundfish Fishery Management Plan

The BSAI Groundfish FMP was adopted by the Council in 1980 and implemented in 1982. Over time, the FMP has been amended many times to meet the changing fishery management needs. One of the major objectives of the Council in the early 1980s was to phase out foreign fishing vessel participation in the BSAI EEZ. The first ten amendments implemented in the BSAI Groundfish FMP specifically dealt with foreign fishing fleet participation in the fishery. After the foreign fleet was adequately addressed, the Council turned its attention to managing and regulating the domestic fleet to allow for sustainable and profitable fisheries by limiting entry and addressing allocation issues, bycatch, and

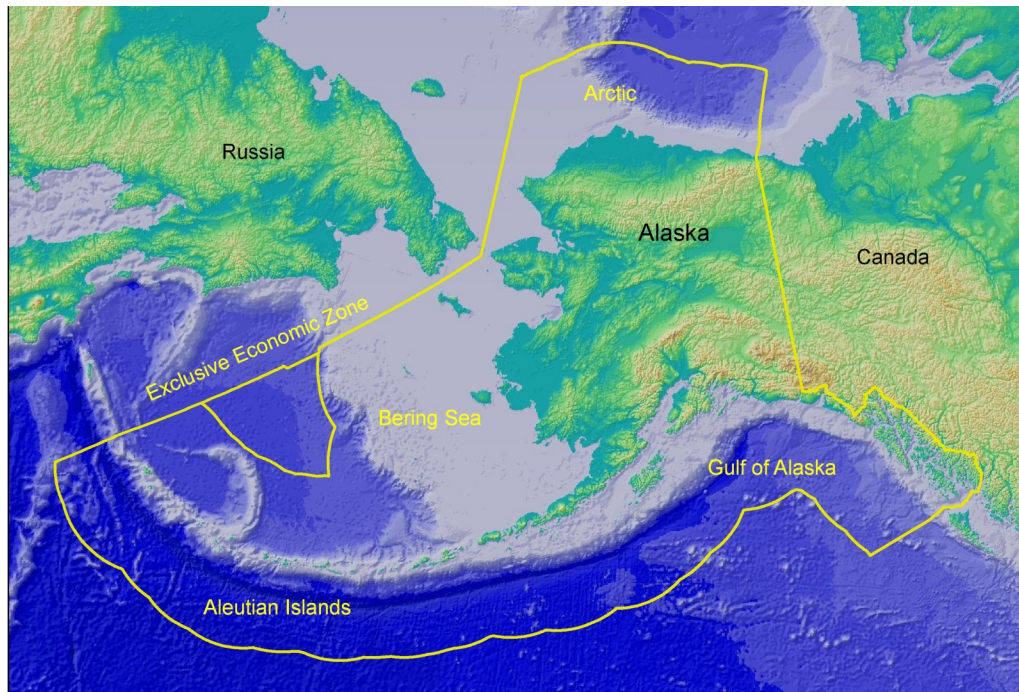
habitat conservation needs. In more recent years, the Council has adopted amendments to streamline catch share programs and address other science and management changes.

To illustrate the evolution of the BSAI Groundfish FMP, summaries of each amendment were prepared and compiled into a comprehensive reference document. This volume is meant to serve as a research tool for a general audience and to illustrate how fisheries management adapts and changes over time. Each amendment summary serves as a guide for understanding the BSAI Groundfish FMP. Each summary can also be used as a stand-alone document to understand a particular issue, or the development of a subject over the course of multiple FMP amendments.

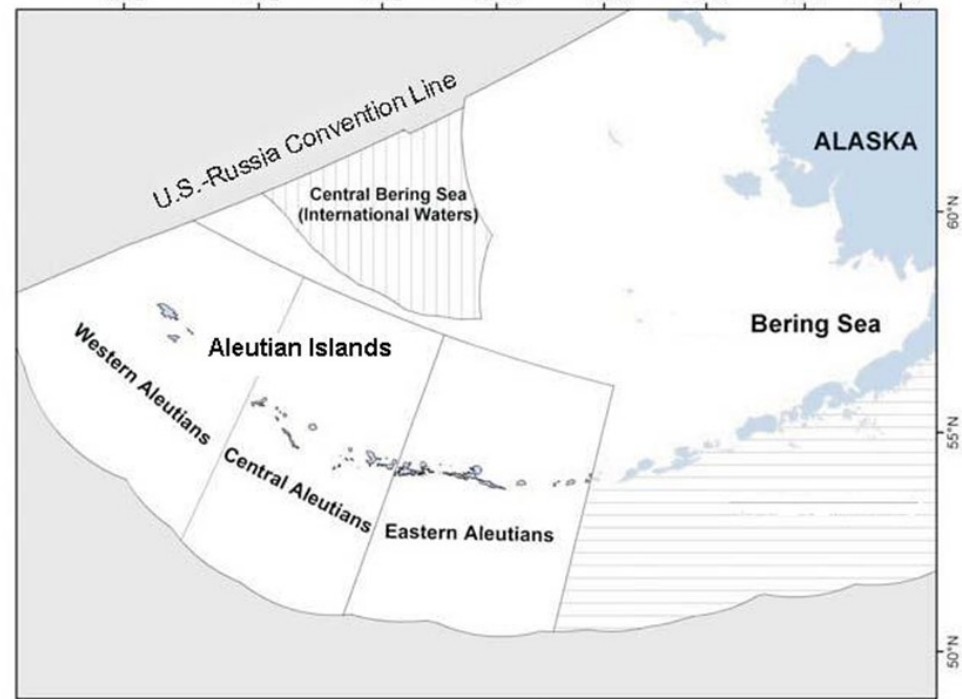
The BSAI Groundfish FMP amendment summaries consist of five main parts: 1) the date when the action was adopted by the Council, the proposed rule, final rule, and effective date(s) of implementation; 2) purpose and need, a brief background of the reason the action was initiated; 3) regulation summary, which summarizes the regulation as it appears in the FMP; 4) analysis summary; and 5) results, which describes quantified changes that resulted from the amendment, and later FMP amendments that resulted from the action.

The BSAI Amendments are presented sequentially to show how the FMP has changed over time. While these summaries are meant to be informative at the amendment level, they are also compiled to demonstrate the prominent role the FMPs play in the national fisheries policy

discussion. Each amendment to the BSAI FMP, while addressing a seemingly isolated problem, has national – sometimes international – implications; each serves as a case study to inform policy change at the macro level. The amendments should not be interpreted as linear change over time, but a complex web of management action. Each amendment influenced, and was influenced by, a number of other amendments within the FMP. No change happened in isolation, and drawing those connections is critical to understanding the complexity of fisheries management.



Alaska EEZ has management areas in two oceans: the Pacific and the Arctic.



Bering Sea/Aleutian Islands Management Area



Amendments by Council Action Date

Am.	Title	Page
1980		
September		
2	Increase Allocation of Domestic Fleet	11
3	Halibut, Crab, and Salmon PSC Caps for Foreign Fleet	12
1981		
4	Increase Domestic Allocation II	13
March		
1a	Foreign Fleet Salmon PSC Caps	10
September		
5	Reduce Chinook Salmon PSC Caps (Withdrawn)	14
1982		
May		
1	OY and TAC Framework	9
September		
6	Development of DFDZ	14
7	Foreign Longline Restrictions	15
1983		
March		
8	1984 and 1985 Salmon PSC Caps for Foreign Trawl Vessels	16
1985		
May		
9	Incorporate Habitat Protection Policy	17
1986		
September		
10	Crab and Halibut PSC Caps	18

Am.	Title	Page
1987		
May		
11	Seasonal Apportionment of Pollock for Joint Venture Vessels	19
11a	FMP Species Categories	20
1988		
June		
12	Establish Rock Sole as Separate Target Species	21
December		
12a	Modify Bristol Bay Crab and HPZ	22
1989		
June		
13	Walrus Island Closure	23
1990		
June		
14	Pollock Roestripping	24
16	Interim Harvest Levels, Define Overfishing	26
September		
16a	Allocation of Pollock TAC to Bottom Trawl	27
1991		
June		
18	Inshore/Offshore	29
August		
17	Renew Walrus Islands Closures, Establish Bogoslof District	28
September		
20	Steller Sea Lion Buffer Zones	31
December		
15	Establish Sablefish IFQ, Establish Western Alaska CDQ	25

Am.	Title	Page
19	Establish Prohibited PSC Caps for Non-Trawl Fisheries	30
1992		
April		
22	Establish Trawl Gear Test Zones	35
June		
21	Halibut PSC Framework	32
27	Observer Program Research Plan (Not Implemented)	40
December		
25	Adjust Trawl Halibut PSC Caps	38
1993		
January		
28	Aleutian Islands Regulatory Area	41
June		
24	Pacific Cod Allocation	37
29	Salmon Bycatch Accounting	42
September		
31	Sablefish Individual Fishing Quota Share Blocks	44
1994		
April		
21a	Establish Pribilof Island HCA	33
30	Increase Community Development Quota Allocation for Sablefish	43
September		
26	Salmon Retention for Food Banks	39
December		
23	Moratorium	36



Am.	Title	Page	Am.	Title	Page	Am.	Title	Page
1995			1998			2002		
39	Multi-Species CDQ Program	52	February			April		
42	IFQ Vessel Buy Down	55	52	Vessel Registration Program	65	72	IFQ Vessel Clearance and Recordkeeping and Reporting Changes	85
43	IFQ Vessel Sweep-up	56	June			June		
January			45	Permanently Extend CDQ Allocation	58	68	Pacific Cod Allocation (Withdrawn)	81
32	Transfer of Sablefish CDQ Compensation Quota Shares	45	51	Inshore/Offshore III	64	71	CDQ Policy and Administrative Changes	84
35	Chum Salmon Savings Areas	48	55	Define Essential Fish Habitat	68	October		
June			56	Revised Overfishing Definitions	69	75	Repeal of IR/IU Program Flatfish Requirement	87
38	Inshore/Offshore II	51	57	Pollock Bottom Trawl Prohibition	70	76	IR/IU Flatfish Exemptions (Withdrawn)	88
October			59	Moratorium Extensions	72			
33	Limited Processing for Non-IFQ Species	46	October					
November			54	IFQ Indirect Ownership and Use Caps	67			
21b	Chinook Salmon Savings Area	34	60	LLP Adjustments	73			
			63	Classify Skates, Sharks, Sculpins, and Octopus as Target Species	76			
1996			1999			2003		
April			February			April		
47	Authorize an Interim Observer Program	60	53	SR/RE Rockfish Allocation in Aleutian Islands by Gear	66	77	Pacific Cod Fixed Gear Allocations	89
June			58	Reduce Chinook Salmon PSC Caps	71	June		
37	Establish Bristol Bay Red King Crab Savings Area	50	June			79	GRS Program for the Non-AFA Trawl C/P Sector	91
44	Overfishing Definitions	57	61	AFA	74	October		
46	Pacific Cod Allocation II	59	64	Pacific Cod Fixed Gear Allocations	77	48	Establish Procedure for TAC Setting	61
September			66	Remove Squid from Western Alaska CDQ Program	79			
41	Reduce Bairdi PSC Caps	54						
49	Development of the IR/IU Program	62						
December								
40	Establish Opilio PSC Caps	53						
1997			2000			2004		
April			April			April		
36	Establish Forage Fish Category	49	67	Pacific Cod Species and Gear Endorsements to LLP License	80	81	PSEIS	93
50	Halibut Donation Program	63	September			June		
June			65	HAPC Harvest Control Measures	78	82	Framework for Management of the Al Subarea Directed Pollock Fishery	94
34	Atka Mackerel Jig Allocation	47				83	Housekeeping Amendments	95
			2001			2005		
			June			February		
			69	Co-op Leasing	82	78	EFH EIS	90
			October			October		
			70	Steller Sea Lion Protection Measures	83	84	Salmon Bycatch—Exemption	96



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2006		
April		
85	Pacific Cod Allocation	97
87	CDQ Eligibility (Withdrawn)	99
June		
80	IR/IU (Am A) Sector Allocation	92
92	Rescind Latent Trawl Gear Licenses	104
2007		
March		
88	AI HCA Boundary Adjustment	100
89	Bering Sea Habitat Conservation	101
April		
73	Remove Dark Rockfish from FMP	86
2008		
February		
90	Am 80 Post Rollover RIR	102
April		
62	SGL	75
December		
86	Observer Program Restructuring	98
2009		
April		
91	Salmon Bycatch EIS	103
October		
94	Revise Boundaries of the NBSRA and Saint Matthew Island HCA	106
95	Skates as Target Species	107
103	Revise the Pribilof Islands Blue King Crab Rebuilding Plan	114

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2010		
February		
93	Modifying Amendment 80 Cooperative Formation Criteria	105
April		
96	Sharks, Sculpins, and Octopus as Target Species	108
June		
97	Am. 80 Vessel Replacement	109
December		
102	Establishing a Community CQE in Area 4B	113
2011		
April		
98	Essential Fish Habitat Omnibus Amendments	110
2012		
June		
99	FLL MLOA	111
105	Bering Sea Flatfish Harvest Specifications Flexibility	116
2013		
February		
104	Development of Skate HAPCs	115
April		
106	AFA Vessel Replacement	117
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109	Pacific Cod CDQ	120
December		
100	Grenadiers	112

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107	Walrus Islands Protected Transit Areas	118
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110	Salmon Bycatch Measures	121
111	Halibut PSC Caps	122
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112	Placing Certain C/Ps in Partial Coverage	123



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4	Increase Domestic Allocation II	13
16a	Herring PSC	27
18	Inshore/Offshore	29
24	Pacific Cod Allocation	37
34	Atka Mackerel Jig Allocation	47
38	Inshore/Offshore II	51
46	Pacific Cod Allocation II	59
51	Inshore/Offshore III	64
53	SR/RE Rockfish Allocation in Aleutian Islands by Gear	66
62	SGL	75
64	Pacific Cod Fixed Gear Allocations	77
68	Pacific Cod Allocation (Withdrawn)	81
77	Pacific Cod Fixed Gear Allocations	89
82	Framework for Management of the AI Subarea Directed Pollock Fishery	94
85	Pacific Cod Allocation	97
Amendment 80 Program		
80	IR/IU (Am A) Sector Allocation	92
90	Am 80 Post Rollover RIR	102
93	Modifying Amendment 80 Cooperative Formation Criteria	105
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American Fisheries Act		
61	AFA	74
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Catch Limits		
1	OY and TAC Framework	9
11	Seasonal Apportionment of Pollock for Joint Venture Vessels	19
16	Interim Harvest Levels, Define Overfishing	26

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44	Overfishing Definitions	57
48	Establish Procedure for TAC Setting	61
56	Revised Overfishing Definitions	69
96	Catch Specifications	108
105	Bering Sea Flatfish Harvest Specifications Flexibility	116
Discards		
14	Pollock Roestripping	24
26	Salmon Retention for Food Banks	39
49	Development of the IR/IU Program	62
50	Halibut Donation Program	63
75	Repeal of IR/IU Program Flatfish Requirement	87
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79	GRS Program for the Non-AFA Trawl C/P Sector	91
FMP Species and Updates		
11a	FMP Species Categories	20
12	Establish Rock Sole as Separate Target Species	21
36	Establish Forage Fish Category	49
63	Classify Skates, Sharks, Sculpins, and Octopus as Target Species	76
73	Remove Dark Rockfish from FMP	86
81	PSEIS	93
83	Housekeeping Amendments	95
95	Skates as Target Species	107
96	Sharks, Sculpins, and Octopus as Target Species	108
100	Grenadiers	112
103	Revise the Pribilof Islands Blue King Crab Rebuilding Plan	114
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57	Pollock Bottom Trawl Gear Prohibition	70
94	Require Trawl Sweep Modification in Flatfish Fishery	106
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9	Incorporate Habitat Protection Policy	17
21a	Establish Pribilof Island HCA	33
37	Establish Bristol Bay Red King Crab Savings Area	50
55	Define Essential Fish Habitat	68
57	Pollock Bottom Trawl Prohibition	70
65	HAPC Harvest Control Measures	78
78	EFH EIS	90
88	AI HCA Boundary Adjustment	100
89	Bering Sea Habitat Conservation	101
94	Revise Boundaries of the NBSRA and Saint Matthew Island HCA	106
98	Essential Fish Habitat Omnibus Amendments	110
104	Development of Skate HAPCs	115
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15	Establish Sablefish IFQ, Establish Western Alaska CDQ	25
30	Increase Community Development Quota Allocation for Sablefish	43
31	Sablefish Individual Fishing Quota Share Blocks	44
32	Transfer of Sablefish CDQ Compensation Quota Shares	45
33	Limited Processing for Non-IFQ Species	46
38	Reauthorize Pollock CDQ Program	51
39	Multi-Species CDQ Program	52
42	IFQ Vessel Buy Down	55
43	IFQ Vessel Sweep-up	56



Am.	Title	Page
45	Permanently Extend CDQ Allocation	58
54	IFQ Indirect Ownership and Use Caps	67
66	Remove Squid from Western Alaska CDQ Program	79
71	CDQ Policy and Administrative Changes	84
72	IFQ Vessel Clearance and Recordkeeping and Reporting Changes	85
87	CDQ Eligibility (Withdrawn)	99
102	Establishing a Community CQE in Area 4B	113
109	Pacific Cod CDQ	120

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23	Moratorium	36
39	Establish LLP	52
52	Vessel Registration Program	65
59	Moratorium Extensions	72
60	LLP Adjustments	73
67	Pacific Cod Species and Gear Endorsements to LLP License	80
92	Rescind Latent Trawl Gear Licenses	104
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27	Observer Program Research Plan (Not Implemented)	40
37	Increase Observer Coverage	50
47	Authorize an Interim Observer Program	60
86	Observer Program Restructuring	98

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112	Placing Certain C/Ps in Partial Coverage	123

Prohibited Species Catch

1a	Foreign Fleet Salmon PSC Caps	10
3	Halibut, Crab, and Salmon PSC Caps for Foreign Fleet	12
5	Reduce Chinook Salmon PSC Caps (Withdrawn)	14
8	1984 and 1985 Salmon PSC Caps for Foreign Trawl Vessels	17
10	Crab and Halibut PSC Caps	18
12	PSC Framework	21
12a	Revised Crab and Halibut PSC Caps	22
16	Revise Crab and Halibut PSC Caps	26
16a	Herring PSC	27
19	Establish Prohibited PSC Caps for Non-Trawl Fisheries	30
21	Halibut PSC Framework	32
21b	Chinook Salmon Savings Area	34
25	Adjust Trawl Halibut PSC Caps	38
29	Salmon Bycatch Accounting	42
35	Chum Salmon Savings Areas	48
37	Red King Crab PSC Caps	50
40	Establish Opilio PSC Caps	53
41	Reduce Bairdi PSC Caps	54
50	Halibut Donation Program	63
57	Reduce Crab and Halibut PSC Caps	70
58	Reduce Chinook Salmon PSC Caps	71
84	Salmon Bycatch—Exemption	96
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13	Reporting Requirements	23
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12a	Modify Bristol Bay Crab and HPZ	22
13	Walrus Island Closure	23
16a	Establish Herring Savings Areas	27
17	Renew Walrus Islands Closures, Establish Bogoslof District	28
20	Establish Sea Lion Buffer Zones	31
21a	Establish Pribilof Island HCA	33
21b	Chinook Salmon Savings Area	34
28	Aleutian Islands Regulatory Area	41
35	Chum Salmon Savings Areas	48
37	Establish BB RKC Savings Area and Nearshore BB Trawl Closure Area	50
40	Establish Opilio Bycatch Limitation Zones	53
51	Extend Catcher Vessel Operations Area	64
58	Modify Chinook Salmon Savings Area	71
82	Framework for Management of the AI Subarea Directed Pollock Fishery	94
88	AI HCA Boundary Adjustment	100
89	Bering Sea Habitat Conservation	101
94	Revise Boundaries of the NBSRA and Saint Matthew Island Habitat Conservation Area	106
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Common Acronyms

ABC	Acceptable Biological Catch	ft	Foot or Feet	RIR	Regulatory Impact Review
ADF&G	Alaska Department of Fish and Game	GHL	Guideline Harvest Level	RPA	Reasonable and Prudent Alternative
AEQ	Adult Equivalent	GOA	Gulf of Alaska	SAFE	Stock Assessment and Fishery Evaluation
AFA	American Fisheries Act	HAPC	Habitat Area of Particular Concern	TAC	Total Allowable Catch
AFSC	Alaska Fisheries Science Center	HCA	Habitat Conservation Area	U.S.	United States
AI	Aleutian Islands	IRFA	Initial Regulatory Flexibility Analysis	USCG	United States Coast Guard
AKFIN	Alaska Fisheries Information Network	IPA	Incentive Plan Agreement	USFWS	United States Fish and Wildlife Service
BASIS	Bering Sea-Aleutian Salmon International Survey	lb(s)	pound(s)	VMS	vessel monitoring system
BOF	Board of Fish	LLP	License Limitation Program	VRHS	Voluntary Rolling Hotspot System
BSAI	Bering Sea and Aleutian Islands	LOA	Length Overall	W	West
CAS	Catch Accounting System	m	Meter or Meters		
CDQ	Community Development Quota	MRA	Maximum Retainable Amount		
CEQ	Council on Environmental Quality	MSA	Magnuson-Stevens Fishery Conservation and Management Act		
CFR	Code of Federal Regulations	MMPA	Marine Mammal Protection Act		
CP	Catcher/Processor	MSST	minimum stock size threshold		
CQE	Community Quota Entity	mt or t	Metric Ton		
CV	Catcher Vessel	NBSRA	Northern Bering Sea Research Area		
CVOA	Catcher Vessel Operations Area	NEPA	National Environmental Policy Act		
CWT	coded-wire tag	NMFS	National Marine Fishery Service		
DPS	distinct population segment	NOAA	National Oceanographic and Atmospheric Administration		
E	East	NPFMC	North Pacific Fishery Management Council		
E.O.	Executive Order	OMB	Office of Management and Budget		
EA	Environmental Assessment	OY	Optimum Yield		
EEZ	Exclusive Economic Zone	PSC	Prohibited Species Catch		
EFH	essential fish habitat	PPA	Preliminary Preferred Alternative		
EIS	Environmental Impact Statement	PRA	Paperwork Reduction Act		
EM	Electronic Monitoring	PSEIS	Programmatic Supplemental Environmental Impact Statement		
ESA	Endangered Species Act	PWS	Prince William Sound		
FMP	fishery management plan	QS	Quota Share		
FONSI	Finding of No Significant Impact	RFA	Regulatory Flexibility Act		
FR	Federal Register				
FRFA	Final Regulatory Flexibility Analysis				



Optimum Yield and TAC Framework, Modify Domestic Area Restrictions

Council Action
May 1982

Proposed Rule
Not available

Final Rule
January 4, 1984
49 FR 397

Effective
January 1, 1984

Purpose and Need

The single species OY levels that were established in the original FMP draft did not provide the flexibility needed to respond to biological changes and the rapidly developing domestic fishery. Plan amendments were required for each adjustment to the OY established for each species and species complex and the amount allocated to domestic and foreign fisheries. This was a very cumbersome, costly, and slow process, and impeded the development of a domestic fishery. Additionally, trawl and longline closure areas implemented with the original FMP inhibited the developing domestic fisheries, so some of these restrictions were removed.

Analysis

A 32-page RIR/IRFA (final draft dated August, 1982) was prepared for this amendment. Three primary alternatives including the status quo were considered. The other alternative that was not chosen would have adopted a multi-species OY of 1.6 million mt (which equaled 80% of the midpoint range of the MSY estimate). The alternative adopted for OY was conservative (set equal to 85% of the MSY range, estimated to be 1.7 to 2.4 million mt), and based on a range (1.4 to 2.0 million mt) to allow for flexibility with changes in the ecosystem. The original FMP OY specifications for individual groundfish species were replaced by the OY range for the complex, with total allowable catch (TAC) specified annually for each target species and for the "other species" category. Fifteen percent of each TAC for target and "other species" was set aside for reserves, which could be used for unexpected expansion of the domestic fleet or unexpected conditions of a stock during a fishing year, and for in-season allocations. The TAC could then be apportioned between the domestic annual harvest (DAH) and the total allowable level for foreign fisheries (TALFF).

Regulation Summary

The amendment included the following measures:

- Established a multi-year, multi-species optimum yield for BSAI groundfish complex (1.4 million to 2.0 million mt);
- Established a framework procedure for the determination and apportionment of amounts of groundfish specified for total allowable catch (TAC), domestic annual harvest (DAH), reserves, and total allowable level of foreign fishing (TALFF);
- Allowed year-round domestic trawling and longlining in the Winter Halibut Savings Area and Bristol Bay Pot Sanctuary;
- Modified seasonal foreign trawl restrictions in the Petrel Bank area to be based on crab opening dates;
- Updated appendices and annexes to the FMP; added Annex I (description of SAFE document); and
- Eliminated the "Misty Moon" grounds south of the Pribilofs from the winter halibut savings area.

Results

Except in years of very low pollock abundance, catches have remained within the OY cap range. The Total BSAI catch of all species has ranged from a low of 1.3 million t in 1983 to 1.98 million t in 2006.



1a

Prohibited Species Catch

Foreign Fleet PSC Limits for Chinook Salmon

Council Action
March 1981

Proposed Rule
October 29, 1981
46 FR 53475

Final Rule
January 12, 1982
47 FR 1295

Effective
January 12, 1982

Purpose and Need

Western Alaska Native groups expressed concern over the apparent increase in the incidental catch of western Alaska Chinook salmon in the foreign trawl fisheries. Western Alaska Native groups had negotiated with the Japanese trawling interests to limit the number of Chinook salmon caught incidentally in foreign trawl operations to 55,250 in 1982. Amendment 1a made this agreement formal by establishing a prohibited species catch (PSC) limit of 55,250 fish in the eastern Bering Sea foreign trawl fishery. This amount was a 15 percent reduction from the

1981 Chinook salmon PSC of 65,000 fish implemented under the preliminary management plan. Additionally, Amendment 1a established a formula used to distribute the salmon PSC so that if there were changes in TALFF during the year with releases of reserves, the salmon PSC for a country would be adjusted also.

Analysis

No formal analysis of this amendment was located in the files. Note that the final rule states:

The Administrator of NOAA has determined that this proposed rulemaking is not a

“major rule” requiring a regulatory impact analysis under Executive Order 1291, and that the sector of the U.S. fishing industry dealing in groundfish from the Bering sea and Aleutian Islands is too small for the proposed action to have a significant effect on the economy. The Administrator also certifies that approval and implementation of Amendments 1a and 2 will not have a significant economic impact on a substantial number of small entities, and thus do not require the preparation of a regulatory flexibility analysis.

Regulation Summary

Amendment 1a established foreign chinook salmon PSC limits as follows: During any fishing year, that portion of fishing Area 1 lying between 55o N and 57oN latitude and 165o W and 170o W longitude and all of fishing Area 2 may be closed for the remainder of the periods January 1 through March 31, and October 1 through December 31 to trawl vessels of any nation. This closure will occur when vessels of a nation have intercepted that nation's portion of the PSC of Chinook salmon. A nation's initial portion of the Chinook salmon PSC for a fishing year was determined by multiplying 55,250 (the total PSC for Chinook salmon) by the ratio of that nation's initial groundfish allocation to the total initial TALFF plus reserves for groundfish.

Results

Bycatch of Chinook salmon in the foreign fishery was greatly reduced in the early 1980's, from a high of about 115,000 fish in 1980 to only 10,000 fish by 1983. An estimated 15,644 chinook salmon were taken as bycatch in foreign trawl fisheries in 1982.



Chinook salmon (*Oncorhynchus tshawytscha*). Image courtesy of NNMFS.



Increase Allocation of Domestic Fleet

Council Action
September 1980

Proposed Rule
October 29, 1981
46 FR 53475

Final Rule
January 12, 1982
47 FR 1295

Effective
January 12, 1982

Purpose and Need

The domestic fleet was beginning to grow, and U.S. fishermen, particularly those delivering fish to foreign vessels under joint venture arrangements, judged that they would be able to catch more flatfish than in the past. Additionally, NMFS resource assessment data indicated a short-term increase in Pacific cod due to a strong year class entering the fishery, along with a rapid expansion of the domestic fishery for this species.

The purpose of the amendment was to

increase the domestic annual harvesting (DAH) amount and the joint venture processing (JVP) amount of yellowfin sole and other flatfish, and consequently decrease the amount available to foreign fishing (TALFF). The Pacific cod catch specifications were increased, particularly for domestic fisheries, to reflect best available scientific information.

Analysis

A 5-page EA analysis and a 4-page RIR analysis was prepared for this amendment. Only one alternative to the status quo was considered.

Regulation Summary

The amendment changed the specifications for yellowfin sole, other flatfish, and Pacific cod as follows:

Yellowfin sole: **DAH** increased from 2,050 mt to 26,200 mt.
JVP increased from 850 mt to 25,000 mt.
TALFF decreased by 24,150 mt.

Other flatfish: **DAH** increased from 1,300 mt to 4,200 mt.
JVP increased from 100 mt to 3,000 mt.
TALFF decreased by 2,900 mt.

Pacific cod: **MSY** decreased from 58,700 mt to 55,000 mt.
EY increased from 58,700 to 160,000 mt.
ABC increased from 58,700 mt to 160,000 mt.
OY increased from 58,700 mt to 78,700 mt.
Reserve increased from 2,935 mt to 3,935 mt.
DAP increased from 7,000 mt to 26,000 mt.
DAH increased from 24,265 mt to 43,265 mt.

Results

The domestic and joint venture fisheries continued to grow. Additional increases in domestic allocations were made in 1983 under Amendment 4. Allocations of catch were frameworked under Amendment 1 in 1984.



Pacific cod (*Gadus microcephalus*). Image courtesy of AFSC.



Specification of Halibut, Crab, and Salmon Prohibited Species Catch Limits for Foreign Fleet

Council Action
September 1980

Proposed Rule
October 29, 1981
48 FR 10383

Final Rule
January 12, 1982
48 FR 24719

Effective
January 12, 1982

Purpose and Need

The purpose of this amendment was to reduce incidental bycatch of salmon, halibut, king and Tanner crab in the foreign trawl fisheries, and thereby reduce the economic costs to U.S. fishers that participate in these fisheries. The Council felt the existing requirement that these species be returned to the sea as soon as possible was not reducing the incidental bycatch and associated mortality of these species. The intent of this amendment was to set low allowable bycatch rates to reduce bycatch. By providing incentives (more groundfish TALFF allocation to that country), it was felt that foreign vessels could reduce their bycatch of prohibited species and still catch the groundfish TALFF.

Analysis

A 39-page RIR/IRFA (final draft dated November, 1981) was prepared for this amendment. There were three alternatives, including the status quo that were considered. The other non-status quo alternatives not chosen would have closed INPFC Areas I and II during the period October 1 through March 31, when prohibited species were believed to be highly concentrated.

Regulation Summary

Amendment 3 reduced bycatch of prohibited species in foreign groundfish fisheries. Essentially, total PSC allocations for foreign nations were based on bycatch rates multiplied by the nations TALFF allocation. Bycatch rate reductions to be met by 1986 from status quo base years (1977-80) were as follows: halibut, 50%; king and Tanner crab 25%; salmon 75%. The target level of salmon bycatch was 17,473 fish. If bycatch apportionments for any PSC species were met or exceeded, that nation's fleet was prohibited from fishing in the entire BSAI area, unless exempted by the NMFS Regional Director.

Results

This amendment became obsolete as foreign fleet fishing operations were phased out of the US EEZ by 1991.

Bycatch of foreign and JV groundfish fisheries in the BSAI, 1983-1986

Year	Halibut (mt)		Salmon (#)		King crab (#)	
	Foreign	JV	Foreign	JV	Foreign	JV
1983	1,872	438	18,173	24,493	404,013	630,144
1984	2,128	617	16,516	67,622	292,223	398,865
1985	1,789	1,026	10,003	10,420	219,783	1,005,290
1986	1,192	1,711	1,643	19,340	14,631	260,435

Source: Guttormsen et al. 1990



Increase Domestic Allocation II, Increase Pacific Cod Acceptable Biological Catch and Optimum Yield, Relax Foreign Area Restrictions in the Aleutian Islands

Council Action
1981

Proposed Rule
December 6, 1982
47 FR 54841

Final Rule
May 12, 1983
48 FR 21336

Effective
May 9, 1983

Purpose and Need

The primary purpose was to provide additional opportunities for growth in domestic fisheries. U.S. fishermen who delivered fish to foreign processing vessels indicated that the existing domestic annual harvests (DAHs) would not allow joint venture (JV, a component of DAH) operations to continue, because the amounts of certain species (pollock, yellowfin sole, other flatfish, Atka mackerel, and other species) allocated to DAH were insufficient. Additionally, the abundance of Pacific cod had increased due to a strong 1977 year-class entering the fishery, so Amendment 4 also increased the ABC and OY for Pacific cod. Amendment 4 was also implemented to allow foreign fishing between 3 to 12 miles in the Aleutian Islands, so that they could catch their groundfish allocations. Previously, foreign fisheries were only allowed to operate outside of 12 miles, but the continental shelf is very narrow in this area, making fishing impracticable and thus the catch could not be taken. In its original draft, Amendment 4 would have provided more flexibility and timeliness of conservation measures by giving the Secretary authority to issue field orders for adjusting time/area closures. This part was disapproved because "the amendment failed to specify adequately the procedures, limits, and types of responses that could be made in issuing such orders."

Analysis

A 16 page Environmental Assessment was prepared for this amendment. Eight alternatives including the status quo were considered. Essentially, the alternatives considered were different combinations of the management actions contained in this amendment.

Regulation Summary

Amendment 4 allowed foreign trawling outside 3 miles north of the Aleutians between 170° 30 W and 170° W and south of the Aleutians between 170° W and 172° W, and allowed foreign longlining outside 3 miles west of 170° W longitude. Amendment 4 also changed the specifications for yellowfin sole, other flatfish, and Pacific cod as follows:

Pollock: DAH increased from 19,550 mt to 74,500 mt, JVP increased from 9,050 mt to 64,000 mt. TALFF decreased from 930,450 mt to 875,500 mt.

Yellowfin sole: DAH increased from 26,200 mt to 31,200 mt, JVP increased from 25,000 mt to 30,000 mt. TALFF decreased from 84,950 mt to 79,950 mt.

Other flatfish: DAH increased from 4,200 mt to 11,200 mt, JVP increased from 3,000 mt to 10,000 mt. TALFF decreased from 53,750 mt to 46,750 mt.

Atka mackerel: DAH increased from 100 mt to 14,500 mt, JVP increased from 100 mt to 14,500 mt. TALFF decreased from 23,460 mt to 9,060 mt.

Other species: DAH increased from 2,000 mt to 7,800 mt, JVP increased from 200 mt to 6,000 mt. TALFF decreased from 68,537 mt to 65,648 mt. ABC corrected to be 79,714 mt, OY to 77,314 mt, and reserves to 3,566 mt.

Other rockfish: DAP set at 1,100 mt for BSAI area combined.

POP: DAP set at 550 mt for Bering Sea and 550 mt for Aleutians. JVP set at 830 mt for Bering Sea and 830 mt for Aleutians.

Sablefish: JVP set at 200 mt for Bering Sea and 200 mt for Aleutians. MSY set at 11,600 mt for Bering Sea and 1,900 mt for Aleutians.

Pacific cod: EY and ABC increased from 160,000 mt to 168,000 mt. OY increased from 78,700 mt to 120,000 mt. Reserve increased from 3,935 mt to 6,000 mt. TALFF increased from 31,500 mt to 70,735 mt.

Results

Allocations of catch were frameworked under Amendment 1 in 1984.



5

Prohibited Species Catch

Reduce Chinook Salmon Prohibited Species Catch Limit (Withdrawn)

Council Action
September 1981

Proposed Rule
Withdrawn – redundant with Amendment 3

Purpose and Need

The purpose of Amendment 5 was to limit the prohibited species catch (PSC) of Chinook salmon in the eastern Bering Sea foreign trawl fisheries to 45,500 fish. This was the amount approved by the Council as part of Amendment 3, and was a reduction from the existing limit of 55,250 fish established by Amendment 1a. These values for the proposed Chinook salmon

PSC were based upon the Council approval of the PSC reduction schedule for salmon that was negotiated between principal domestic and foreign user groups (western Alaska residents and Japanese trawl industry representatives). Because there was a long implementation delay for Amendment 3, Amendment 5 was proposed to reduce the salmon PSC sooner.

Analysis

There is no record of an analysis on file.

Regulation Summary

The amendment was withdrawn when it was superseded by implementation of Amendment 3.

Results

Salmon PSC limits for foreign trawl fisheries were reduced in accordance with Amendment 3.

6

Spatial Management

Development of a Domestic Fisheries Development Zone (Disapproved)

Council Action
September 1982

Proposed Rule
October 7, 1983
48 FR 45806

Withdrawn
February 9, 1984
49 FR 4956

Purpose and Need

The purpose of the amendment was to provide a sanctuary for U.S. fishing vessels in a productive fishing area of the Bering Sea and to encourage the expansion of the U.S. groundfish fishery. It was felt that by setting aside a very productive area in relatively close proximity to the only three developed harbors in the Bering Sea (Unalaska, Akutan, and Sand Point); the domestic fisheries would gain a competitive advantage. Creation of the FDZ would have had the effect of eliminating a 6 month foreign fishery from areas near the three harbors, because the nearby Winter Halibut Savings Area is closed to foreign trawling from December 1 through May 31.

Analysis

A 79 page RIR/IRFA (final draft dated November 1983) was prepared for this amendment. Two alternatives to the status quo were examined. The other alternative would have defined a larger area as the FDZ.

Regulation Summary

Amendment 6 would have established a fishery development zone (FDZ). The proposed FDZ was located north and west of Unimak Pass and was bounded by the following coordinates:

55° 16' N Latitude, 166° 10' W Longitude;
54° 00' N Latitude, 166° 10' W Longitude;
54° 35' N Latitude, 164° 55'42" W Longitude;

The FDZ would have been reserved for use by domestic fishing vessels – including those delivering to shore-based processors, U.S. catcher/processors, and foreign processing vessels involved in U.S. joint venture operations. All foreign harvest operations would have been excluded year-round from the FDZ.

Results

The amendment was disapproved by the Secretary of Commerce under Section 304 (b)(2) of the Magnuson Fishery Conservation and Management Act on December 8, 1983. Instead of resubmitting the proposed amendment, the Council agreed to a voluntary foreign industry abstention from fishing in the local areas of importance to U.S. fishermen and processors.



Relax Foreign Longline Restrictions in Winter Halibut Savings Area

Council Action
September 1982

Proposed Rule
May 16, 1983
48 FR 21978

Final Rule
August 2, 1983
48 FR 34962

Effective
August 31, 1983

Purpose and Need

The purpose of the amendment was to modify the regulations designed to control halibut bycatch in the foreign longline fisheries. Under the original FMP, foreign longline vessels were prohibited from fishing landward of the 500 meter depth contour in the Winter Halibut Savings Area (WWSA) from December 1 through May 31. The provision was intended to protect juvenile Pacific halibut when they concentrate in the WWSA. An amendment was proposed by the Japanese longline industry to eliminate the 500 meter depth restriction, because they felt it would prevent the harvest of their Pacific cod allocations.

Analysis

An 18 page EA was prepared for this amendment. Three alternatives including the status quo were considered. The other alternative not chosen would have eliminated all area restrictions on foreign longliners and thus allowed them to fish year-round in the WWSA regardless of depth. Problems identified with this alternative included gear conflicts and an increase in bycatch of halibut. The alternative chosen would allow foreign longline vessels to pursue Pacific cod in shallow waters, while at the same time provide incentives to reduce halibut bycatch. The 500 meter depth restriction was maintained because bycatch rates for halibut in the Pacific cod fishery are higher in shallower waters. The 105 mt bycatch limit was a 25 percent reduction from the average 1978-81 incidental take of halibut in the BSAI foreign longline fishery.

Regulation Summary

Amendment 7 allowed the foreign longline fleet to fish in the shallow waters of the WWSA so as to allow them to catch their allocation of Pacific cod. However, the depth restriction would be re-imposed if the foreign longline fleet in the entire BSAI caught 105 metric tons of halibut as bycatch during the 12 month period of June 1 through May 31. Thus, if the incidental catch of Pacific halibut by foreign longline vessels in the BSAI reached 105 mt between June 1 and November 30, the WWSA would be closed to foreign longlining landward of the 500 meter depth contour for the 6-month period December 1 through May 31. If the incidental catch limit of 105 mt was reached from December 1 through May 31, the restriction would be re-imposed for whatever remained of that 6-month period.

Results

Foreign longline vessels were able to catch their allocation of Pacific cod, until phased out by domestic fisheries.



1984 and 1985 Salmon Prohibited Species Catch Limits for Foreign Trawl Vessels

Council Action
March 1983

Proposed Rule
None on file

Final Rule
None on file

Effective
July 4, 1983

Purpose and Need

The purpose of Amendment 8 was to extend reductions of incidental bycatch of salmon in the foreign trawl fisheries implemented under Amendment 3. Its intent was to continue the Council's salmon bycatch reduction efforts begun under Amendment 3, which controlled salmon PSC through 1983 only.

Analysis

The Council reviewed the status of the salmon resource and the economic and technological reasonableness of further PSC reductions in context with the 75% reduction goal by 1986. The 1984-86 salmon PSC levels reflect limits negotiated between representatives for those Western Alaska residents who depend on the salmon resource and the Japanese trawl industry. A 39-page analysis of salmon, halibut, and crab bycatch reductions was prepared for Amendment 3 in 1981.

Regulation Summary

Amendments 3 and 8 reduced bycatch of prohibited species in foreign groundfish fisheries. Amendment 3 set a goal of total salmon bycatch of 17,473 fish by 1986, which was a 75% reduction from the 1981 salmon PSC of 69,893 and a 78% reduction from the average salmon bycatch of 80,000 fish for the years 1977-80. Amendment 8 implemented a salmon PSC limit of 38,441 fish for 1984 and 27,957 fish for 1985. The 1986 limit remained at the 17,473 fish PSC envisioned in Amendment 3.

Results

The foreign fleet successfully reduced bycatch in their fisheries. However, bycatch savings were offset by the growing JV fisheries.

Target reduction schedule of salmon prohibited species catches based on the average 1977-80 foreign trawl salmon incidental catch.

Year	Chinook salmon (number)	Total Salmon (number)
1981	65,000	69,893
1982	55,250	59,409
1983	45,500	48,925
1984	35,700	38,441
1985	26,000	27,957
1986	16,250	17,473



Catcher/Processor and Mothership Vessel Reporting Requirements, Incorporate Habitat Protection Policy

Council Action
May 1985

Proposed Rule
August 16, 1985
50 FR 33080

Final Rule
November 6, 1985
50 FR 48601

Effective
January 1, 1986

Purpose and Need

Rapid growth of the domestic groundfish fleet led to the development of reporting requirements of catch information by vessels that process their catch at sea. While fish tickets collected catch data from vessels landing at shore-based processing facilities, the action was aimed at collecting necessary and timely catch information from at-sea processors on extended trips.

While not required by law at the time, incorporation of habitat concerns into the FMP was approved in response to the NMFS Habitat Conservation Policy which advocated such consideration in development of FMPs and amendments. The policy further aimed to strengthen the federal/state partnership to act as stewards of marine habitat.

Analysis

A 40-page RIR/IRFA (dated May 28, 1985) reviewed two actions which arose from the Council's first call for proposals:

- Reporting requirements: operators of catcher/processor and mothership vessels must indicate on federal fishing permits their capability and intent to preserve catch at sea; same operators must check-in/out of a regulatory area; same operators that retain fish at sea for 14 days or more to provide a weekly report of the amounts of groundfish caught or received by species by fishing area.

Four rejected alternatives included the status quo, weekly processor reports with no check-in/check-out reporting, placing observers aboard a portion of the catcher/processor and mothership fleet, and placing observers aboard the entire processing fleet. Approximately 25 vessels harvesting \$114 million of groundfish were affected by the decision in 1985.

- Habitat. The Council identified habitat as the source of productivity of the groundfish resource. Two rejected alternatives included status quo and a general habitat conservation objective that would include habitat information in a separate, referenced document rather than in the FMP.

Regulation Summary

Three parts of Amendment 9 were approved:

- 1) incorporate catcher/processor and mothership vessel reporting requirements to provide NMFS with more timely catch information necessary for adequate in-season management (weekly processor report with check-in/check-out reporting). A reporting system for catch held aboard for 14 days or more by the expanding domestic fleet was established. Permit holders must identify vessels as:
 - harvesting/processing,
 - mothership processing
 - harvesting only; or support only.
- 2) incorporate the NMFS habitat protection policy into the FMP in response to NMFS' Habitat Conservation Policy which advocates consideration of habitat concerns in developing or amending FMPs; and;
- 3) incorporate a definition of directed fishing.

One action associated with habitat consideration in the FMP, to prohibit the discard of fishing gear and marine debris, was reserved until the required analysis was prepared. A measure to reduce bycatch of fully utilized species by closing an area within 20 miles of the Aleutian Islands to foreign trawling was disapproved.

Results

Under Amendment 9, NMFS implemented weekly processor reporting which has provided necessary data for inseason management and numerous subsequent groundfish analyses.



Bristol Bay Trawl Closure, Crab and Halibut Prohibited Species Catch Limits, Catcher/Processor Reporting Requirements

Council Action
September 1986

Proposed Rule
December 18, 1986
51 FR 45349

Final Rule
March 19, 1987
52 FR 8592

Effective
March 9, 1987

Purpose and Need

Amendment 10 was proposed primarily in response to concerns that commercial trawl fishing was contributing to the mortality of crabs through their incidental capture and mutilation from trawl gear. At its January 1986 meeting, the Council determined that stocks of Bering Sea Tanner and king crab were low in abundance, and that trawling for groundfish, especially yellowfin sole and other flounders, was threatening both the crab and halibut stocks. Although regulations governing foreign trawl fishing (Amendment 9 banned foreign trawling in the Aleutian Islands) provided certain closed areas and prohibited species catch (PSC) limits for Pacific halibut, Tanner crab, and king crab, domestic trawl fishing vessels and joint ventures (domestic

catchers delivering to foreign catcher/processors) had not been similarly restricted.

In response, the Council approved an emergency rule to close an area north of the Alaska Peninsula to all trawling, with the exception of trawling for Pacific cod (with a PSC limit of 12,000 red king crab). The closed area was expected to protect about 70% of the mature female red king crab spawning stock. The emergency rule also established PSC limits for *C. bairdi*, red and blue king crab, and halibut that, when reached, would close a directed fishery. The rule also required that domestic vessels carry NMFS observers in certain areas and comply with a data gathering program. The Secretary implemented the emergency rule, with the deletion of blue king crab and halibut, on June 3, 1986, and it was extended until December 2, 1986.

Analysis

A 79-page RIR/IRFA (final draft dated November 1986) was prepared for Amendment 10. Six alternatives were considered for the proposed area closing, including no action. The alternatives included variations on the closed area,

PSC limits, and bycatch limitation zones. The other actions were evaluated on the basis of the preferred alternative and the no action alternative.

Regulation Summary

Amendment 4 allowed foreign trawling. The final regulations contained the following four parts:

- 1) Closed the area north of the Alaska Peninsula, south of 58° N. latitude, west of 160° W longitude, and east of 162° W longitude to all trawling year-round and established the following PSC limits and bycatch limitation zones:

Applicable to all domestic vessels in directed fisheries for yellowfin sole and other flatfish in the specified zone:

- 80,000 *C. bairdi* in bycatch limitation Zone 1
- 135,000 red king crab in Zone 1
- 326,000 *C. bairdi* in Zone 2;

Applicable to foreign directed fishing for yellowfin sole and other flatfish: 64,000 *C. bairdi* in Zones 1 and 2 combined; Applicable to domestic vessels in directed fisheries for yellowfin sole and other flatfish and delivering to foreign processing vessels (i.e. joint ventures): 828,000 halibut in the entire BSAI.

- 2) Required written weekly catch reports from all catcher/processors and motherships regardless of when the

catch is landed (BSAI Amendment 9 implemented the same requirement for catcher/processors holding their catch for more than 2 weeks);

- 3) Provided authority to the Secretary to make inseason changes to gear regulations, season, and harvest quotas; and
- 4) Provided the Secretary with inseason authority to reapportion surplus groundfish within the domestic allowable harvest.

Results

This action caused a substantial change in the distribution of groundfish fishing effort, especially the joint venture yellowfin sole and other flatfish fisheries. The benefits, in the form of bycatch savings that occurred during the 1986 fishery under the emergency rule compared to the 1985 fishery, were significant. The bycatch rates for red king crab, *C. bairdi*, and halibut declined by 90%, 44%, and 17%, respectively. The *C. opilio* bycatch rate, however, increased by a factor of 10 when the fleet moved out of Zone 1. Imposition of the emergency rule saved an estimated 1,162,000 red king crab, 221,000 *C. bairdi*, and 64,000 halibut, and a loss of juvenile 4,492,000 *C. opilio*, providing an estimated net benefit of \$6.7 - \$14.6 million in ex-vessel revenue.

Since 1986, crab stocks have continued to fluctuate. Crab and halibut PSC limits were further revised under BSAI Amendments 12a, 16, 19, 21, 25, 37, 40, 41, 57, and 93.



Red king crab (*Paralithodes camtschaticus*)



Seasonal Apportionment of Pollock for Joint Venture Vessels

Council Action
May 1987

Proposed Rule
September 1, 1987
52 FR 32942

Final Rule
December 3, 1987
52 FR 45966
52 FR 48362

Effective
December 30, 1987

Purpose and Need

Amendment 11 was proposed in response to concerns that the domestic annual harvest was being dominated by the joint venture processing fishery (domestic catcher vessels delivering to foreign processing vessels). Since 1977, the pollock fishery in the BSAI evolved from an entirely foreign-harvested fishery to a predominantly domestic-harvested fishery. Yet the volume of fish delivered to foreign processors continued to largely exceed the amount delivered to domestic shore-based processors. In 1986, nearly 95% of the total 886,000 mt domestic annual harvest was harvested in joint venture operations.

The transition to domestic-dominated fisheries was also accompanied by a trend toward harvesting more pollock early in the season, from January-April. Prior to 1980 and the advent of the joint venture fisheries, less than 25% of the pollock harvest was taken before April. By 1987, 73% of the pollock harvest had been harvested by May in the joint venture fisheries. There are two economic advantages to harvesting early in the year: 1) spawning pollock populations are highly aggregated, improving catch per unit effort, and 2) the open access nature of the fishery provides incentive to fish as soon as possible. Higher catch rates posed a significant biological risk; at times, catch rates were so high that it became economically feasible to retain only the valuable pollock roe and discard whole male and female carcasses (a practice called roe-stripping).

Instead of relegating joint venture operations to specific areas and prohibiting roe-stripping, the Council adopted a split-season proposal to reduce the amount of pollock harvested by the joint venture fisheries during the spawning season. This action would prevent development of an efficient fishery for the highly valued pollock roe, as well as allow for the expansion of the domestic processing fishery.

Analysis

An RIR/IRFA (final draft dated July 1987) and supplemental document was prepared for Amendment 11. A draft analysis dated April 1987 considered seasonal apportionments of 0/100% and 50/50% for the joint venture pollock fisheries. The Council's preferred alternative (40/60%) was bounded by the range considered, and

therefore the available data and likely effects of the preferred action were sufficiently addressed in the draft analysis. The preferred 40/60% split was carried over in the final analysis as the preferred alternative, along with the no action alternative. Continuing to concentrate the pollock harvest in the beginning of the year (no action) was deemed unacceptable due to the possible risk to the reproductive potential of the pollock stocks. The alternatives for revising the definitions of prohibited species catch and ABC included the preferred alternative and no action.

Regulation Summary

The regulations implemented the following three provisions:

- 1) Established an apportionment of the pollock TAC allocated to joint venture operations of 40% in the first season (January 1-April 15) and 60% in the second season (April 16-December 31). The measure was effective only in 1988 and 1989;
- 2) Revised the definition of acceptable biological catch (ABC) to conform to that used by the Pacific Council and includes definitions for "threshold" and "overfishing;"
- 3) Revised the definition of prohibited species to specifically name the species to be prohibited in the catches of foreign and domestic fishermen. Steelhead and Pacific salmon were added to the prohibited species list of halibut, herring, and king and Tanner crab for domestic and foreign fisheries; all salmonids are prohibited for foreign fishermen.

The final rule for Amendment 11 also clarified that the definition of directed fishing (20% or more of the harvest) applied to domestic fisheries as well as foreign fisheries. This was inadvertently omitted from the proposed and final rule for BSAI Amendment 10.

Results

By 1991, foreign fishing had been phased out of the EEZ and the entire BSAI groundfish harvest (2,126,000 mt) was taken by 391 U.S. vessels. The Council has also prohibited the practice of roe-stripping of pollock under Amendment 14.



Walleye pollock (*Theragra chalcogramma*). Image courtesy of the AFSC



Catcher Processor Reporting Requirements and FMP Species Categories

Council Action
1987Proposed Rule
December 21, 1987
52 FR 48303Final Rule
March 10, 1988
53 FR 7756Effective
April 7, 1988

Purpose and Need

Amendment 11a was proposed in response to a need for better information from catcher/processors and mothership processor vessels in order to sufficiently address fishery management problems, enforce current regulations, and meet the conservation goals identified in the FMPs. The amendment intended to add to the currently required weekly catch reports by catcher/processors and motherships: information on the number of cartons and unit net weight of a carton of processed fish by species; a Product Transfer Report; and a Cargo Transfer/Offloading Log.

The purpose of the amendment also was to redefine the definition of prohibited species and respecify the other three species categories, and to institute some regulatory changes that would affect the public comment period. Several other minor regulatory changes were made specific only to the Gulf of Alaska FMP.

Analysis

An EA/RIR/IRFA was prepared for Amendment 11a, which determined that there was no significant environmental impact as a result of this action.

Regulation Summary

The regulations implemented the following provisions to the BSAI FMP:

- 1) Augmented the current catcher/processor and mothership reporting requirements with at-sea transfer information, specifically, a Cargo Transfer/Off-Loading Log and Product Transfer Report;
- 2) Revised the definition of prohibited species to include Pacific salmonids, Pacific herring, Pacific halibut, king crab, Tanner crab, and steelhead trout. The other three categories:
 - Target species: pollock, Pacific cod, flounders, rockfish, and sablefish
 - Other species: Atka mackerel, squid, sculpins, sharks, skates, eulachon, smelts, capelin, and octopus
 - Non-specified species: those species taken incidentally in the groundfish fisheries but are not managed by the FMP. No catch records are required;
- 3) Required the public comment period for proposed annual specifications and prohibited species catch limits to be 30 days following the date of filing of the notice for public inspection with the Office of the Federal Register.

Results

Since the amendment was passed, the four species categories remained intact, and the “optimum yield” concept was applied to all except the prohibited species category. The prohibited species group has maintained the definition listed in the amendment. In 1998, a final rule on forage fishes was published which removed smelts from the other species category and placed them in a separate “Forage Fish” category beginning in 1999. The other species category was removed by Amendment 96, and sharks, skates, sculpins, and octopus are now in the target species category.



Permit Requirements, Prohibited Species Catch Limit Framework, Establish Rock Sole as Separate Target Species

Council Action
June 1988

Proposed Rule
September 6, 1988
53 FR 34322

Final Rule
May 1, 1989
54 FR 18519

Effective
May 26, 1989

Purpose and Need

As part of its annual call for proposals, the Council initiated a plan amendment to address six proposals to amend the BSAI FMP. The Council identified the rationale for the preferred actions under the amendment:

- Revise the federal permit requirements: the single species rule (whereby the catch of a species approaches its TAC) placed no limit on the amount of a species discarded after its retention is prohibited because its TAC has been fully harvested. The amount of bycatch discard increased during the rapid increase in the domestic fleet; and the single species rule did not apply to foreign fishing. Bycatch would be treated as PSC when a species reached its TAC. Therefore, a foreign fishery could not retain or discard bycatch without accounting for it against each species' allocation which were by then being fully harvested by the joint venture and domestic fisheries;
- an increased interest by the domestic fishery to target roe-bearing rock sole led to competition with the foreign fishery for the "other flatfish" TAC;
- Mirror an administrative procedure in the GOA FMP whereby annual specifications of PSC limits in BSAI could be set for BSAI groundfish.

Analysis

A 133-page EA/RIR/IRFA (dated May 18, 1988) analyzed four amendment proposals for the BSAI FMP (listed above) and remove the 2 million mt upper limit to the optimum yield range. The Council chose the status quo for this proposal for which it produced a separate SEIS (53 FR 16319) (this was not adopted by the Council).

Regulation Summary

Amendment 12 required:

- All vessels receiving groundfish harvested in the EEZ to hold a federal permit and comply with federal reporting requirements;
- established PSC limit framework for groundfish species in the joint venture and foreign fisheries;
- established rock sole as a target species separate from the "other flatfish" category;
- removed the July 1 deadline for resource assessment document.

Results

The BSAI rock sole fishery has developed into a fishery, with average annual catches of about 60,000 t/year. The 2 million mt OY limit was unchanged.



Rock sole (*Lepidopsetta bilineata*). Image courtesy of AFSC.



12a

Prohibited Species Catch

Revised Crab and Halibut Prohibited Species Catch Limits, Modify Bristol Bay Crab and Halibut Protection Zone

Council Action
December 1988

Proposed Rule
May 4, 1989
54 FR 19199

Final Rule
August 9, 1989
54 FR 32642
54 FR 37469

Effective
September 3,
1989 – December
31, 1990

Purpose and Need

The Council intended that Amendment 10 expire at the end of 1988 due to uncertainty about fluctuations in population levels of prohibited species and development of domestic groundfish fisheries. Concern about continued crab and halibut bycatch prompted the Council to develop more comprehensive controls to replace those that were set to expire. Amendment 12a, a separate from Amendment 12, specified PSC limits on Tanner crab, red king crab, and Pacific halibut in the BSAI groundfish fisheries and apportioned these limits among four specified groundfish fisheries. These PSC limits were in effect during 1989 and 1990. The Council aimed to balance the avoidance of bycatch with providing reasonable opportunities for trawl fisheries to harvest their target species. Its bycatch policy was developed because discarding crab and halibut is wasteful, may adversely affect their use as a target species in other commercial fisheries, and potentially could result in their being overfished.

Analysis

An 86-page EA/RIR/IRFA (dated March 29, 1989) analyzed the following management alternatives to address crab and halibut PSC limits:

- 1) status quo;
- 2) extending specific bycatch provisions in Amendment 10;
- 3) establishing a framework for management procedure to control bycatch of Tanner crab, red king crab, and Pacific halibut;
- 4) establishing fixed, but increasingly restrictive, numerical limits for particular zones; and
- 5) establishing aggregate PSC limits, apportioned by "target fishery" and area (preferred).

Regulation Summary

The PSC limits set in regulation under Amendment 12a are listed in the table below.

Crab and halibut PSC limits

Species	Fishery	Zone 1	Zone 2	Zone 1 & 2H (1°)	BSAI (2°)
Red king crab (animals)	Domestic flat-fish	50,579			
	Domestic other	20,879			
	JV flatfish	111,858			
	JV other	16,684			
	Total	200,000			
Tanner crab (animals)	Domestic flat-fish	68,790	260,910		
	Domestic other	609,519	1,828,558		
	JV flatfish	93,359	280,077		
	JV other	210,152	630,455		
	Total	981,820	3,000,000		
Pacific halibut (mt)	Domestic flat-fish			181	220
	Domestic other			3,408	4,131
	JV flatfish			146	177
	JV other			665	805
	Total			4,400	5,333

Results

Since 1986, crab stocks have continued to fluctuate. For example, the opilio stock peaked in 1991 and again in 1998, then declined. Rebuilding plans were developed for both the opilio and Tanner crab stocks. The red king crab fishery was closed in 1994 and 1995, but has since provided a small fishery.

This amendment was an extension of Amendment 10. Amendment 12a reexamined available data for crab and halibut bycatch and revised the PSC limits through 1990. Crab and halibut PSC limits were further revised under Amendments 16, 19, 21, 25, 37, 40, 41, and 111.



Observer Program, Sablefish Gear Allocations, Walrus Island Closure, Reporting Requirements

Council Action
June 1989

Proposed Rule
September 1, 1989
54 FR 36333
December 12, 1989
54 FR 51042

Final Rule
December 6, 1989
54 FR 50386
February 12, 1990
55 FR 4839

Effective
February 7, 1990

Purpose and Need

Since foreign fishing had been curtailed, NMFS needed to augment the fisheries observer program to cover the domestic fishery. The purpose of a comprehensive data collection program for the domestic groundfish fishery is to provide adequate and reliable data on which to:

- 1) base in-season and inter-season management decisions;
- 2) efficiently carry out resource management; and
- 3) measure fishery performance against existing and proposed management measures.

Additionally, the Council identified concerns regarding sablefish bycatch and a 50% decline in the number of walrus hauled out

on Round Island.

Analysis

An RIR/IRFA (final draft dated July 1987) A 193-page EA/RIR/IRFA (final draft dated July 21, 1989) was prepared for this amendment. Alternatives examined included the preferred alternative and the status quo for four of the five actions affecting GOA groundfish management. In approving its action to allocate sablefish between fixed and trawl gear, the Council also considered an alternative to determine and allocate "true" bycatch needs, with any residual being made available to the directed fishery without regard to gear type.

Regulation Summary

Amendment 13 to the BSAI groundfish FMP authorized a comprehensive domestic fishery observer program. The 1990 and 1991 Observer Plans required specific levels of observer coverage which varied with size of fishing vessel and quantity of fish processed.

The Observer Plans required that owners and operators of vessels and shoreside processing facilities participating in the groundfish fishery arrange for and pay for the cost of placing observers aboard their vessels and at their shoreside processing facilities beginning in January 1990. Each vessel or processor required to have observer coverage is responsible for the cost of obtaining the required observers from a certified contractor.

Amendment 13 also:

- 1) allocated sablefish: 50/50 percent to fixed and trawl gear in the BS and 75/25 percent to fixed and trawl gear in the AI;
- 2) closed waters seaward of 3 miles out to 12 miles surrounding the Walrus Islands (Round Island and the Twins) and Cape Peirce from April 1 through September 30 to groundfish fishing;
- 3) deleted fishing season dates from the FMPs but retained them in regulation;
- 4) clarified authority to recommend TACs for additional or fewer target species within the "target species" category.

Results

The domestic observer program provides information for stock assessment and in-season management, including the ability to accurately assess catch and bycatch in the fisheries. Three problems were later identified for observer coverage payment. It was not an equitable system in that some operations paid for 100% coverage and others did not pay anything, it limited the ability of NMFS to effectively manage the observer program, and it may result in a conflict of interest that could reduce the credibility of observer data. The research plan, under Amendment 30, was designed to address these three problems. Industry support for such a change is demonstrated by the willingness and ability of the industry to convince Congress and the President to amend the Act to allow the North Pacific Fisheries Research Plan to be established and paid for by a broad-based system of user fees. The proposed plan was to be applicable to the groundfish, halibut, and BSAI crab fisheries. Instead, implementation was delayed one year, then replaced with a modified pay-as-you-go system adopted under BSAI Amendment 47. Fees were collected by NMFS in the first year of implementation, which were later returned when the research plan was repealed.



Sablefish (*Anoplopoma fimbria*). Image courtesy of AFSC



Prohibit Pollock Roe Stripping, Seasonal Allowance Schedule for Pollock

Council Action
June 1990

Proposed Rule
September 14, 1990
55 FR 37907

Final Rule
January 7, 1991
56 FR 492

Effective
January 1, 1991

Purpose and Need

Growth of the domestic harvesting and processing capacity in the pollock fishery had created competition for the pollock TAC by 1990. Competition for pollock during the roe season is intensified due to the high value of the roe relative to other products. In addition, extraction of roe can be done faster than production of other pollock products. By roe stripping, fishermen can increase their share of the pollock TAC by quickly producing the most valuable product at the least cost. This amendment was intended to address the following problems identified as being associated with roe stripping:

- wasteful use of the pollock resource;
- caused unintended allocation of pollock TAC among seasons and industry sectors;
- adversely affected the ecosystem;
- adversely affected the future productivity of the stock; and
- increased the difficulty of accurately monitoring the pollock TAC for inseason management.

Analysis

A 138-page EA/RIR/IRFA (final draft dated July 20, 1990) was prepared for this amendment. Five primary alternatives including the status quo were considered. The other alternatives that were not chosen would have just prohibited pollock roe-stripping, required full utilization of all pollock in pollock fisheries, or implemented seasonal allowances for pollock to reduce the amount harvested in the winter-early spring. Options for these alternatives included applying the regulations only to certain areas, and restricting the GOA pollock fishery to midwater gear only. The alternative adopted combined the elements of roe-stripping and seasonal allowances for all areas.

Regulation Summary

The amendment implemented rules that regulated the practice of stripping roe (eggs) from female pollock and discarding female and male pollock carcasses without further processing, and seasonally allocated the TAC of pollock. Season opening dates were established as follows for the GOA: January 1, April, July, and October, and for the BSAI: January 1 and June 1. To get at the issue of roe stripping, product recovery rate standards were established, which if exceeded would constitute a violation. The recovery rate standard established was 10 percent of the total round-weight equivalent of pollock and other pollock products onboard a vessel at any time during a fishing trip. To extrapolate round weight equivalents, the rule established product recovery rates as follows: fillet (18%), surimi (15%), mince (17%), meal (17%), and head & gut (50%).

Results

Since the amendment was approved, the practice of roe stripping has stopped. In 1993, regulations were further tightened to close loopholes that could have potentially undermined the intent of the roe stripping regulations (58 FR 57752). 'Fishing trip' and 'pollock roe' were better defined as were pollock products that could be used to calculate retainable amounts of pollock roe. Full retention and utilization of pollock were required under Amendment 49.



Establish Sablefish Individual Fishing Quotas, Western Alaska Community Development Quota

Council Action
December 1991

Proposed Rule
December 3, 1992
57 FR 57130
57 FR 61870

Final Rule
November 9, 1993
58 FR 59375

Effective
March 15, 1995

Purpose and Need

By the late 1980s, the Council recognized a need to take management action with regard to the sablefish fishery because it was exhibiting significant problems created by a short-season, derby-style fishery. Over time, with the constant increase of new entrants in the fishery, the sablefish fixed gear fishing seasons had degenerated to several short seasons each year. Typical problems included allocation conflicts, gear conflict, deadloss from lost gear, increased bycatch and discard mortality, excess harvesting capacity, decrease in product wholesomeness, safety concerns, and economic instability in the fisheries and fishing communities. In December 1988, the Council evaluated alternative limited access options of license limitation, Individual Fishing Quotas (IFQs), and annual fishing allotments in a draft EIS. After review, the Council decided that the IFQ approach was preferable in that it addressed the problems created by a derby-style fishery. In addition, in early 1991, the Council found that the management problems in the fixed gear sablefish fishery also afflicted the halibut fishery, and therefore decided to consider a similar IFQ system for the halibut fishery. The intent was that a single IFQ program would apply to both fisheries.

The IFQ Program essentially assigns the privilege of harvesting a percentage of the sablefish and halibut quota to specific individuals with a history of harvest in the fisheries. The rights given to each person

are proportional to their fixed gear halibut and sablefish landings during the qualifying period determined by the Council and are represented as quota shares. Under this program, only persons holding quota shares are allowed to make fixed gear landings of halibut and sablefish in the regulatory areas identified.

Analysis

A SEIS/EIS (final draft dated September 1992) and several appendices were prepared for the initial review of the IFQ management alternative. Two alternatives were considered: 1) the status quo open access system characterized by fixed quotas for each regulatory area, and 2) IFQs. The Council rejected license limitation on the basis that it may not be possible to reduce the fleet size in an equitable manner, and because of the significant potential for the reduction in vessel number to be offset by an increase in fishing power per vessel. Annual fishing allotments that were also considered previously were deemed a more complicated management program that would not solve the race for fish. With the preferred IFQ alternative, the Council intended to acknowledge and reward long-term and consistent participation in the fisheries; those whose catch histories showed less dependence on and participation in the fisheries were supposed to receive relatively small amounts of quota share.

Regulation Summary

The IFQ Program was approved for the Pacific halibut and sablefish fixed gear fisheries in the Federal waters of the BSAI and GOA, and these fisheries have been managed under the program since 1995. The regulations outline several key provisions of the program: initial allocation of quota shares; vessel categories; transfer provisions; use and ownership provisions; the annual process for allocating quota shares (QS); and the establishment of Community Development Quotas. The regulations state that legal landings of halibut or sablefish harvested with fixed gear had to occur at any time during 1988-1990 to qualify for an initial allocation of quota share. Generally, if a vessel owner or lessee is qualified, their initial quota share would be based on their highest total landing of halibut for any 5 years of the 7-year base period 1984-1990. For sablefish, the initial quota share would be based on the highest total landing of sablefish for any 5 years of the 6-year base period 1985-1990. Each person eligible to receive quota share would have it assigned to one of four vessel categories: "A"-freezer vessels of any length; "B"- catcher vessels greater than 60'; "C"- catcher vessels less than or equal to 60' for sablefish, or between 35'-60' for halibut; "D"- catcher vessels less than or equal to 35' for halibut. Initial quota share would be assigned to the vessel category that a person's most recent fixed gear landings of groundfish or halibut were caught by that vessel. Various restrictions

on transfer and ownership are designed to maintain the owner/operator characteristics of the fleet, and to prevent consolidation of QS in the hands of a few participants

Results

The fixed gear halibut and sablefish IFQ program is considered a successful market-based management system to address overcapitalization. The number of quota shareholders has decreased over time. The fishing season was converted from several 24-hour period openers each year to an eight-month season from mid-March to November 15. This has improved safety of fishermen; instead of having to fish intensely under any weather conditions, fishermen can choose their fishing weather considering the seasons, grounds, and size and sea worthiness of their vessel. The longer season also increased product quality and price, as fishermen have more time to cater to the fresh fish market.

Subsequent changes to the program since implementation have added new provisions designed to make the program more effective. The program continues to be modified over time, and a comprehensive review of the IFQ program is scheduled for October 2016.



Crab and Halibut Prohibited Species Catch Limits,
Overfishing DefinitionCouncil Action
June 1990Proposed Rule
September 18, 1990
55 FR 38347
55 FR 43063Final Rule
January 24, 1991
56 FR 2700Effective
January 18, 1991

Purpose and Need

A number of management measures were bundled together in Amendment 16, including PSC bycatch management, procedures for specifying TAC, and gear restrictions. Management measures designed to control the bycatch of crab and halibut in the domestic and joint venture groundfish fisheries in the Bering Sea/Aleutian Islands Area (BSAI) were implemented as the result of Amendment 12a. These management measures expired at the end of 1990. The Council felt that without management measures to control bycatch, the levels of red king crab, C. bairdi Tanner crab, and Pacific halibut bycatch would be too high, and there were no incentives for vessel operators to reduce their bycatch. The main purpose of this amendment was to better manage PSC bycatch in non-directed fisheries.

Because of insufficient time to modify regulations between the end of the December Council meeting and January 1 of a new fishing year, this amendment was developed to establish interim TACs so that the fishery would open on January 1. Prior to this amendment, changes to gear definitions or other restrictions required an FMP amendment to change. In order to respond more rapidly to changes in the fishery, the purpose of this action was to allow gear restrictions to be accomplished through a regulatory amendment. An overfished definition was added to the FMP because revised "Guidelines for Fishery Management Plans" (the "602 Guidelines")

required each FMP to include an objective and measurable definition of overfishing for each stock or stock complex under management.

Analysis

A 213-page EA/RIR/IRFA (final draft dated July 31, 1990) was prepared for this amendment. In the original draft, three primary alternatives including the status quo were considered: (1) the status quo which allows the 12a provisions to expire at the end of 1990; (2) a one year extension of the 12a provisions; and (3) a one year or indefinite extension of Amendment 12a provisions modified to add PSC cap apportionments for the Domestic Annual Processing (DAP) rock sole and deep-water trawl (Greenland turbot/sablefish) fisheries, permit seasonal allowances of PSC limits, and provide for sanctions against vessels whose bycatch rates for red king crab, C. bairdi Tanner crab or halibut significantly exceed a fishery average. The analysis was revised several times to address other issues, including the vessel incentive program.

Regulation Summary

The Amendment contained 6 approved management measures as follows:

- 1) Modified PSC limits and bycatch limitation zones for halibut, bairdi crab, and red king crab in the BSAI;
 - 2) Apportioned PSC limits into bycatch allowances for trawl fishery categories;
 - 3) Allowed seasonal allocation of halibut and crab PSC;
 - 4) Established procedures for interim TAC specifications
 - 5) Established fishing gear restrictions (definition of pelagic trawl, biodegradable panels & halibut excluders on pot gear); and
 - 6) Established definitions of overfishing.
- Later revisions to the amendment included addition of a vessel incentive program, which would issue civil penalties (fines) to vessels that exceeded seasonal fixed bycatch rate standards for halibut and crab taken in specified target fisheries.

Results

Portions of the proposed amendment (i.e. the penalty box program) were disapproved by the Secretary. In response, revisions to this amendment were made in BSAI Amendment 16a and in Amendment 19/24.



16a

Allocation | Prohibited Species Catch

Establish Herring Prohibited Species Catch Limits and Herring Savings Areas, Specify Allocation of Pollock Total Allowable Catch to Bottom Trawl

Council Action
September 1990

Proposed Rule
April 15, 1991
56 FR 15063

Final Rule
July 18, 1991
56 FR 32984

Effective
July 12 and
August 12, 1991

Purpose and Need

Amendment 16a was designed to address management of herring bycatch and other bycatch taken in domestic trawl fisheries. In particular, it defined the "hot spot authority," intended to give the Regional Director flexibility to close specific small areas inseason when bycatch rates were high. This also allowed for limitation of the pollock TAC to gears other than pelagic trawl gear, and established a prohibited species limit for herring. Herring in the eastern Bering Sea had declined from a peak in the mid 1980's, and unconstrained bycatch in trawl

fisheries had jumped to high levels relative to exploitable biomass in 1989. This was a cause for concern because when the bycatch mortality was added to the mortality due to the directed inshore fishery, exploitation rates exceeded the State's harvest policy for herring. The 'hot spot' authority was proposed to reduce prohibited species bycatch rates and to provide fishermen a greater opportunity to harvest groundfish TAC prior to reaching established PSC limits. A limitation on bottom trawling for pollock was included in the amendment to reduce the amount of crab and halibut bycatch in this fishery.

Analysis

A 47-page EA/RIR (final draft dated March 1, 1991) plus tables, was prepared for this amendment. There were four alternatives, including the status quo, for herring savings areas considered. The alternatives not chosen would have established smaller or larger winter savings areas. Options for trigger limits included 1%, 2%, 4%, and 8%. The alternative chosen was for the lowest PSC limit (1%) and an intermediate sized winter savings area.

Regulation Summary

Amendment 16a established prohibited species bycatch limits for Pacific herring taken as bycatch in trawl fisheries. The annual PSC limit was set at 1% of the annual biomass of eastern Bering Sea herring, and is apportioned among trawl fishery categories. Attainment of any apportionment triggers closure of herring savings areas to that fishery. The Herring Savings Areas are described as follows:

- 1) Summer Herring Savings Area 1 means the part of the Bering Sea subarea that is south of 57° N. latitude and between 162° and 164° W longitude from 12:00 noon Alaska Local Time (ALT) June 15 through 12:00 noon ALT July 1 of a fishing year.
- 2) Summer Herring Savings Area 2 means the part of the Bering Sea subarea south of 56°30' N. latitude and between 164° and 167° W. longitude from 12:00 noon ALT July 1 through 12:00 noon ALT August 15 of a

fishing year.

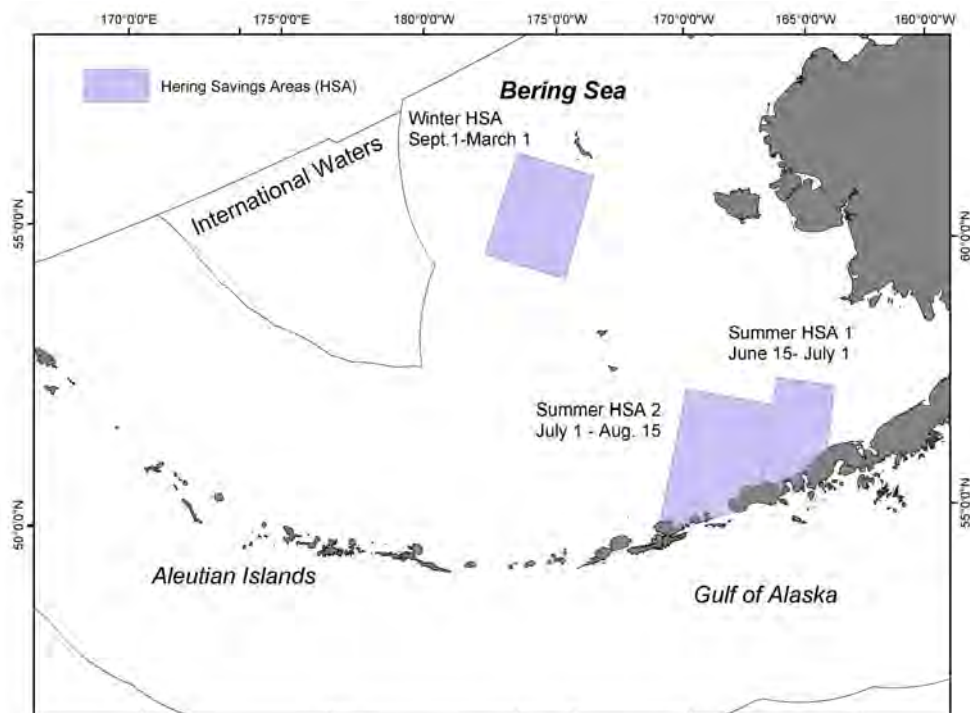
- 3) Winter Herring Savings Area means that part of the Bering Sea subarea that is between 58° and 60° N. latitudes and between 172° and 175° W. longitudes from 12:00 noon ALT September 1 through 12:00 noon ALT March 1 of the succeeding fishing year.

The Regional Director may promulgate an inseason closure of an area (for up to 60 days) to reduce prohibited species bycatch rates. A number of factors must be considered when implementing any 'hot spot' closure.

Also, Amendment 16a allows the Regional Director, in consultation with the Council, to limit the amount of pollock that may be taken with trawls other than pelagic trawls. The Council's recommendations are to be available to the public for comment under the annual TAC specification process.

Results

Herring bycatch has been controlled so that the 1% level has not been exceeded. Nevertheless, herring biomass in the eastern Bering Sea remained at moderate levels. Few, if any, hot spot actions have been taken by the Regional Director. The pollock fishery was required to use only pelagic trawl gear with implementation of Amendment 57.



Herring Savings Areas.



Renew Walrus Islands Closures, Experimental Permits, Establish Bogoslof District

Council Action
August 1991

Proposed Rule
December 4, 1991
56 FR 63487

Final Rule
March 26, 1992
57 FR 10430

Effective
April 24, 1992

Purpose and Need

The purpose of the amendment was to address several conservation issues in one package:

1) Authorize experimental fishing permits:

An FMP amendment is proposed whereby the Regional Director, in consultation with the Council and Alaska Fishery Science Center, may issue experimental fishing permits to persons for purposes of obtaining information necessary to promote fishery conservation and management of the fisheries.

2) Establish Walrus Islands groundfish fishing closures:

An FMP amendment is proposed which would institute protective measures for the Walrus Islands in northern Bristol Bay, by reducing the potential disturbance problems caused by vessel activity in the vicinity of haulout areas. The 12-mile buffer zone created in 1989 will expire at the end of 1991.

3) Establish the Bogoslof District:

An FMP amendment is proposed which would create a separate statistical subarea around Bogoslof Island. This measure would allow for the establishment of a separate TAC for pollock in this subarea, thereby providing regulatory protection of Aleutian Basin pollock during spawning to help rebuild the Aleutian Basin pollock stock.

4) Definition of a groundfish pot:

A regulatory amendment is proposed that would define a groundfish pot to differentiate it from king crab and Tanner crab pots. The intent of this action was to address potential enforcement problems of potential crab fishing under the guise of groundfish fishing.

Analysis

A 71-page EA/RIR/IRFA (final draft dated May 14, 1991) was prepared for this amendment. Five management actions were evaluated under this amendment package. The number of alternatives considered under each action were as follows: experimental fishing permits (2), walrus haulout buffer zones (3), rescind GOA area 68 (2), establish the Bogoslof District in the Bering Sea (2), and pot gear restrictions (4). The alternative not adopted for the walrus haulouts would have established a larger groundfish fishing closure from Cape Constantine to Cape Pierce, which would have prohibited the fleet from a productive fishing area for yellowfin sole. This alternative was not chosen because it would have resulted in forgone exvessel revenues of up to \$14 million per year, and would have resulted in higher halibut and crab bycatch rates by pushing the fleet to outside areas. Regarding pot gear restrictions, the alternatives not chosen would have conflicted with State regulations or would have required fishermen to have separate pots for groundfish and crab.

Regulation Summary

Amendment 17 prohibits all vessels federally permitted to fish for groundfish from entering the walrus haulout closure areas from April 1 through September 30. These areas include the EEZ within 12 miles of islands named Round Island and The Twins, and around Cape Peirce.

Amendment 17 allows the NMFS Regional Director, after consulting with the Director of the Alaska Fishery Science Center and with the Council, to authorize for limited experimental purposes, the target or incidental harvest of groundfish that would otherwise be prohibited. The amendment also established the Bogoslof Area.

Results

Since the amendment was approved, the Aleutian Basin pollock stock has not recovered from overfishing by international fleets in the Donut hole, which occurred in the mid to late 1980s. Numerous experimental fishing permits have been issued to test gear modifications, observer sampling, methodology, bycatch mortality reduction techniques, etc.



Inshore/Offshore Allocations for Pollock, Establish Catcher Vessel Operational Area, Western Alaska Community Development Quota for Pollock

Council Action
June 1991

Proposed Rule
December 20, 1991
56 FR 66009

Final Rule
June 3, 1992
57 FR 23321

Effective
June 1, 1992

Purpose and Need

Amendment 18 developed out of a concern to prevent preemption of resources by one industry sector over another. Substantial processing of pollock by several catcher/processor vessels contributed to an early closure of the pollock fishery in the Shelikof Strait area in 1989, effectively preventing inshore components from realizing their anticipated economic benefit from processing pollock. Upon industry request, the Council considered the issues of coastal community development and shoreside preference at its June 1989 meeting and adopted the Fishery Planning Committee's suggested management alternatives for analysis. The problem statement adopted by the Council identified the issue as a resource allocation problem and stated that specific processing allocations for the inshore and offshore sectors established at the beginning of a fishing year would resolve the preemption problem and allow operators to better plan their harvesting and processing activities for the year.

To address this problem, the Council determined the need to establish inshore/offshore allocations of pollock and Pacific cod in the GOA, and pollock in the BSAI. In addition, the amendments would establish a Catcher Vessel Operational Area (CVOA) in the Bering Sea, which would limit access to pollock within the area to catcher vessels delivering to inshore or offshore processors. These amendments also established the Western Alaska Community Development Quota (CDQ) program pollock allocations,

to provide Western Alaska communities with long-term employment and access to the fisheries. The primary purpose of Amendments 18 and 23 was to protect the inshore component of the fishery from preemption by the offshore fleet. The amendments provided an interim solution for the inshore component, which includes small coastal communities that are highly dependent on fishing to maintain economic stability. While the amendments did not directly address overcapitalization in the fisheries, the approval by the Council specifically expressed intent to develop and implement a more comprehensive, long-term limited access program.

Analysis

An extensive final EIS and EA/RIR/IRFA and a 265-page appendix containing community profiles were prepared for these amendments. Eight alternatives including the status quo were considered. The alternatives not chosen would have implemented traditional management tools or formed an allocation system with a different basis, such as vessel class, species, or at the individual vessel level. The alternative chosen was broadened to include development of a Comprehensive Fishery Rationalization Program, of which inshore/offshore allocations would be a part.

Regulation Summary

The alternative adopted and approved defined the inshore and offshore components of the fisheries. BSAI Amendment 18 was only partially approved, allocating 35% of the 1992 non-roe pollock season TAC to the inshore component, and the remaining 65% to the offshore component. The portion that was not approved would have further allocated pollock through 1995: (the inshore allocation would have increased to 40% in 1993 and 45% in both 1994 and 1995). A NMFS economic review indicating a large net loss to the Nation as a result of this action provided the rationale for disapproval by the Secretary of Commerce. (Analysis of adjoining GOA Amendment 23 indicated a net benefit; therefore, that amendment was approved in full. The GOA inshore component was allocated 90% of the Pacific cod TAC and 100% of the pollock TAC for each fishing year.) While catcher/processors from the offshore component would not be able to conduct directed pollock fishing in the GOA, they would be allowed appropriate bycatch amounts. Amendment 18 also established the CVOA south of 56° N. latitude and between 163° and 168° W. longitudes and the Community Development Quota program. As a result of the CDQ program, 7.5 percent of the BSAI pollock TAC was reserved for CDQ fisheries (a nonspecific reserve) at the beginning of the year, and that amount would be reduced as allocations are made to community development projects.

Results

After the partial amendment was approved, in September 1992 the Council submitted revised BSAI Amendment 18 to NMFS for review. NMFS approved pollock allocations of 35% for pollock processing by the inshore component and 65% by the offshore component for each of the years 1993-95. These allocations resulted in a redistribution of fish from one sector (offshore) to another (onshore), and provided for stability and business planning advantages for both sectors. Stability in dependent coastal communities was also enhanced by this amendment. Allocations to the western Alaska CDQ program provided the economic base and opportunity for 56 Alaskan coastal communities to become integral participants in the BSAI commercial fisheries, through direct revenues from the pollock allocation and development of fisheries infrastructures.



Establish Prohibited Species Catch Limits for Non-Trawl Fisheries, Revise Trawl Fishery Categories for Prohibited Species Catch Accounting, Delay Fisheries Start Date

Council Action
December 1991

Proposed Rule
May 29, 1992
57 FR 22695

Final Rule
September 23, 1992
57 FR 43926

Effective
September 30,
1992

Purpose and Need

Amendment 19 was initiated to further address bycatch issues that were raised under Amendments 16 to the BSAI FMP and 21 to the GOA FMP. The purpose of this amendment was to control and reduce halibut bycatch mortality in the Alaska groundfish fisheries in response to the international, social, and economic conflicts between U.S. and Canadian halibut fishermen and U.S. groundfish fishermen that take halibut as bycatch.

Analysis

A 111-page EA/RIR/IRFA (final draft dated April 10, 1992) was prepared for this amendment. The analysis was broken down into different management actions, and alternatives for each were evaluated separately. The number of alternatives (including the status quo) considered varied for each management measure.

Regulation Summary

Amendments 19/24 established three FMP amendment management measures. These are as follows: 1) For 1992, reduce the Pacific halibut prohibited species catch (PSC) limit established for BSAI trawl gear from 5,333 metric tons (mt) to 5,033 mt, but retain the primary halibut PSC limit at 4,400 mt; 2) For 1992, establish a 750 mt Pacific halibut bycatch mortality limit for BSAI fixed gear; and 3) Establish FMP authority to develop and implement regulatory amendments that allow for time/area closures to reduce prohibited species bycatch rates (revised "hotspot authority").

In addition to the above FMP amendments, the following amendments to current regulations were adopted:

- 1) Revise BSAI fishery definitions for purposes of monitoring fishery specific bycatch allowances and assigning vessels to fisheries for purposes of the vessel incentive program;
- 2) Revise the management of BSAI trawl fishery categories for PSC accounting;
- 3) Expand the vessel incentive program to address halibut bycatch rates in all trawl fisheries;
- 4) Delay the season opening date of the BSAI and GOA groundfish trawl fisheries to January 20 of each fishing year to reduce salmon and halibut bycatch rates;
- 5) Further delay the season opening date of the GOA trawl rockfish fishery to the Monday closest to July 1 to reduce halibut and chinook salmon bycatch rates; and
- 6) Change directed fishing standards to further limit halibut bycatch associated with bottom trawl fisheries

Results

Since the amendment was approved, bycatch of crab and halibut has been controlled to stay within the PSC limits. PSC catch limits have been apportioned among different trawl fisheries in the BSAI, and fisheries have been closed when their respective apportionments/seasonal allowances were reached. Catch of groundfish (particularly flatfish) has been foregone due to these restrictions. Few vessels have been cited for violations of the vessel incentive program. PSC management was again revisited in following amendments, such as BSAI Amendment 25.



Establish Sea Lion Buffer Zones

Council Action
September 1991Proposed Rule
November 18, 1991
56 FR 58214Final Rule
January 23, 1992
57 FR 2683Effective
January 20, 1992

Purpose and Need

Amendment 20 was proposed to allow regulations to be implemented to afford marine mammals additional protection, particularly Steller sea lions. Steller sea lions were listed as threatened under the Endangered Species Act on November 26, 1990 (55 FR 49204). Although the ultimate cause of the Steller sea lions decline remains unknown, Steller sea lions had been incidentally taken in fishing gear, intentionally killed and harassed by fishermen, and may have competed with commercial fisheries for food resources. The purpose of this amendment was to reduce the likelihood that commercial groundfish removals would deplete Steller sea lion prey abundance in key habitats, as well as to reduce incidental take of Steller sea lions.

Analysis

A 29 page EA/RIR/IRFA was prepared for the trawl closure area section and a 10 page EA/RIR/IRFA was prepared for the section revising GOA districts (final drafts undated, but near October 30, 1991). Five alternatives including the status quo

were considered for the trawl closure section and two alternatives were considered for the GOA districts section of the Amendment. The other alternatives not chosen would have established larger time/area closures (20 nm year-round, 10 nm in summer with 20 nm winter extensions, 20 nm summer with 60 nm winter extensions). The alternative chosen (10 nm year-round rookery closures) represented an approximation of the average summer foraging range (average was 8 miles; maximum of 21 miles) for the six female Steller sea lions with pups tagged and tracked.



Steller sea lions diving off a rock haulout. Photo taken by Vladimir Burkanov, NOAA.

Regulation Summary

Regulations authorized by Amendment 20 implemented the following measures:

- 1) Areas are closed year-round to fishing by vessels using trawl gear within 10 nautical miles of key Steller sea lion rookeries located in the GOA and BSAI management areas.
- 2) Areas are closed within 20 nm of five sea lion rookeries to directed pollock fisheries during the "A" season. These rookeries are Sea Lion Rocks, Akun Island, Akutan Island, Seguam Island, and Agligadak Island
- 3) In the GOA, the specified total allowable catch for pollock in the combined western/central area is further divided among three pollock management districts: Area 61 (170°-159° W. longitudes), Area 62 (159°-154° W. longitudes), and Area 63 (154°-147° W. longitudes). The Shelikof Strait district was eliminated. To prevent excessive accumulation of unharvested portions in any quarterly allowance of the pollock TAC, a limit of 150 percent of the initial quarterly allowance in each pollock management district was established.

Results

Many subsequent actions have been taken to minimize the impacts of fisheries on Steller sea lions. On March 12, 1993, NMFS extended the no-trawl zone around Ugamak Island out to 20 nm during the pollock roe fishery (58 FR

13561). Amendment 28 to the BSAI FMP subdivided the Aleutian Islands region into 3 districts to reduce localized depletion of Atka mackerel. Critical habitat for Steller sea lions was designated on August 27, 1993 (58 FR 45269). Amendment 45 to the GOA groundfish FMP further subdivided the areas for pollock fishing; these were further modified by regulatory amendment in June (63 FR 31939). A regulatory amendment implemented in 1999 seasonally apportioned the AI Atka mackerel TAC into two seasons, incrementally shifted the allowable catch outside of Steller sea lion critical habitat area, and added a 20 nm no-trawl zone around Seguam rookery.

In 1997, the western population (west of 144° longitude) of Steller sea lions was listed as endangered under the Endangered Species Act. In April 1998, plaintiffs (Greenpeace, the American Oceans Campaign, and the Sierra Club) filed suit against NMFS challenging the FMPs under both the Endangered Species Act and the National Environmental Protection Act. In December 1998, NMFS issued a Biological Opinion that the Alaska pollock fisheries proposed for the years 1999 to 2002 were likely to jeopardize the continued existence of Steller sea lions and modify its critical habitat. As a result, numerous management actions were taken via emergency rule and standard rulemaking to temporally and spatially disperse the pollock fisheries, and establish numerous no-trawl zones around rookeries and haulouts. Additional changes to protection measures in the AI occurred in 2014.



Framework Halibut Prohibited Species Catch Limits Including Authority to Specify by Fishery Category or Season

Council Action
June 1992

Proposed Rule
February 9, 1993

Final Rule
March 18, 1993
58 FR 14524

Effective
March 17, 1993

Purpose and Need

The purpose of the amendment was to control halibut bycatch in groundfish fisheries. Halibut bycatch limits for trawl and non-trawl gear fisheries that were established for 1992 under Amendment 19 were scheduled to expire at the end of 1992. Without further regulatory action, no halibut bycatch restrictions would be in effect for BSAI non-trawl fisheries in 1993 and beyond, and the halibut bycatch limit for trawl gear fisheries would revert back to the 1991 level of 5,333 metric tons.

There were two other problems addressed in the amendment. First, the trawl PSC limit was previously established in terms of bycatch, not bycatch mortality. Therefore, it did not address directly the management goal of controlling bycatch mortality and limited the methods available to fishermen to meet that goal. Second, the PSC limits could only be changed with an FMP amendment. This can be a cumbersome and lengthy process and may prevent timely and efficient changes to the PSC limits as the biological, economic, and social factors that determine the appropriate PSC limits change.

Analysis

A 94-page EA/RIR/IRFA (final draft dated November 3, 1992) was prepared for this amendment. Six alternatives including the status quo were considered. The other alternatives that were not chosen would have established halibut bycatch limits only (not mortality based), or established fixed bycatch mortality limits for trawl fisheries in the FMP or regulations. In addition, three options for bycatch and mortality limits were analyzed. The alternative chosen established halibut bycatch limits in terms of mortality, allowed the PSC limits to be changed by regulatory amendment, allowed apportionment and seasonal allowances to be specified, and allowed some non-trawl fisheries (e.g., pot fisheries) to be exempt from the non-trawl PSC limits.

Regulation Summary

Amendment 21 implemented the following measures:

- 1) Establish halibut bycatch limits in terms of halibut mortality rather than halibut bycatch;
- 2) Establish halibut bycatch mortality limits for trawl and non-trawl fisheries in regulations rather than in the FMP to allow for changes in bycatch mortality limits through a regulatory amendment process rather than an FMP amendment; and
- 3) Establish FMP authority to annually apportion the non-trawl halibut bycatch mortality limit among fisheries and seasons as bycatch allowances. This authority would be similar to FMP provisions for annual specification of bycatch allowances of prohibited species catch limits among trawl fisheries.

Consistent with this amendment, regulations established a 3,775 mt halibut bycatch mortality limit for trawl gear fisheries and a 900 mt halibut bycatch mortality limit for non-trawl fisheries.

Results

Since the amendment was approved, halibut bycatch mortality limits have not been exceeded. Further, fishermen have developed ways to reduce halibut mortality (e.g., careful release, deck sorting) to better achieve OY in the groundfish fisheries. Note that the halibut bycatch mortality limit for trawl gear was reduced by 100 mt with implementation of Amendment 57.



Establish Pribilof Island Habitat Conservation Area

Council Action
April 1994Proposed Rule
October 17, 1994
59 FR 52277Final Rule
January 20, 1995
60 FR 4110Effective
January 20, 1995

Purpose and Need

The purpose of the amendment was to eliminate trawl activities in areas of importance to blue king crab and Korean hair crab stocks so that these stocks may build to and be maintained at exploitable levels. In addition, the amendment would reduce bycatch of juvenile halibut and crab, and mitigate any unobserved mortality or

habitat modification that occurred due to trawling.

Analysis

A 106-page EA/RIR (final draft dated September 12, 1994) was prepared for this amendment. Eleven alternatives including the status quo were considered. The other alternatives that were not chosen would have established different area closure

configurations or established a closure based on a trigger level of crab bycatch. Through spatial display of NMFS annual trawl surveys; foreign, JV, and domestic groundfish observer data; and the directed commercial crab catch, the analysis provided an understanding of blue king crab habitat, trawl fishing effort and the distribution or feeding areas of other marine species. Analysis of this information was

used to delineate an area for closures that provides trawl access to the majority of groundfish resources in the Pribilof Islands area, yet affords habitat protection for blue king crab. The boundary selected does not encompass the entire range of blue king crab in the area, but does surround the habitat with highest blue king crab concentrations. Included in the boundary is habitat vital to juvenile blue king crab, populations of red king crab, populations of Korean hair crab, and some of the area important to foraging sea birds and marine mammals. The boundary in Alternative 8 was selected to allow trawl access to the edge of the 100 m contour and the groundfish resources to the east and north of the Pribilof Islands. The boundary was also drawn with straight edges and as few corners as possible in order to facilitate ease of closure enforcement.

Regulation Summary

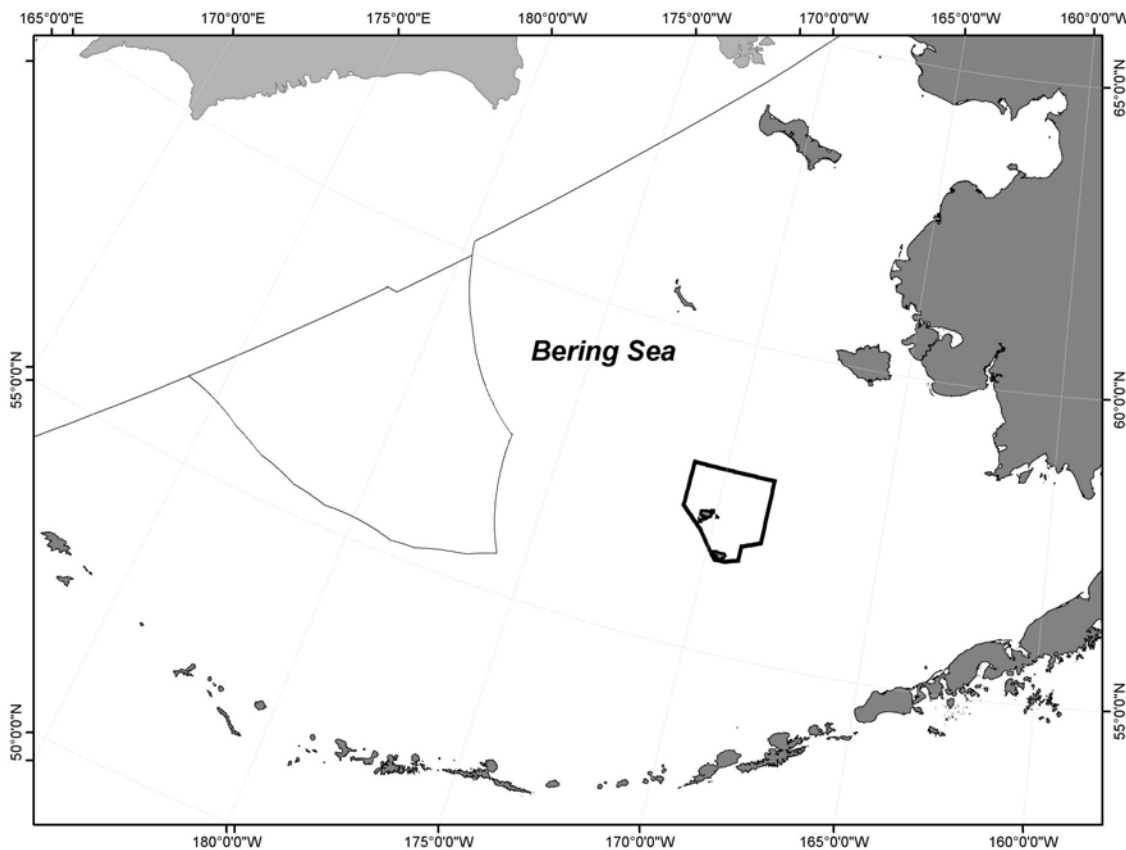
All trawling is prohibited at all times in the EEZ within the area bounded by a straight line connecting the following pairs of coordinates in the following order:

57° 57.0'	168° 30.0'
56° 55.2'	168° 30.0'
56° 48.0'	169° 2.4'
56° 34.2'	169° 2.4'
56° 30.0'	169° 25.2'
56° 30.0'	169° 44.1'
56° 55.8'	170° 21.6'
57° 13.8'	171° 0.0'
57° 57.0'	171° 0.0'
57° 57.0'	168° 30.0'

Also, Amendment 16a allows the Regional Director, in consultation with the Council, to limit the amount of pollock that may be taken with trawls other than pelagic trawls. The Council's recommendations are to be available to the public for comment under the annual TAC specification process.

Results

Since the amendment was approved, most crab stocks have declined. Blue king crab declined from a recent peak in 1995 (8.4 million crabs) to very low levels. Hair crabs similarly declined from 11.8 million crabs in 1995 to only 5.6 million crabs in 1999. Other crab stocks (e.g., Tanner and snow crabs) utilizing the conservation area have fluctuated over the time period. Pribilof Island red king crabs have increased and are well above target biomass.



Pribilof Island Habitat Conservation Area



Chinook Salmon Savings Area

Council Action
November 1995Proposed Rule
Not on fileFinal Rule
November 29, 1995
60 FR 61215Effective
January 1, 1996

Purpose and Need

Salmon are a target species in directed salmon fisheries, but are taken as incidental bycatch in groundfish trawl fisheries. The objective of the amendment was to provide the Council with the means to control Chinook salmon bycatch in the BSAI groundfish trawl fisheries. Chinook salmon bycatch control measures were thought to be needed for two reasons. First, many Chinook salmon stocks are fully utilized, and uncontrolled bycatch constitutes an additional, unaccounted for allocation of the resources. Second, uncontrolled bycatch levels exceeding recent highs may lead to conservation problems for Alaskan and Canadian Chinook salmon populations. Several major river systems had experienced low levels of returns, particularly the Nushagak, Yukon, and Kuskokwim rivers.

Analysis

A 203-page EA/RIR/IRFA (final draft dated August 16, 1995) was prepared for this amendment. Three primary alternatives including the status quo were considered. There were 8 different area closure options, two bycatch limit options, and three seasonal closure options. The other primary alternative that was not chosen would have established a time/area closure but without a

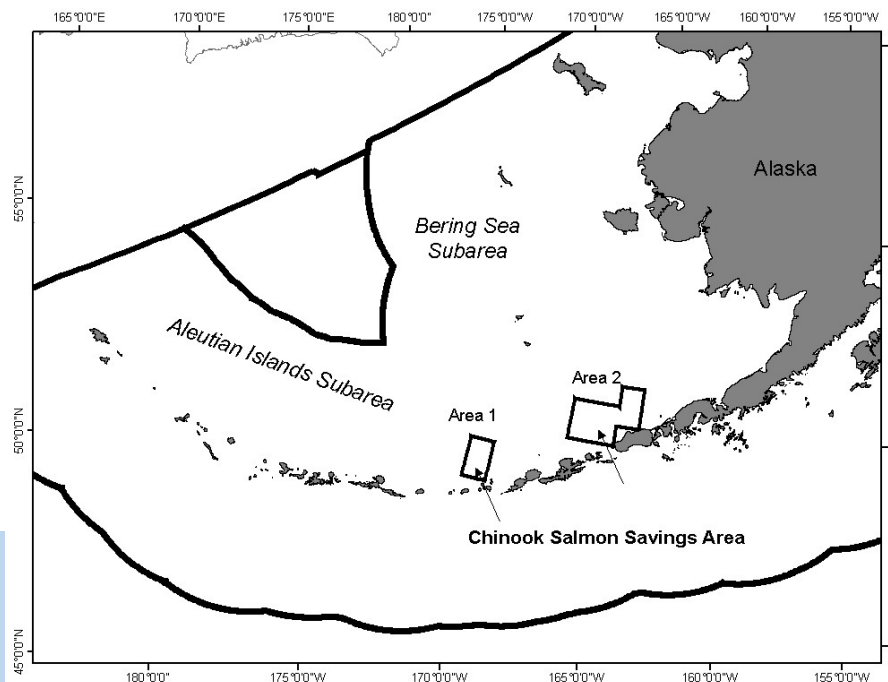
PSC limit that triggered a closure. In selecting the preferred alternative, the Council recognized that a PSC limit of 48,000 Chinook salmon would not constrain groundfish fisheries in most years, but would allow for closures in areas and times of historic high salmon bycatch.

Regulation Summary

Amendment 21b established measures to control the amount of Chinook salmon taken as bycatch in BSAI trawl fisheries. Specifically, the alternative adopted would close three areas in the BSAI to all trawling when 48,000 Chinook salmon were taken as bycatch. The Chinook salmon savings areas are shown in the adjacent figure. A closure will remain in effect from the time the trigger is reached until April 16, when the areas would reopen to trawling for the remainder of the year.

Results

Although more than 48,000 Chinook salmon were taken over the course of a year in 1996, 1997, and 1998, closure of the area was not triggered because the cap was not exceeded prior to April 15. In February 1999, the Council adopted Amendment 58, which reduced the Chinook salmon bycatch trigger level to 29,000 Chinook salmon (with year-round accounting) and refined the closure areas based on more recent data. Amendments 84 and 91 also addressed salmon bycatch limits. Despite these actions, Chinook salmon populations in western Alaska remain in relatively poor shape as of 2006, and have not yet recovered to earlier levels.



Right: Chinook Salmon Savings Areas.

Below: Number of Chinook salmon taken as incidental bycatch in BSAI trawl fisheries, 1995-2015

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Chinook Salmon	22,691	63,179	50,519	55,427	12,924	7,470	37,970	37,555	50,939	59,965	75,020	87,080	130,005	23,898	14,316	12,200	27,974	13,504	16,977	19,343	27,830



Establish Trawl Gear Test Zones

Council Action
April 1992

Proposed Rule
December 14, 1992
57 FR 59702

Final Rule
January 23, 1993
58 FR 5660

Effective
January 15, 1993

Purpose and Need

The purpose of the amendment was to provide trawl fishermen an opportunity to test their trawl fishing gear when the GOA or BSAI is otherwise closed to trawling. Until 1992, the GOA and BSAI were open to trawling for most of the year, and fishermen were able to test gear in preparation for a season opening. However, in 1992, new regulations delayed the opening of the trawl season from January 1 to January 20 to reduce the bycatch rates of Chinook salmon and Pacific halibut. The purpose of this amendment was to allow fishermen to test their gear and begin fishing efficiently at the beginning of a season, reducing lost fishing time that might result from gear problems.

Analysis

A 13-page EA/RIR/IRFA (final draft dated September 1, 1992) was prepared for this amendment. Two alternatives including the status quo were considered.

Regulation Summary

Amendment 22 allows the Secretary to promulgate regulations establishing areas where specific types of fishing gear may be tested, to be available for use when the fishing grounds are closed to that gear type. Specific gear test areas contained in regulations that implement the FMP were allowed by regulatory amendment. These gear test areas would be established in order to provide fishermen the opportunity to ensure that their gear is in proper working order prior to a directed fishery opening. The test areas must conform to the following conditions:

- 1) Depth and bottom type must be suitable for testing the particular gear type.
- 2) Must be outside State waters.
- 3) Must be in areas not normally closed to fishing with that gear type.
- 4) Must be in areas that are not usually fished heavily by that gear type.
- 5) Must not be within a designated Steller sea lion protection area at any time of the year.

The rule implementing this amendment established three trawl test areas: Dutch Harbor (54° 40' to 55° 00' N; 166° 00' to 167° 00' W), Sand Point (54° 35' to 54° 50' N; 160° 30' to 161° 00' W), and Kodiak (57° 23' to 57° 37' N; 151° 25' to 152° 02' W). The regulation further required that the trawl cod end must be left unzipped so as not to retain fish, that groundfish may not be onboard, and that the time used to test gear would not contribute to observer coverage requirements.

Results

Since the amendment was approved, fishermen have been able to test their gear when trawl fishing is otherwise prohibited and no subsequent changes to the areas have been made.



Council Action
December 1994

Proposed Rule
June 3, 1994
59 FR 2882

Final Rule
August 10, 1995
60 FR 40763

Effective
September 11, 1995

Purpose and Need

In 1987, concerned with excess harvesting capacity in the groundfish, crab, and halibut fisheries of the BSAI and GOA, the Council established a committee to examine the problem of overcapitalization. Upon concluding that allocation conflicts and overcapitalization would worsen under the current open access system, the committee recommended a limited access management approach for these three fisheries. Concerned with the potential for speculative entry into the fisheries during discussions of management alternatives, NMFS published a control date notice of February 9, 1992. Anyone not having previously participated in the fisheries before that date would not be assured future access to the fisheries should a limited access system be adopted.

The purpose of this amendment was to provide for an interim measure to slow significant increases in the harvesting capacity of the groundfish and crab fishing fleets until a Comprehensive Rationalization Plan (CRP) could be implemented. The CRP was intended to resolve the overall issue of overcapitalization on a long-term basis, and transition the fisheries from an open access management system to a more market-based, limited access system. Without the regulatory ability to institute a moratorium, the Council feared that potentially unlimited new entry into the fishery would exacerbate overcapitalization and hinder the ultimate development of a successful CRP. The anticipated short-term

effects of the amendment included increasing economic benefits to fishermen and reducing the risk of overfishing.

Analysis

A 22-page supplemental analysis (final draft dated February 1995) was prepared for the final resubmittal of the proposed moratorium for these amendments, which were originally approved by the Council in 1992. The supplemental analysis outlined the changes from the original moratorium proposal: revision of the qualification period, halibut and sablefish qualification, consideration of current participation, crossovers, and the appeals process. The analysis also indicated that the revised moratorium would allow 4,144 unique vessels in the crab and groundfish fisheries, about 1,800 more than the current participant fleet but significantly less than the 15,709 unique vessels that participated in the fisheries since 1978 that had the potential to re-enter if no action was taken.

Regulation Summary

After several proposed moratoriums, the final rule required a moratorium permit for vessels within specific vessel categories that harvest groundfish and BSAI crab resources off Alaska. Generally, a vessel qualified for a moratorium permit if it made a legal landing of any moratorium species during the qualifying period of January 1, 1988 through February 9, 1992. In addition, a vessel that made a legal landing during the qualifying period, in either a groundfish or crab fishery, but not both, can cross over as a new vessel in the fishery in which it did not make a legal landing in the qualifying period provided: 1) it uses the same gear type in the new fishery as it used to qualify for the moratorium in the other fishery; or 2) it made a legal landing in the crossover fishery during the qualifying period and it uses only the same gear type it used in that period.

Results

Since the amendment was approved, the Council has implemented the License Limitation Program (LLP) to limit entry into the groundfish and crab fisheries off of Alaska. As anticipated, the LLP (Amendment 60 to the BSAI FMP/ Amendment 58 to the GOA FMP/ Amendment 10 to the BSAI Crab FMP) replaced the vessel moratorium established in these amendments starting in the 2000 fishing season. For general licenses, the base qualifying period established was January 1, 1988, through June 27, 1992, approximately four months longer than the moratorium qualification period, in order to be consistent with the Council's published cutoff date for qualification under the Comprehensive Rationalization Plan. The LLP also required an area endorsement for the BSAI or the GOA, to provide for present participation in the fisheries (the qualifying period being January 1, 1992 through June 17, 1995). The moratorium established by Amendments 23 and 28 limited speculative entry into the fisheries while the LLP was being developed and approved, and kept the overcapitalization situation from worsening during development of the long-term Comprehensive Rationalization Plan. In addition, the moratorium qualifications could be transferred to other vessels (provided that the length of the new vessel was the same or less than the original), and so helped provide a basis for the LLP transfer process.



Pacific Cod Allocation by Gear Type and Season

Council Action
June 1993Proposed Rule
October 27, 1993
58 FR 57803Final Rule
January 28, 1994
59 FR 4009Effective
February 28, 1994

Purpose and Need

The amendment was proposed in response to socioeconomic concerns of the fishing industry and the need for stability in the trawl gear and fixed gear (longline, pot, and jig) fleets that target Pacific cod. The fishery was exhibiting numerous overcapitalization problems such as compressed fishing seasons, high bycatch and waste, gear conflicts, and an overall reduction in benefit from the fishery. At the April 1993 meeting, the Council developed a problem statement that focused on resolving overcapitalization in the BSAI Pacific cod fishery. In June, the Council recommended three management measures to be implemented through 1996:

- 1) allocation of the BSAI Pacific cod initial Total Allowable Catch (TAC) among the jig gear, fixed (longline and pot) gear, and trawl gear fleets;
- 2) seasonally apportion the amount of Pacific cod TAC allocated to vessels using longline or pot gear; and
- 3) provide the authority to reallocate Pacific cod from the trawl sector to the longline and pot sectors, and vice versa, if NMFS determines that one gear group or the other will not be able to harvest its full allocation. The part of the jig gear harvest that is expected to go unharvested would also be reallocated to the trawl and longline or pot sectors.

The Council's action was intended to provide industry and community stability by directly allocating to gear groups approximately the average percent of Pacific cod taken with these gear types

during the years 1991-1993. While the fixed and trawl gear fleet were allocated about their average catch, the amendment allowed for a substantial increase in the share of the fixed gear catch taken with jig gear. This was intended to increase participation of small, shore-based vessels. Without explicit gear allocations, the Pacific cod fishery would continue to operate under an open access situation, and the amount of cod taken by each gear group would be based on how well individual vessels compete among gear groups. A direct allocation combined with seasonal apportionment in the fixed gear sector was expected to provide the potential for each gear group to increase the average benefits received from the harvest of Pacific cod.

Analysis

A 77-page EA/RIR/IRFA (final draft dated October 1993) and a separate volume of nine appendices were prepared for this amendment. Two types of changes were considered: the direct allocation to gear groups and the seasonal apportionment of the fixed gear BSAI Pacific cod allocation. The analysis determined that the preferred alternative would provide stability in terms of the distribution of catch between the trawl and non-trawl fisheries, improve the current situation by reducing salmon and other prohibited species bycatch rates, and provide information to develop more effective management measures in the future.

Regulation Summary

Amendment 24 was proposed to authorize the explicit allocation of BSAI Pacific cod among vessels using trawl, hook-and-line or pot gear, and jig gear through 1996. The alternative adopted and approved allocated the BSAI Pacific cod TAC to the jig gear (2%), hook-and-line or pot gear (44%) and trawl gear (54%) fleets. The action also authorized the seasonal apportionment of the Pacific cod TAC for hook-and-line and pot gear, creating three four-month seasons. In addition, the regulation allowed for the reallocation of Pacific cod from the trawl sector to the longline and pot sectors, and vice versa, if NMFS determines that one gear group or the other will not be able to harvest its full allocation.

Results

The BSAI Pacific cod allocations resulting from Amendment 24 were approved through 1996. At the December 1995 Council meeting, it was noted that while the action provided the necessary stability to the various gear sectors, significant regulatory, economic, and biological changes had occurred in the Pacific cod fishery since the amendment was implemented in 1994. These changes were incorporated into the original analysis with a specific focus on prohibited species mortality, impacts on habitat, and cod discards by the different gear sectors. In June 1996, the Council approved Amendment 46 to continue allocations of the Pacific cod TAC, revising the allocation as follows: 51% to fixed gear, 47% to trawl gear, and 2% to jig gear. The Council later approved BSAI Amendment 64 (October 1999), to further split the BSAI Pacific cod fixed gear allocation between freezer longline, catcher longline and pot vessels.



Halibut Prohibited Species Catch Limits

Council Action
December 1992

Proposed Rule
January 19, 1994
59 FR 2817

Final Rule
April 10, 1994
59 FR 18757

Effective
May 20, 1994

Purpose and Need

Amendment 25 was proposed to eliminate the primary Pacific halibut PSC limit that, when reached, closes Bycatch Limitation Zones 1 and 2H of the Bering Sea. Originally, under Amendment 12a to the BSAI FMP, a 4,400 mt primary halibut PSC limit and a 5,333 mt secondary limit were established for specified BSAI trawl fisheries. When the primary limit was reached, Zones 1 and 2H were closed to directed fishing for specified groundfish species by vessels using non-pelagic trawl gear. When the secondary limit was reached, the entire BSAI was closed to directed trawl fishing for specified groundfish species. The intent was to reduce halibut bycatch rates experienced by the trawl fisheries without prohibiting the groundfish trawl fisheries access to the entire BSAI groundfish resource.

Amendment 12a expired December 31, 1990 and was replaced by Amendment 16, which maintained the existing PSC limits during 1991. Amendment 16 was eventually replaced by Amendment 19, which was effective only for the 1992 fishing year and reduced the secondary limit to 5,033 mt. (This action was eventually superseded by Amendment 21, which simply converted the PSC limits from catch limits to mortality limits.) As a result, the smaller difference between the primary and secondary limits made it difficult for NMFS to monitor the primary limit in a manner to allow closures before the secondary limit was reached; therefore, most trawl closures ensuing from

bycatch restrictions were implemented under the secondary limit. At this point, the effectiveness of a primary PSC limit to reduce halibut bycatch came into question. NMFS was finding that initial closure of Bycatch Limitation Zones actually often increased bycatch rates by forcing fisheries to move to areas with lower groundfish catch per unit effort and higher halibut bycatch rates.

Amendment 25 was proposed to respond to the concerns about the usefulness of the primary PSC limit and its potential for exacerbating halibut bycatch rates in the BSAI trawl groundfish fisheries. The intent was to eliminate the primary PSC limit and use only the overall (secondary) halibut bycatch mortality limit established for the BSAI trawl fisheries. This action was necessary to promote the management and conservation of halibut and other fish resources as specified in the objectives of the Magnuson-Stevens Act and the FMPs, and to better meet the original intent of Amendment 12a.

Analysis

A 21-page EA/RIR (final draft dated December 1993) was prepared for this amendment. Three alternatives including the status quo were considered. One alternative addressed the elimination of the primary PSC limit and the other alternative addressed the regulatory amendments proposing the mandatory retention of salmon and authorized release of observer data on prohibited species bycatch. The analysis determined that both alternatives

would improve the current situation by reducing salmon and other prohibited species bycatch rates and providing information to develop more effective management measures in the future.

Regulation Summary

The approved alternative eliminated the primary PSC limit, but did not affect the overall halibut bycatch mortality limit (3,775 mt) for the BSAI trawl fisheries.

The action also implemented regulatory amendments, which prohibited discards of salmon taken as bycatch in the BSAI groundfish trawl fisheries until a NMFS-certified observer determines the number of salmon and collects any necessary data and established the authority to release to the public vessel-specific observer data on bycatch of prohibited species in the BSAI and GOA groundfish fisheries.

Results

Since the amendment was approved, trawl halibut bycatch mortality has decreased, as has the overall trawl bycatch mortality limit. There have been several subsequent amendments that have further reduced halibut PSC limits.



Salmon Retention for Food Banks

Council Action
September 1994

Proposed Rule
May 16, 1996
61 FR 24750

Final Rule
July 24, 1996
61 FR 38354

Effective
July 19, 1996

Purpose and Need

The Alaska groundfish fisheries result in incidental fishing mortality of Pacific salmon. Vessel operators participating in these fisheries typically use trawl, hook-and-line, or pot gear. Trawl gear operations account for most of the groundfish catch, harvesting 92 percent and 94 percent of the groundfish catch during 1992 and 1993, respectively. Trawl gear fisheries for Alaska groundfish also account for more than 99 percent of the salmon bycatch by the Alaska groundfish fisheries. These fish are dead when brought on board a vessel and must be returned to Federal waters as prohibited species once a NMFS-certified observer has determined the number of salmon and completed the collection of any biological or scientific data.

The incidental salmon mortality experienced in the groundfish fisheries is one of several competing uses of the fully utilized salmon resource. Salmon also are used as catch and bycatch in directed commercial, subsistence, and sport salmon fisheries and as bycatch in other non-salmon and non-groundfish fisheries. Salmon used as bycatch in the groundfish fisheries and in other fisheries can exacerbate the management problem associated with the allocation of salmon among escapement goals set by Alaska State management policy and the terminal salmon fisheries. The groundfish fisheries may result in reduced escapement or harvest in the salmon fisheries, thereby imposing a cost on other salmon users.

Amendment 21 authorized the voluntary retention and processing of salmon taken as bycatch in the Alaska trawl fisheries for donation to needy individuals. The intent of this action was to reduce bycatch and waste and potentially provide the opportunity to collect additional data that would support a more long-term solution to the salmon bycatch problem.

Analysis

A 24-page EA/RIR (final draft dated March 1996) was prepared for this amendment. Three alternatives including the status quo were considered. Under the status quo alternative, all bycaught salmon would be

retained until a NMFS-certified observer has determined the number of salmon and collected any biological or scientific data. Salmon could not be retained for reasons other than the collection of biological or scientific data and ultimately must be discarded in Federal waters as a prohibited species. The other alternative not chosen would have mandated that every salmon taken in the Alaska groundfish trawl fisheries be retained, processed for human consumption, and donated to a nonprofit foodbank organization. Because NMFS's authority under the Magnuson - Stevens Act to directly regulate harvesting and processing fishery resources is limited to

the EEZ, this alternative was not developed further but instead provided a qualitative comparison with the other alternatives.

Regulation Summary

The Salmon Donation Program authorizes the distribution of Pacific salmon taken as bycatch in the groundfish trawl fisheries in the groundfish fisheries off Alaska to economically disadvantaged individuals through NMFS authorized distributor selected by the Regional Director in accordance with federal regulations implemented under the FMP.

Results

The Salmon Donation Program was implemented in 1996 after two years of assessment under several experimental fishing permits. Since the pilot program began in 1993, 4.2 million pounds of fish has been reclaimed for food banks. In 2015, 482,165 pounds of PSC salmon and 48,285 pounds of PSC halibut were distributed. Of that, 182,000 pounds were donated to Alaska, bring the three year total to over 630,000 pounds. Currently, SeaShare is the only organization authorized by NMFS to retain and distribute PSC fish for hunger relief.



Chinook salmon caught as bycatch. Photo courtesy of NMFS.



Development of an Observer Program Research Plan (Not Fully Implemented)

Council Action
June 1992

Proposed Rule
May 6, 1994
59 FR 23664

Final Rule
September 1, 1994
59 FR 46126

Effective
August 15, 1994

Purpose and Need

Amendments 13 and 18 to the groundfish FMPs authorized a comprehensive domestic fishery observer program. The 1990 and 1991 observer program required specific levels of observer coverage which varied with size of fishing vessel and quantity of fish processed by floating and shoreside processors. These requirements were established because it was recognized that living marine resources could not be effectively managed without the types of information that were either available only or most efficiently through an observer program.

The observer program required that owners and operators of vessels and shoreside processing facilities participating in the groundfish fishery arrange for and pay for the cost of placing observers aboard their vessels and at their shoreside processing facilities beginning in January, 1990. Each vessel or processor required to have observer coverage is responsible for the cost of obtaining the required observers from a certified contractor. The cost averaged between \$5,800 and \$7,100 per observer month in 1991. There were three problems identified for this method of paying for observer coverage. It was not an equitable system in that some operations paid for 100% coverage and others did not pay anything, it limited the ability of the NMFS to effectively manage the observer program, and it may have resulted in a conflict of interest that could reduce the credibility of observer data. It also based

observer coverage levels on a simple vessel length criterion, which likely does not result in the most efficient, appropriate coverage across all fisheries. The Research plan was designed to address these problems. Industry support for such a change is demonstrated by the willingness and ability of the industry to convince Congress to amend the Act to allow the North Pacific Fisheries Research Plan to be established and paid for by a broad-based system of user fees. The proposed plan was to be applicable to the groundfish, halibut, and BSAI crab fisheries.

Amendment 21 authorized the voluntary retention and processing of salmon taken as bycatch in the Alaska trawl fisheries for donation to needy individuals. The intent of this action was to reduce bycatch and waste and potentially provide the opportunity to collect additional data that would support a more long-term solution to the salmon bycatch problem.

Analysis

A 26-page EA/RIR (final draft dated March 22, 1994), together with a lengthy (100+ pp.) appendix section, was prepared for this amendment. Three alternatives including the status quo were considered. Under the status quo alternative, the authority to establish a research plan would not be used, existing observer coverage requirements and contracting arrangements would be used, and no observer program would be implemented for the halibut fishery. The alternative adopted provided for a research plan and attendant fee on

landings, to address problems identified with the existing observer program.

Regulation Summary

The Magnuson-Stevens Act authorized the Council and the Secretary to establish a North Pacific Fisheries Research Plan which: (1) requires that observers be stationed on fishing vessels and at fish processing facilities, and (2) establishes a system of fees to pay for the cost of implementing the research plan. The Research Plan, as adopted under this amendment, contained four objectives and elements that included observer employment and contracts, observer duties, data collection and transmission, annual determination of coverage levels by fishery, in-season changes to coverage levels, establishment of an observer oversight committee, coordination between the NMFS groundfish and ADF&G shellfish observer programs, a fee assessment (up to 2% of ex-vessel value of harvested fish), and details on fee collection and contingency plans in case of funding shortfalls.

Results

Though the amendment was approved, it was never fully implemented. Instead, implementation was delayed one year, and then replaced with a modified pay-as-you-go system adopted under Amendments 47/47. Start-up fees were collected by NMFS in the first year of implementation, but the Council repealed the Research Plan due to various concerns, including the possibility that the fee would not cover all necessary coverage levels. Fees were refunded following the repeal of the Plan. A new Observer Program was implemented by Amendment 86.



Aleutian Islands Regulatory Area

Council Action
January 1993

Proposed Rule
April 23, 1993
58 FR 21695

Final Rule
July 13, 1993
58 FR 37660

Effective
August 11, 1993

Purpose and Need

A groundfish species or species group may be apportioned to the entire BSAI, or to smaller areas defined in the FMP or implementing regulations, provided that sufficient biological information exists with which to establish acceptable biological catches (ABCs) for the areas of interest. Prior to this amendment, the Aleutian Islands area was not subdivided under the FMP. Therefore, groundfish ABCs and catch limits could not be apportioned to smaller areas within the Aleutian Islands (AI) region. For some species, particularly Atka mackerel, fishing effort had traditionally occurred in the eastern end of the AI, nearest Dutch Harbor. This situation can result in undesirable effects of highly concentrated effort, such as the potential for localized depletion of groundfish, intensified competition with marine predators for fishery resources, and greater possibility of habitat degradation. The purpose of this amendment was to allow ABCs and TACs to be allocated into smaller areas in the AI region, thereby spreading out fishing effort over a larger area.

Analysis

A 93-page EA/RIR (final draft dated June 8, 1993) was prepared for this amendment. Three alternatives including the status quo were considered. Besides the status quo, the other alternative that was not chosen would have split the AI into only two districts

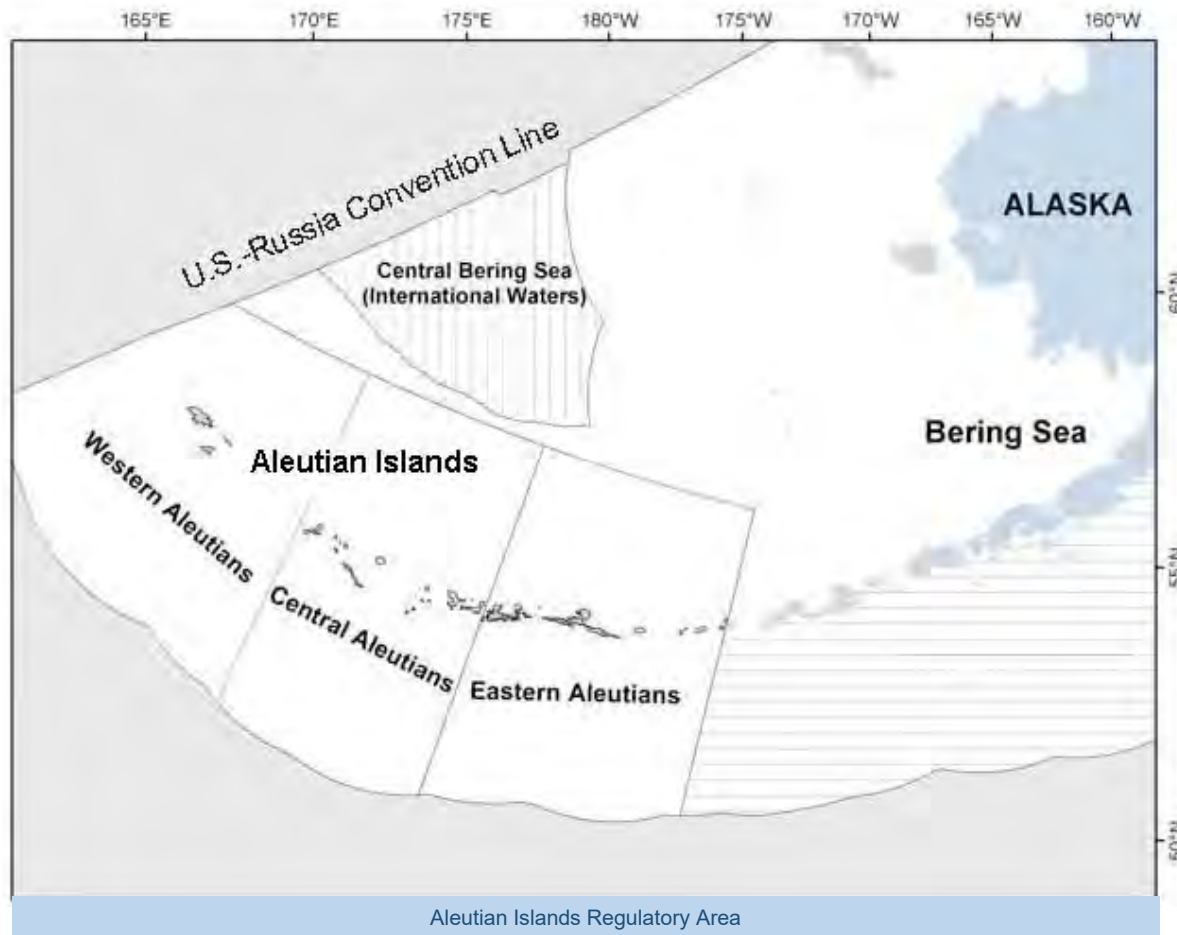
with the dividing line at 177° E longitude. The alternative chosen was more conservative in that defining smaller areas for ABC and TAC allocation may reduce the potential for localized depletion and competition with marine mammals.

Regulation Summary

Under Amendment 28, the Aleutian Islands region was split into three management districts at 177° W longitude and 177° E longitude. The eastern, central, and western AI districts are shown in the adjacent figure and are denoted as statistical areas 541, 542, and 543.

Results

Since the amendment was approved, ABCs and TACs for Atka mackerel and Pacific Ocean Perch have been allocated among the three AI districts based on biomass distribution.



Purpose and Need

The purpose of this amendment was to reduce salmon bycatch in trawl fisheries. The incidental salmon fishing mortality experienced in the groundfish fisheries is one of several competing uses of the fully utilized salmon resource. Salmon are also used as catch and bycatch in directed commercial, subsistence, and sport salmon fisheries and as bycatch in other non-salmon fisheries. The groundfish fisheries may result in reduced escapement or harvest in the salmon fisheries, thereby imposing a cost on other salmon users.

If sufficient incentives exist for a vessel operator to move to another area or take other action to reduce the possibility of continued high bycatch rates, then incidence of repeated high salmon bycatch rates on a haul by haul basis may be curtailed. Nonetheless, some salmon bycatch is unavoidable in the groundfish trawl fisheries, as a degree of unpredictability is associated with salmon bycatch. Difficulties may exist for individual vessel operators to take action that will predictably reduce salmon bycatch rates on a haul by haul basis. The purpose of this amendment is to reduce salmon bycatch by holding individual vessel operators responsible for the amount of salmon bycatch their vessel takes.

Analysis

A 45-page EA/RIR/FRFA (public review draft dated May 14, 1993) plus a 39-page addendum was prepared for this amendment. Two primary alternatives including the status quo, together with five options for Alternative 2 were considered. The options considered would implement a salmon vessel incentive program similar to the halibut program (bycatch standards with compliance based on observer samples), and various configurations of a salmon incentive program that is independent of observer sampling procedures. The suboptions of an observer independent program included counting all salmon, extrapolation based on product recovery or landed weights, and mandatory retention of salmon for observer counting.

Regulation Summary

The amendment was never adopted and the vessel incentive portion was never implemented. NMFS expressed reservations about obtaining statistically valid estimates of salmon bycatch amounts for use in enforcing a vessel incentive program. Additionally, there were concerns raised about establishing a haul by haul vessel incentive program because the possibility of a vessel randomly encountering large numbers of salmon in a single haul, as well as vessels that deliver unsorted cod ends to shoreside operations. In both cases, violators would be unable to take action to avoid a violation. Notwithstanding these issues, it was felt that significant staff resources would need to be shifted to monitor salmon bycatch, enforce, and prosecute salmon bycatch violators.

Given the difficulties presented in establishing a regulatory solution to individual vessel bycatch accounting, amendment development was put on hold while industry representatives developed their own voluntary program named the Salmon Foundation. Participants assessed themselves a \$20 fee per chinook and raised a total of \$120,000 in 1994. The purpose of the Foundation was to use income generated from salmon bycatch assessment payments to develop a salmon bycatch avoidance program for the BSAI trawl fisheries and to fund research on stock origin of salmon taken as bycatch. After the Council adopted the time area closures in

April 1995, the industry stopped the bycatch assessment fees, so the research monies were spent and the Foundation dissolved.

Results

The amendment was never approved. Portions of the salmon bycatch control initiatives were adopted under Amendment 21b (time/area closures for Chinook salmon), Amendment 35 (time area closures for chum salmon), and Amendment 26 (voluntary retention of salmon for foodbanks). Also, regulations were implemented that authorize disclosure of vessel specific observer information on prohibited species bycatch.



Increase Community Development Quota Allocation for Sablefish

Council Action
April 1994

Proposed Rule
May 31, 1994
59 FR 28048

Final Rule
August 24, 1994
59 FR 43502

Effective
September 23,
1994

Purpose and Need

A 12% limit for allocation to individual CDQ applicants was placed in the FMPs for the BSAI and the GOA and in the implementing regulations in 1992. The purpose of the original 12% limit was to prevent monopolization of CDQ sablefish allocations and ensure an adequate distribution of benefits from the CDQ program. The 12% limit was set in the development phase, when there were potentially 55 communities initially determined to qualify. Had the limit been set too high, communities would have expended resources unnecessarily to compete for large portions of a limited sablefish reserve. Subsequently, the 55 communities formed six geographical groups, in order to pool their efforts in producing Community Development Plans and managing the CDQ harvest. The six groups are: Aleutian Pribilof Island Community Development Association; Bristol Bay Economic Development Corporation; Central Bering Sea Fisherman's Association; Coastal Villages Fisheries Cooperative; Norton Sound Economic Development Corporation; and Yukon Delta Fisheries Development Association. The reduction in the number of CDQ groups, combined with the 12% limit, resulted in an inability to allocate the entire CDQ reserve (6 groups x 12% = 72% of CDQ reserve). This amendment raised the allocation limit of the sablefish CDQ reserve from 12% to 33% in the FMP for the BSAI, so that the total sablefish CDQ reserve could be allocated, providing for a more efficient use of the resource. Amendment

34 to the FMP for the GOA corrected the inadvertent inclusion of the CDQ program in the FMP by removing and reserving section 4.4.1.1.8.

The sablefish CDQ program was designed to promote the revitalization of rural communities in Western Alaska by providing those communities access to nearby fishery resources. The purpose of the amendment is to further the Council intent of the program by fully allocating the CDQ reserve.

Analysis

A 20-page Regulatory Impact Review (final draft dated March 1994) was prepared for this amendment. Two alternatives including the status quo were considered. The status quo did not require an environmental assessment because it was previously analyzed in the environmental documentation for the Individual Fishing Quota program, of which the CDQ program is a part. The status quo would require the communities to apply individually, and not as the six groups they had already formed. The proposed alternative would raise the sablefish allocation limit to 33%, and therefore fully allocate the CDQ reserve and more efficiently use the resource. The alternative chosen was also shown to be less obtrusive than the current process, in that groups formed for distribution can apply in their present form and alleviate excessive and needless competition between the 55 communities.

Regulation Summary

The alternative adopted and approved raised the sablefish Community Development Quota allocation limit for qualified applicants from 12% to 33% in order to allow total allocation of the sablefish CDQ reserve; removed the inadvertent inclusion of the CDQ program in the FMP for the GOA; and expanded the types of evidence that may be used to verify vessel leases for the halibut and sablefish individual fishing quota program. It was emphasized that this action did not change the amount of sablefish available for harvest by persons participating in the Pacific halibut and sablefish IFQ program.

Results

The result of Amendment 30 is that the CDQ reserve is fully allocated and harvested. The 2000 CDQ sablefish allocation was 1,127,873 pounds in the BSAI which equaled 20% of the fixed gear total allowable catch. After approval of Amendment 30, the CDQ allocation has been harvested as indicated in the box below.

BSAI CDQ Sablefish Allocations and Landings

Year	Total Catch (pounds)	Total Allocation (pounds)	Percent of Allocation Landed
1995	593,833	1,080,449	55
1996	416,686	639,334	65
1997	490,002	639,334	77
1998	416,107	742,950	56



Sablefish Individual Fishing Quota Share Blocks

Council Action
September 1993

Proposed Rule
June 28, 1994
59 FR 33272

Final Rule
October 7, 1994
59 FR 51135

Effective
November 7,
1994

Purpose and Need

The IFQ program, implemented in 1995, assigned the privilege of harvesting a percentage of the sablefish and halibut quota (in the form of quota shares) to specific individuals with a history of harvest in the fisheries. Quota shares (QS) could be transferred, allowing people who did not receive an initial allocation to buy into the fishery. Concern over the potential for excessive consolidation of quota shares, the projected reduction of the longline fleet, and the social and economic effects on coastal communities, shore-based processors, and fishermen, was the impetus for Amendment 31. Amendment 31 implemented the Modified Block Proposal, which was intended to reduce the maximum potential consolidation relative to the existing IFQ program by significantly increasing the theoretical minimum number of quota shareholders and thereby easing the transition from open access to IFQs.

The purpose of this amendment was to provide for the long-term productivity of the sablefish and halibut fisheries, as specified in the Magnuson-Stevens Act and the Halibut Act. In addition to sustaining the health of the fisheries, the Council needed to address the issue of protecting small producers, part-time participants, and entry-level participants who tend to disappear because of potential excessive consolidation under an IFQ program. The amendment is intended to protect the viability of these small entities without interfering with the opportunities currently available under the IFQ program for larger operations.

Analysis

A 283-page EA/RIR/IRFA (final draft dated May 25, 1994) was prepared for this amendment and adjoining GOA Amendment 35. The analysis reported that without a block amendment (no action), the IFQ program could potentially reduce the number of halibut and sablefish quota share fishermen to 200 and 100, respectively. Three separate block proposals were considered to ameliorate this problem. The two alternatives that were not chosen would have created unique, variable size blocks or partial blocks that could be transferred across catcher vessel classes, resulting in increased search and transaction costs of persons who want to sell or buy additional quota share. The alternative chosen also allows persons to purchase relatively small amounts of unblocked quota share, but lowers the associated transaction costs.

Regulation Summary

The Modified Block Proposal provided that initial allocations of QS that represent less than 20,000 lb of IFQ in the implementation year will be issued as a block, 2) QS that represents 20,000 lbs or more of IFQ in the implementation year will be "unblocked", and 3) QS in a block cannot be separated and must be transferred as a block. Fishermen can own up to two blocks of halibut and two blocks of sablefish QS in each area, but persons holding any amount of unblocked QS are limited to one block of QS per area. A sweep-up provision allowed fishermen to combine small amounts into fishable amounts: halibut blocks can be combined to a sum of less than 1,000 lbs and sablefish blocks can be combined until the sum reaches 3,000 lbs. The amendment also clarified that blocked and unblocked quota share would be transferable subject to the approval of the NMFS Regional Director. Because the Modified Block Proposal created the potential that some QS would become non-transferable because the size would exceed the quota share use limits established in prior regulations (50 CFR 676.22 (e)(f)); the alternative also allowed for the transfer of a quota share block exceeding the use limits by providing that one block could be divided into two blocks.

Results

Amendment 31 created both blocked and unblocked quota shares based on the 1994 quota. As anticipated, there has been some consolidation of quota share to fewer persons than received quota share by initial issuance, but significantly less so than if the block proposal had not been added. The total number of initial issuees (unique number of people) in the halibut fishery in 1995 was 4,827, reduced to 3,795 by the end of 1998. The total number of issuees in the sablefish fishery was 1,048, reduced to 919 by the end of 1998. The number of unique vessels landing halibut and sablefish before the IFQ program was 3,450 and 1,139 in 1994, and by 1998 the number of vessels was reduced to 1,601 and 449, respectively.



Transfer of Sablefish Community Development Quota Compensation Quota Shares

Council Action
January 1995

Proposed Rule
October 13, 1995
60 FR 53331

Final Rule
January 24, 1996
61 FR 1844

Effective
February 23, 1996

Purpose and Need

The Community Development Quota (CDQ) program was proposed in conjunction with the IFQ program for sablefish and halibut management. The CDQ program apportioned designated percentages of the annual fixed gear total allowable catch (TAC) of sablefish and halibut to eligible Western Alaska communities, intending to provide near-shore communities with long-term, stable employment and access to the fishery resource. Apportioning part of the fixed gear TAC to communities reduced the amount of that TAC available for harvest by persons receiving annual allocations of IFQ. As a result, CDQ compensation quota shares (QS) were issued as partial compensation to persons who received (reduced) quota shares in CDQ areas.

Two problems were identified that inhibited the current transfer of CDQ compensation quota shares. Firstly, most CDQ compensation QS would be issued in allocations of less than 20,000 lbs and therefore would be blocked under the non-severable block provision (see BSAI Amendment 31/GOA Amendment 35). The block provision was added to the IFQ program to prevent excessive consolidation of fishing privileges. Blocked quota share, especially small blocks such as the CDQ compensation QS, is difficult to market because of the two-block limit. The second problem is that the IFQ program allowed transfer of quota shares only within the same vessel category, to prevent significant consolidation into large vessel operations.

However, residents of CDQ areas traditionally employed smaller vessels than non-residents who received initially issued QS in the CDQ areas, making it difficult for residents of CDQ areas to increase their holdings as they must purchase larger vessels as well as initially issued QS in the larger vessel categories.

Amendments 32/36 were proposed to relieve the unintended consequences of the IFQ transfer restrictions, which are contrary to the original purpose of providing CDQ compensation quota shares. Relieving transfer restrictions on initial recipients of CDQ compensation QS effectively increases the remunerative value of those shares and facilitates the full utilization of the allocated resources managed under the IFQ program.

Analysis

A 21-page Regulatory Impact Review (final draft dated January 1995) was prepared for this amendment. Including the status quo, two alternatives addressing the block provision and three alternatives addressing the transfer across vessel length classes were considered. The option that was not chosen would have allowed "pooling" of quota shares with other compensation shareholders, as opposed to exempting CDQ compensation QS from the block provision in perpetuity. With regard to transfer across vessel length classes, the other alternative not chosen would have allowed a one-time trade across vessel classes as defined by a transaction involving initially issued large vessel QS in

CDQ areas and small vessel CDQ compensation QS in non-CDQ areas. The alternative chosen is more flexible by not defining the type of transaction allowed.

Regulation Summary

The amendment exempted some CDQ compensation QS from the block provision and allowed for a one year period of relief (one-time transfer) from the restriction against transferring CDQ compensation QS across vessel length categories. Regulations state that if a person is issued CDQ compensation QS for an area where the person already has regular QS, then their CDQ compensation QS is combined with their existing QS and is either "blocked" or "unblocked" depending on the sum total of their QS (this makes much of the CDQ compensation QS unidentifiable after issuance). If a person is issued CDQ compensation QS for an area in which the person doesn't have other QS, the QS is left unblocked. The exemption does not include Category "A" vessels (vessels of any length authorized to process IFQ species).

Results

Since the amendment was approved, coastal communities that rely on the small vessel fleet have benefitted by having IFQ in more accessible areas. The action did not significantly change the overall character of the fleet because CDQ compensation quota share accounted for only 3.5% of the total amount of quota share issued in the non-CDQ areas of the Gulf of Alaska. A report examining the distribution of all QS by block status showed that 69.2% of the QS in the BSAI was blocked at the end of 1998. In the Gulf of Alaska, percentage of blocked QS ranged from 7.6% in the Central Gulf to 20.1% in the Western Gulf. In addition, the amount of swappable CDQ compensation QS—catcher vessel QS that can be fished on any size vessel until its first transfer—declined sharply by year-end 1998, even though there were very few actual swaps of this type of QS to other vessel categories. Most of the decline came from regular transfers, where CDQ compensation QS also loses its swappable status. Over the 1995-98 time period there were only five swaps in Southeast area, four in West Yakutat, and three each in the Central and Western Gulf.



Limited Processing of Non-Individual Fishing Quota Species

Council Action
October 1995

Proposed Rule
April 2, 1996
61 FR 14547

Final Rule
June 27, 1996
61 FR 33382

Effective
July 26, 1996

Purpose and Need

The IFQ program was designed to promote the conservation and management objectives of the Magnuson-Stevens Act and Northern Pacific Halibut Act. The program was implemented in 1995 and assigned the privilege of harvesting a percentage of the sablefish and halibut quota to specific individuals with a history of harvest in the fisheries. Persons receive an annual allocation of IFQ and are authorized to harvest IFQ species.

Included in the IFQ program is a provision prohibiting the processing (freezing) of fish, other than IFQ halibut or sablefish, on board a harvesting freezer vessel if, along with that fish, IFQ sablefish were harvested by a person who has catcher vessel quota shares of sablefish. The Council's intent in allowing the use of catcher vessel quota share on freezer vessels was to increase the fishing opportunities of IFQs held by crew members. The prohibition on freezing non-IFQ species came out of a Council concern that, if the owners of large, industrial-type processing vessels could harvest IFQ species with IFQ assigned to vessel categories B, C, and D while processed fish are on board, these operators could acquire the majority of the "catcher vessel" quota share that would normally be harvested by smaller boats without processing capabilities. These smaller vessels usually use shoreside local processors in coastal communities. The Council did not want to dramatically change the character of the fisheries and deprive

coastal communities of the revenue generated by small vessel deliveries of IFQ species.

The combination of allowing catcher vessel quota share to be used on freezer vessels with the prohibition on processing non-IFQ species resulted in unanticipated waste of non-IFQ species caught incidentally to sablefish. Persons are required to retain all Pacific cod and rockfish caught incidentally to IFQ sablefish. Pacific cod and rockfish have a shorter "shelf life" than sablefish, and a typical sablefish fishing trip is too long to maintain sufficient quality of incidentally caught non-IFQ fish. Without the ability to freeze the non-IFQ species, the fish was often landed in poor condition, decreasing the market value of the fish significantly.

The purpose of Amendments 33 and 37 was to address the lost revenue and waste that occurs because fish other than IFQ halibut and sablefish are discarded, or if not discarded, become a low quality product, due to the prohibition on processing fish other than IFQ halibut and sablefish. The amendments were necessary to allow fuller use of the fishery resources in and off of Alaska.

Analysis

A 14-page EA/ RIR (final draft dated March 8, 1996) was prepared for these amendments. The analysis determined that the proposal would not have a significant economic impact on a substantial number of small entities, and would not adversely affect shore-based plants because most of

the bycatch of non-IFQ species would be discarded as the period of marketability of unprocessed product is typically exceeded. Two alternatives including the status quo were considered. The alternative chosen allows for the freezing of non-IFQ species when catcher vessel quota share is used on freezer vessels.

Regulation Summary

The alternative adopted and approved authorized the processing of fish other than IFQ halibut or IFQ sablefish on board the harvesting vessel by persons authorized to harvest IFQ sablefish based on an annual allocation of IFQ assigned to vessel categories B or C. This authorization is not extended to persons authorized to harvest IFQ halibut, due to the fact that halibut is characteristically prosecuted by local vessels that do not have onboard processing capabilities. Several modifications were also made to the regulations implementing the IFQ program in order to accommodate the new provision. In addition, while non-IFQ species could be frozen onboard, the freezing of IFQ sablefish caught with catcher vessel quota share on a freezer vessel would continue to be prohibited.

Results

In 1996, only thirty-eight sablefish quota share recipients in the freezer vessel category were eligible to use catcher vessel quota share from the 188 quota shareholders in the less than 60 feet vessel class and 763 quota shareholders in the greater than 60 feet vessel class. Allowing non-IFQ species caught incidentally to IFQ sablefish to be frozen onboard freezer longliners enhanced product quality and allowed for the recovery of revenue otherwise lost to discards. The following is an estimate of commercial non-IFQ species landed by weight, for each 100 mt of sablefish landed in the BSAI longline sablefish fishery in 1999: 33 mt of Greenland turbot, 14 mt of rockfish, 2 mt of Pacific cod, and 4 mt of shortraker/rougheye (1999 Blend data). This equates to approximately half the weight of the targeted IFQ sablefish harvest—fish which would have potentially been discarded or in non-marketable condition had the prohibition on processing continued.



Atka Mackerel Jig Allocation

Council Action
June 1997Proposed Rule
September 22, 1997
62 FR 49464Final Rule
December 31, 1997
62 FR 68228Effective
January 30, 1998

Purpose and Need

The purpose of this amendment was to provide more opportunity for a local small-vessel jig gear fleet to fish for Atka mackerel in late spring and summer months without direct competition from the large, high-capacity trawl fleet that typically harvests the Eastern BSAI Atka mackerel TAC early in the fishing year. Jig gear harvests of Atka mackerel have been constrained to late spring and summer months in the BS near the port of Dutch Harbor because of the physical limitations of a small boat fleet. In 1997, the directed fishery for Atka mackerel in the Eastern BSAI was closed February 4. Atka mackerel became a prohibited species on February 28 when the fast-paced trawl fisheries harvested the TAC. As a result, the jig gear fleet did not have an opportunity to fish for this species in 1997. Based on Alaska Department of Fish and Game (ADF&G) fish tickets, 15 and 19 vessels using jig gear in the BS harvested 36 and 13 metric tons (mt) of Atka mackerel in 1994 and 1995, respectively. These amounts equate to 0.22 percent and 0.09 percent of the Atka mackerel harvest in the Eastern BSAI during these 2 years. Information from jig gear fishermen indicates that most of the Atka mackerel harvested by the jig gear fleet is used as bait in the jig gear fishery for Pacific cod, although interest exists to develop a fresh fish product for this species.

Analysis

A 35-page EA/RIR/FRFA (final draft dated November 1997) was prepared for this amendment. Three alternatives including the status quo were considered. The other alternative that was not chosen would have established a jig gear only fishery for Atka mackerel in the eastern AI and Bering Sea. The alternative chosen allowed vessels using jig gear to harvest more Atka mackerel than they had previously ever harvested, but still allowed most of the TAC to be harvested, thereby minimizing impacts to vessels targeting mackerel with other gear.

Regulation Summary

The Council adopted Amendment 34 in response to concerns about the fast-paced nature of the Atka mackerel trawl fishery and the resulting preemption of the small-scale jig gear fishery. The Council's action would allocate up to 2 percent of the Atka mackerel TAC specified for the Eastern AI/BS to vessels using jig gear. The Council also voted to specify the jig gear allocation annually during the groundfish specifications process based on recent and anticipated harvests. This action was taken in consideration of the small amount of Atka mackerel annually harvested in recent years and to respond to trawl industry concerns

about allocating more Atka mackerel to the jig gear fleet than could be harvested. Amendment 34 allowed for a ramp up provision, such that 1-percent of the Eastern AI/BS Atka mackerel TAC would be allocated to vessels using jig gear to begin the program. Once the jig gear fleet proved it could harvest that amount of TAC, the allocation could be increased to 2%.

Results

Since the amendment was approved, the jig gear fishery has not harvested any significant amounts of Atka mackerel TAC.



Atka mackerel (*Pleurogrammus monopterygius*). Photo courtesy of AFSC.



Chum Salmon Savings Area

Council Action
January 1995Proposed Rule
April 25, 1995
60 FR 20253Final Rule
July 5, 1995
60 FR 34904Effective
August 1, 1995

Purpose and Need

Salmon are a target species in salmon fisheries, but are taken as incidental bycatch in groundfish trawl fisheries. The objective of the alternatives considered in the analysis is to provide the Council with the means to control chum salmon bycatch in the BSAI groundfish trawl fisheries. Chum salmon bycatch control measures were thought to be needed for two reasons. First, many chum salmon stocks are fully utilized, and uncontrolled bycatch constitutes an additional, unaccounted for allocation of the resources. Second, uncontrolled bycatch

levels exceeding recent highs may lead to conservation problems for Alaskan chum salmon populations. During the previous 10 years, several major river systems had experienced low levels of returns, particularly the Nushagak, Yukon, and Kuskokwim rivers.

Analysis

A 132-page EA/RIR/IRFA (final draft dated March 21, 1995) was prepared for this amendment. Four alternatives including the status quo were considered, along with seven options for closure areas. The other alternatives not chosen would have

established a year-round closure in hotspot areas, or changed the starting date for the pollock 'B' season. The alternative chosen allowed for a time/area closure that would be expected to have high bycatch of chum salmon, and allowed for continuation of the closure if salmon bycatch remained high.

Regulation Summary

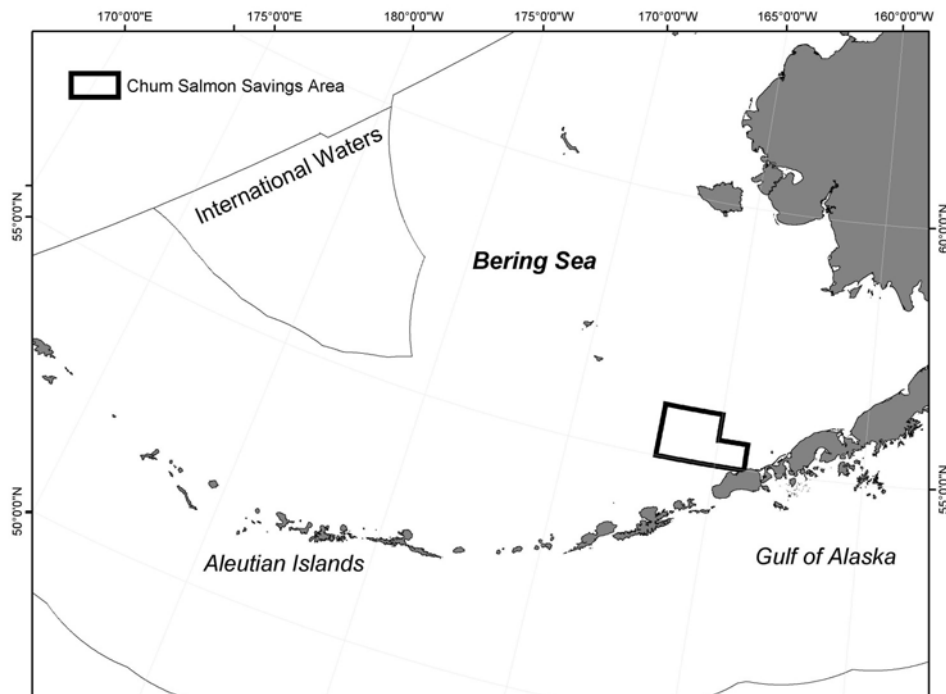
Amendment 35 established measures to control the amount of chum salmon taken as bycatch in BSAI trawl fisheries. Specifically, the alternative adopted would close an area in the BSAI to all trawling from August 1 through August 31 (the time of year when bycatch is highest). In addition, the area would remain closed or re-close after September 1, upon the attainment of a bycatch limit of 42,000 "other" salmon taken within the catcher vessel operational area (CVOA), through October 14. The chum salmon savings area is the area bounded by a straight line connecting the following pairs of coordinates in the order listed:

56° 00' N	167° 00' W
56° 00' N	165° 00' W
55° 30' N	165° 00' W
55° 30' N	164° 00' W
55° 00' N	164° 00' W
55° 00' N	167° 00' W
56° 00' N	167° 00' W

were taken over the course of a year from 1995 through 1999, closure of the area was not triggered because the cap was not attained within the CVOA during the accounting period. Total number of chum salmon taken annually as bycatch in BSAI groundfish fisheries through 1999 is shown in the adjacent table.

Number of chum salmon taken as incidental bycatch in BSAI trawl fisheries, 1989-1999. Note that >95% of the "other" salmon is chum salmon.

Year	Other Salmon
1989	5,545
1990	16,661
1991	31,987
1992	38,919
1993	243,246
1994	94,508
1995	21,780
1996	77,926
1997	67,536
1998	69,237
1999	46,624



Chum salmon savings area. Map courtesy of NPFMC.

Results

Although more than 42,000 chum salmon



Establish Forage Fish Category

Council Action
April 1997Proposed Rule
December 12, 1997
62 FR 65402Final Rule
March 17, 1998
63 FR 13009Effective
April 16, 1998

Purpose and Need

Forage fish are generally small, abundant fishes that are preyed upon by marine mammals, seabirds and commercially important groundfish species. Forage fish perform a critical role in the complex ecosystem functions of the BSAI and the GOA by providing the transfer of energy from the primary or secondary producers to higher trophic levels. Significant declines in marine mammals and seabirds in the BSAI and GOA have raised concerns that decreases in the forage fish biomass may contribute to the further decline of marine mammal, seabird and commercially important fish populations. Forage fish are the principal diet of more than two thirds of Alaskan seabirds. In addition, many seabirds can subsist on a variety of invertebrates and fish during nonbreeding months but can only raise their nestlings on forage fish. Small forage fish such as capelin, herring, sandlance and eulachon also have been recognized as important prey items for a variety of marine mammal species including: Northern fur seal, Steller sea lion, harbor seal, spotted

seal, bearded seal, humpback whale and fin whale.

Analysis

A 59-page EA/RIR (final draft dated January 1998) was prepared for this amendment. Two alternatives including the status quo were considered, along with four options for the non-status quo alternative. The options not chosen would have put forage fish in the other species category or the prohibited species category. The alternative chosen would protect forage fish by prohibiting a directed fishery and the sale and barter of forage fish. The preferred alternative would also reduce waste by allowing retention (up to a maximum retainable bycatch amount

as set in regulations) and processing (into fishmeal) those forage fish caught incidentally in groundfish fisheries.

Regulation Summary

Amendment 36 defined a forage fish species category and authorized that the management of this species category be specified in regulations in a manner that prevents the development of a commercial directed fishery for forage fish which are a critical food source for many marine mammal, seabird and fish species. Forage fish species are not included in a target species category. Management measures for the forage fish category will be specified in regulations and may include prohibitions on directed fishing, limitations on allowable bycatch retention amounts, or limitations on the sale, barter, trade or any other commercial exchange, as well as the processing of forage fish in a commercial processing facility. The forage fish species category would include all species of the following families:

- Osmeridae (eulachon, capelin and other smelts)
- Myctophidae (lanternfishes)
- Bathylagidae (deep-sea smelts)
- Ammodytidae (Pacific sand lance)
- Trichodontidae (Pacific sand fish)
- Pholidae (gunnells)
- Stichaeidae (pricklebacks, warbonnets, eelblennys, cockscombs and shannys)
- Gonostomatidae (bristlemouths, lightfishes, and anglemouths)
- and the Order Euphausiacea (krill)

Results

No commercial fishery has been allowed to develop on forage fish in the Exclusive Economic Zone off Alaska.



Top to bottom: sand lance (*Ammodytidae*), Pacific herring (*Clupea pallasii*), and capelin (*Mallotus villosus*). Photo courtesy of AFSC.



37

Prohibited Species Catch

Establish Bristol Bay Red King Crab Savings Area and Nearshore Bristol Bay Trawl Closure Area

Council Action
June 1996

Proposed Rule
September 12, 1996
61 FR 48113

Final Rule
December 16, 1996
61 FR 65985

Effective
January 1, 1997

Purpose and Need

The 1995 NMFS bottom trawl survey indicated that exploitable biomass of Bristol Bay red king crab is at about one-fifth record levels. The stock was at its lowest level since the fishery was closed after the first stock collapse in 1983. In 1994 and 1995, Bristol Bay was closed to red king crab fishing because the number of female

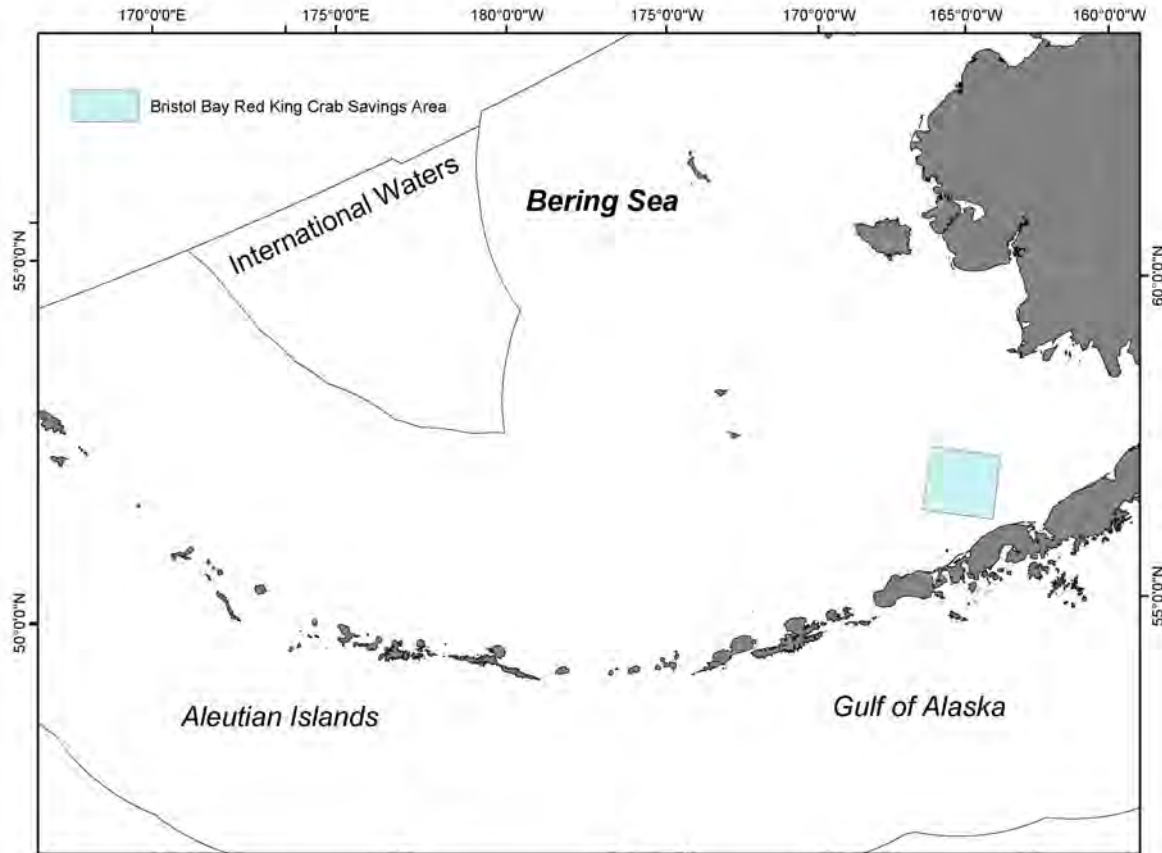
red king crab had declined below the threshold of 8.4 million crab. In addition, the annual trawl surveys indicated little prospect for increased recruitment of mature males or females, and low female spawning biomass. The purpose of Amendment 37 was to reduce the impacts of groundfish fisheries on the red king crab stock, thus assisting recovery of this crab stock.

Analysis

A 268-page EA/RIR/IRFA (final draft dated June 21, 1996) was prepared for this amendment. Three primary management measures were analyzed, each having at least three alternatives, including the status quo, as well as several options. The other alternatives and options not chosen would have defined slightly different time/area closures, and established PSC limits of 180,000 crabs or a PSC limit that fluctuated annually with crab abundance. The alternative chosen was more conservative because a larger area may offer more protection.

all trawling in the nearshore waters of Bristol Bay, with the exception that a portion of this area – between 159° and 160° W. and between 58° and 58°43' N – would remain open to trawling during the period April 1 to June 15 each year;

- 3) Increased observer coverage on all vessels, including vessels using pot, jig, and longline gear fishing for groundfish in the Savings Area and on trawl vessels fishing in the seasonal open area of the Bristol Bay nearshore waters closure; and
- 4) Adjustments to the Zone 1 PSC limit for red king crab taken in trawl fisheries. The PSC limit would be specified annually based on the abundance and biomass of Bristol Bay red king crab, as shown in the adjacent table.



Bristol Bay Red King Crab Savings Area

Regulation Summary

Amendment 37 implemented the following measures:

- 1) A year round bottom trawl closure in the Bristol Bay Red king Crab Savings Area to directed fishing for groundfish by vessels using non-pelagic trawl gear. The southern edge of the Savings Area between 56° and 56°10' N. lat., however, would open if a guideline harvest level for Bristol Bay red king crab is established. A portion of the annual PSC limit would be specified for the subarea;
- 2) A year round closure to

Results

Since the amendment was approved, bycatch of red king crab has been greatly reduced, and the Bristol Bay red king crab stock has rebuilt to levels that has supported directed crab fisheries. In 1998, the Council adopted a provision to reduce the bycatch limit by an additional 3,000 red king crab as part of the regulation prohibiting the use of bottom trawl gear for pollock fisheries (Amendment 57).



Extend Inshore/Offshore Pollock Allocations, Reauthorize Pollock Community Development Quota Program, Modify the Catcher Vessel Operational Area

Council Action
June 1995

Proposed Rule
September 18, 1995
60 FR 48087

Final Rule
December 12, 1995
60 FR 63654

Effective
January 1, 1996

Purpose and Need

Amendments 38 and 40 extended the provisions of Amendment 18 to the BSAI FMP and Amendment 23 to the GOA FMP, which expired on December 31, 1995. Amendments 18 and 23 (57 FR 23321; June 3, 1992) set inshore and offshore processor allocations of pollock in the BSAI and pollock and Pacific cod in the GOA, respectively, as a response to an early closure in 1989 when several catcher/processors harvested substantial amounts of pollock in the BSAI and GOA and forced an early closure of the GOA pollock fishery. Amendment 18 allocated 35% of the 1992 non-roe pollock season TAC to the inshore sector, and the remainder to the offshore sector. Shortly after, a 35-65% inshore/offshore split was set in a revised amendment for the years 1993-1995. Amendment 23 provided for an allocation of 90% of the Pacific cod TAC and 100% of the pollock TAC in the GOA to the inshore sector. In addition, the Catcher Vessel Operational Area (CVOA) and the Community Development Quota (CDQ) program in the BSAI were established. The CVOA limited access to pollock within the area to catcher vessels delivering to either inshore or offshore processors. The CDQ program allocated 7.5% of the BSAI pollock TAC to CDQ fisheries.

Amendments 38 and 40 were necessary to extend the inshore/offshore allocations set in Amendments 18 and 23 through December 31, 1998. The purpose of the

amendments was to keep the fishery from turning back into the "free-for-all" it represented previously. Since the original inshore/offshore allocation, the Council had been working toward developing a long-term, comprehensive plan for rationalizing all the groundfish and crab fisheries in and off of Alaska. By the end of 1995, when it was evident that the plan would not be ready for implementation before the inshore/offshore allocations expired, the Council determined it was necessary to extend the provisions of Amendments 18 and 23 for an additional three years in order to maintain stability in the

industry, facilitate further development of the comprehensive management regime, and allow for the realization of the goals and objectives of the pollock CDQ program.

In addition to the original need for this action, there was an industry request to move the western CVOA boundary eastward, based on the fact that part of the CVOA was not being used by catcher vessels delivering to inshore processors, and the area was not critical for protected species.

Analysis

A 268-page EA/RIR/IRFA (final draft dated August 1, 1995) and several appendices were prepared for this amendment. Two alternatives were considered: 1) No action, and 2) continuation of the current program for a period of three additional years (1996-1998), including the pollock CDQ program

as an unseverable element of the overall package. The analysis reiterated the Council's intent not to consider alternative inshore/offshore allocation percentages, as that would likely require significant new and complex economic analyses, create unnecessary delays in implementing an allocation scheme, and be inconsistent with the overall intent to develop a more long-term solution through the Comprehensive Management Plan process.

Regulation Summary

The provisions of BSAI Amendment 18 became the basis of Amendment 38, and the provisions of GOA Amendment 23 became the basis for Amendment 40. Thus, in the BSAI the apportionments of pollock in each subarea and season would be allocated 35% for processing by the inshore sector and 65% by the offshore sector. In the GOA, the apportionment of pollock would be allocated entirely for processing by the inshore sector, and the apportionment of Pacific cod would be allocated 90% for the inshore sector, 10% for the offshore sector. The amendments also reauthorized the CDQ pollock program with a few minor changes to the regulations. The only two substantive changes from the original plan amendments were: 1) movement of the western CVOA boundary 30 minutes to the east, and 2) allowing catcher/processors to use the CVOA if the pollock quota for processing by the inshore sector had already been harvested for the year.

Results

This amendment simply retained the existing inshore/offshore pollock processing allocations for an additional three year period, through 1998. Stability within and among industry sectors, and associated communities and participants, was maintained by this amendment.



Establish a License Limitation Program, Multi-Species Community Development Quota Program

Council Action
1995

Proposed Rule
August 15, 1997
62 FR 43866

Final Rule
October 1, 1998
63 FR 52642

Effective
January 1, 1999

Purpose and Need

In 1992, the Council committed to rationalize the groundfish and crab fisheries and begin development of a Comprehensive Rationalization Plan (CRP). The CRP was prompted by concerns that expansion of the domestic harvesting fleet, in excess of that needed to efficiently harvest the optimum yield, was burdening compliance with the Magnuson-Stevens Act and severely deteriorating the economic benefits derived from the crab and groundfish fisheries. The Council examined several management alternatives including, license limitation programs, individual fishing quotas (IFQs), and more traditional measures, and determined that a limited entry program had the most potential to address the immediate overcapitalization problems of the industry. As a result, the Council approved the License Limitation Program (LLP) in 1995, recognizing the need for further rationalization in the future.

The overall purpose of the LLP is to help resolve the competing and oftentimes conflicting needs of the domestic fisheries that developed under open access and to close the gap between fishing capacity and the available fishery resource. The LLP limits the number, size, and specific operation of vessels fishing crab and groundfish in the BSAI and GOA based on historical participation. During the design and refinement of the LLP, the Vessel Moratorium Program (VMP) was implemented to provide industry stability and curtail interim increases in fishing

capacity. The intent was for the LLP to replace the VMP upon implementation.

Amendment 39 also expanded the Community Development Quota (CDQ) Program by including in CDQ allocations a percentage of the total allowable catch (TAC) of groundfish and crab species in the BSAI that was not previously included in the existing CDQ programs for pollock, halibut, and sablefish.

Analysis

A final EA/RIR (dated September 1997) and several supplemental analyses considered the status quo and a general license limitation alternative. Out of a comprehensive list of elements and options the Council considered during the debates on LLP, the analysis identified one option for each component of a license limitation program to create the preferred alternative described above in the final rule. A supporting document also analyzed the differences between the vessel moratorium program and the license limitation program passed by the Council. The vessel moratorium was more liberal in terms of qualification criteria and the areas a vessel could fish. Under the moratorium a vessel was only required to make one landing of a qualifying species between 1/1/88 and 2/9/92, and having met that criteria the moratorium permit holders could fish groundfish in any federal waters off Alaska. Therefore, because the LLP had dual qualification criteria, many fewer vessels were expected to qualify than did for the moratorium.

Regulation Summary

The final rule limited access to the commercial groundfish fisheries in the BSAI and GOA and commercial crab fisheries in the BSAI, except for demersal shelf rockfish east of 140° W. longitude and sablefish managed under the IFQ program. The rule provided for the following: issuance of a single type of groundfish license; LLP is not applicable to waters of the State of Alaska; licenses would be issued to current owners (as of 6/17/95) of qualified vessels; licenses would be designated as catcher vessel or catcher/processor and with one of three vessel length classes; the crab and groundfish base qualifying period is 1/1/88-6/27/92 and the groundfish area endorsement qualifying period is 1/1/92-6/17/95; endorsement areas are defined as Aleutian Islands, Bering Sea, Western Gulf, Central Gulf, and Southeast Outside, or state waters shoreward of those endorsement areas; landing requirements for general license and area endorsement qualifications by vessel class; and additional provisions addressing crossover vessels, transfers, and vessel linkages. The rule also included in CDQ allocations 7.5% of the TAC of groundfish and crab in the BSAI that was not originally included in the CDQ programs for pollock, halibut, and sablefish.

Results

The LLP went into effect on January 1, 2000, and was further refined through subsequent amendments. The Council recently approved BSAI Amendment 60, GOA Amendment 58, and BSAI Crab Amendment 10 which amended the LLP to include: a crab recency requirement of one landing during 1/1/96-2/7/98 in addition to the general license and area endorsement qualifications; a requirement that the vessel name is included on the license; license designations for the type of gear authorized to harvest LLP groundfish as either "trawl" or "non-trawl" gear (or both); and a requirement that the vessel itself would be a specific characteristic of the license and could not be severed (i.e., the license could not be used on any other vessel). In addition, Amendment 67 to the BSAI FMP was approved by the Council in April 2000. This amendment requires a Pacific cod species and gear endorsement to fish in the BSAI fixed gear Pacific cod fishery, including recent participation criteria for the period 1995-1999, in addition to the general license and area endorsement qualifications.



Establish Opilio Prohibited Species Catch Limits and Bycatch Limitation Zones

Council Action
December 1996

Proposed Rule
August 13, 1997
62 FR 43307

Final Rule
December 22, 1997
62 FR 66829

Effective
January 21, 1998

Purpose and Need

Recruitment of Bering Sea *C. opilio* (snow crab) stock was at a relatively low level, based on NMFS bottom trawl survey data. The 1996 *C. opilio* season produced only 64.6 million lb for the 235 vessels participating. This was the lowest catch since 1984. Survey data from 1996 indicated that adult males were abundant, but females and pre-recruits were becoming less abundant. The groundfish fisheries incidentally catch crab. An objective of the

FMP is to minimize the impact of groundfish fisheries on crab and other prohibited species while providing for rational and optimal use of the region's fishery resources. All gear types used to catch groundfish have some potential to incidentally catch crab, but the large majority of crab bycatch occurs in trawl fisheries for flatfish. Bycatch limits for *C. opilio* had never been established for Bering Sea trawl fisheries. The objective of this amendment was to control snow crab

bycatch in trawl fisheries and provide some protection for the snow crab stock.

Analysis

A 44 page EA/RIR/IRFA (final draft dated October 2, 1997) was prepared for this amendment. Four alternatives including the status quo were considered. The other alternatives and options that were not chosen would have established a fixed PSC limit of 6 million or 11 million crab, or a PSC limit that fluctuated with abundance at all stock sizes. The alternative chosen incorporated fixed limits at high and low stock sizes, and fluctuating levels at intermediate stock sizes.

Regulation Summary

Under Amendment 40 of the BSAI Groundfish FMP, PSC limits for snow crab (*opilio*) taken in groundfish fisheries are based on total abundance of *opilio* crab as indicated by the NMFS standard trawl survey (NPFMC 1996). The snow crab PSC cap is set at 0.1133% of the Bering Sea snow crab abundance index, with a minimum PSC of 4.5 million snow crab and a maximum of 13 million snow crab. Snow crab taken within the "C. Opilio Bycatch Limitation Zone" (COBLZ) accrue towards the PSC limits established for individual trawl fisheries. Upon attainment of a snow crab PSC limit apportioned to a particular trawl target fishery, the COBLZ would be closed to directed fishing for species in that trawl fishery category, except for pollock with

nonpelagic trawl gear.

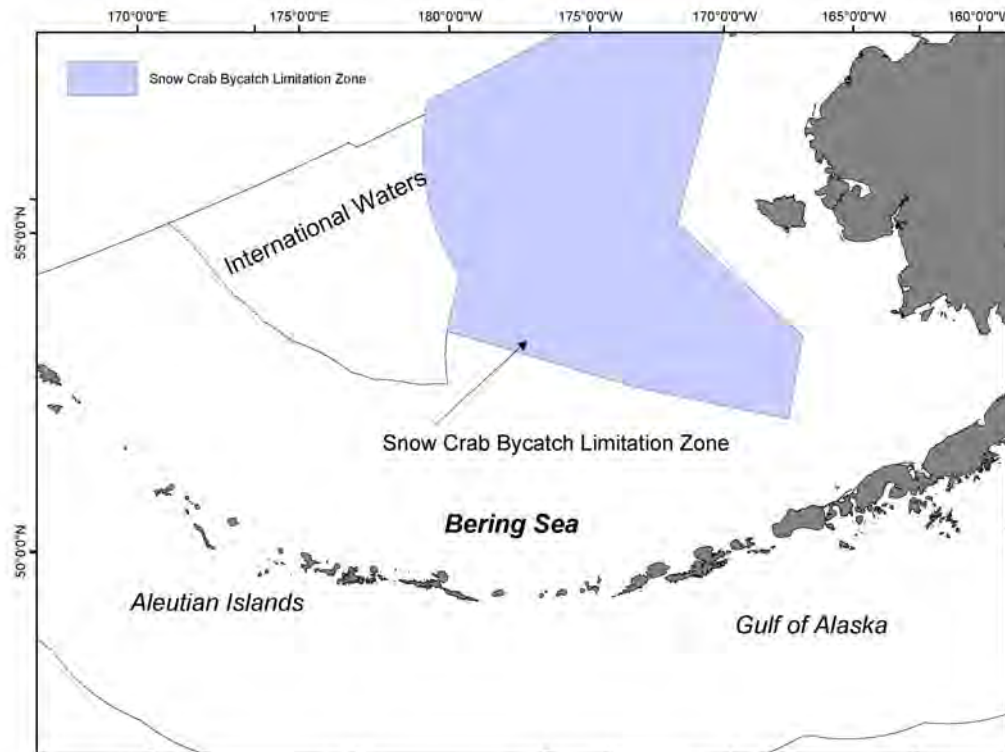
The COBLZ within the EEZ is an area defined as that portion of the Bering Sea Subarea north of 56°30' N that are west of a line connecting the following coordinates in the order listed:

56° 30' N	165° 00' W
56° 30' N	165° 00' W
56° 30' N	165° 00' W
56° 30' N	165° 00' W

North along 170° 00' W to its intersection with the U.S.-Russia Boundary.

Results

Since the amendment was approved, bycatch of *C. opilio* crab has been greatly reduced. In 1998, the Council adopted a provision to reduce *C. opilio* crab bycatch by an additional 150,000 crab as part of the regulation prohibiting the use of bottom trawl gear for pollock fisheries (Amendment 57).



Prohibited Species Bycatch Limitation Zones.



41

Prohibited Species Catch

Reduce Bairdi Prohibited Species Catch Limits

Council Action
September 1996

Proposed Rule
January 2, 1997
62 FR 85

Final Rule
March 24, 1997
62 FR 13839

Effective
April 23, 1997

Purpose and Need

The Bering Sea Tanner crab (*C. bairdi*) stock was measured to be at near historically low levels, based on NMFS bottom trawl survey data. The fishery was also in trouble. The 1995 Tanner crab season produced only 4.5 million lb (2017 mt) for the 196 vessels participating. This amount was the lowest catch since the fishery reopened in 1988. Preliminary 1996 survey data indicated that the stock decline would continue. Tanner crab PSC limits for trawl fisheries established under Amendment 10 were 1,000,000 crab in Zone 1 and 3,000,000 crab in Zone 2. The

objective of this amendment was to reduce Tanner crab bycatch in trawl fisheries, particularly at low stock sizes, to assist in recovery of this stock.

Analysis

A 41-page EA/RIR/IRFA (final draft dated November 20, 1996) was prepared for this amendment. Three alternatives including the status quo were considered. The other alternative that was not chosen would have reduced the PSC limits to a fixed level regardless of stock size (900,000 crab in Zone 1 and up to 2,100,000 crab in Zone 2). The alternative chosen was more

conservative in that defining a larger area may offer more protection.

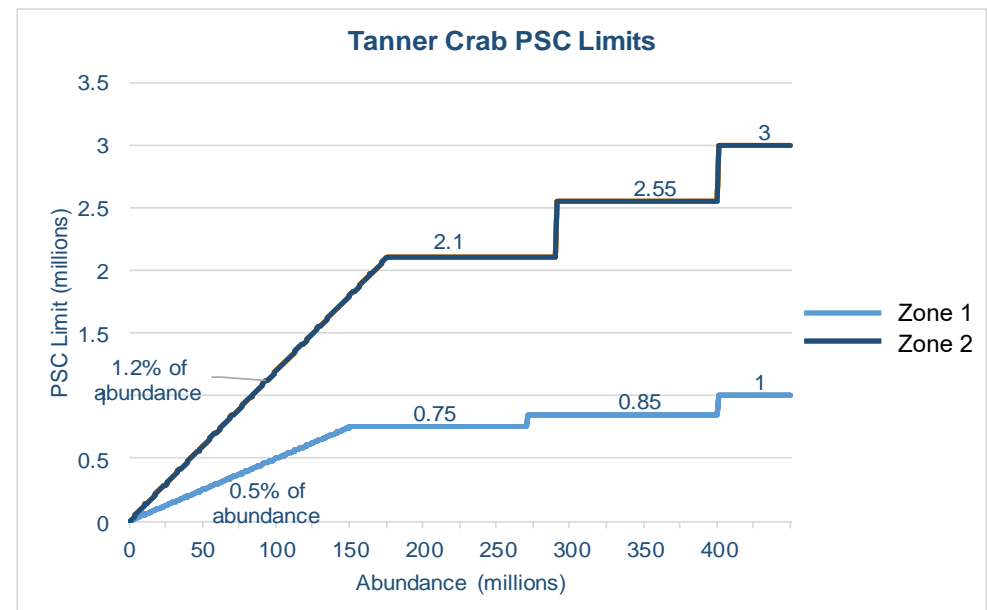
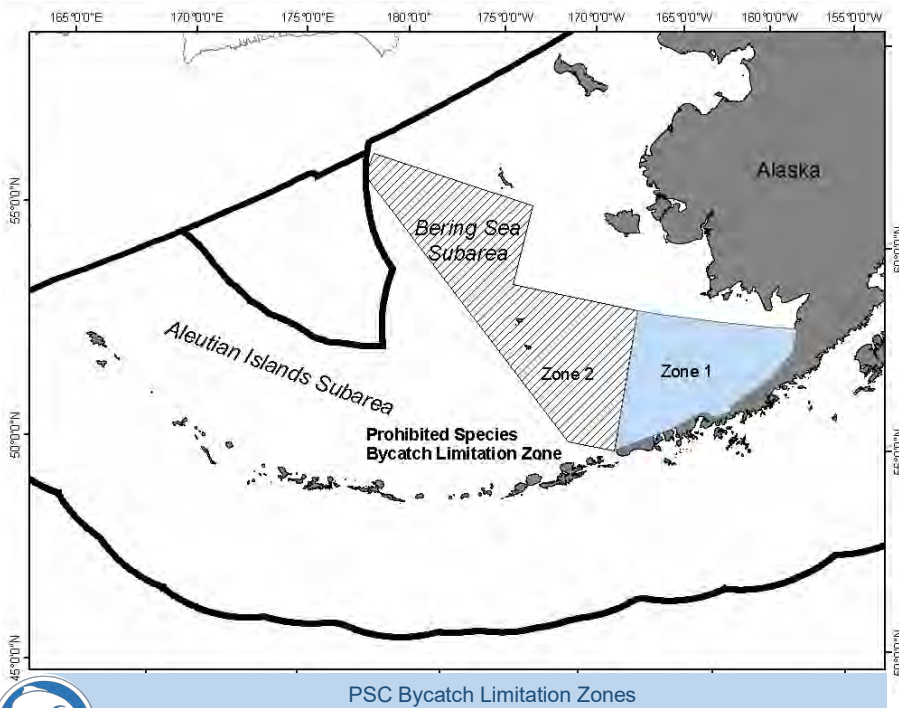
Regulation Summary

The alternative adopted and approved under Amendment 41 provides for the annual specification of the revised PSC limits based on the total estimated abundance of *C. bairdi* as shown in the figure below. *C. bairdi* taken as bycatch within the zones accrue towards the PSC limits established for individual trawl fisheries. Upon attainment of a PSC limit apportioned to a particular trawl target fishery, that fishery is prohibited from fishing within the specified zone. Note that in 1998, the Council adopted a provision to reduce opilio crab bycatch by an additional 50,000

C. bairdi crab as part of the regulation prohibiting the use of bottom trawl gear for pollock fisheries.

Results

Since the amendment was approved, bycatch of Tanner crab has been reduced. Nevertheless, the Tanner crab stock continued to decline, and was deemed "overfished" on March 3, 1999 because the survey estimate of spawning stock biomass fell below the minimum spawning stock threshold established for this crab stock. In October 1999, the Council adopted a rebuilding plan for this stock, but determined that bycatch limits established under Amendment 41 were sufficiently conservative.



Individual Fishing Quota Vessel Buy Down

Council Action
1995Proposed Rule
June 25, 1996
61 FR 32767Final Rule
August 22, 1996
61 FR 43312Effective
August 16, 1996

Purpose and Need

During the first year of fishing under the Individual Fishing Quota (IFQ) Program in 1995, IFQ fishermen reported that the prohibition against using or transferring QS across vessel categories limited their ability to improve the profitability of their operations. Many fishermen had received QS that represented far fewer pounds than their catch history prior to the IFQ program. Small boat fishermen reported the scarcity of medium- and large-size QS blocks (≥5,000 lb [2.3 mt]) available to smaller vessels and requested that the Council enable them to purchase shares from QS holders in larger vessel size categories. Also, category B vessel operators reported difficulties in using or marketing small category B blocks and requested the opportunity either to downsize operations or to sell smaller QS blocks to owners of smaller vessels.

Amendment 42 was intended to relieve certain restrictions in the IFQ Program by increasing the flexibility of QS use and transfer while maintaining the management goals of the IFQ Program and to provide small boat fishermen with more opportunities to improve the profitability of their operations.

Analysis

A 31-page analysis (Secretarial review draft dated August 5, 1996), and a supplemental A Final Regulatory Flexibility Analysis (FRFA) examined two alternatives to the status quo. The Council ultimately recommended an alternative that included an exemption for Southeast Alaska. Allowing the “buy down” to occur only for category B blocks < 5,000 lb in Southeast still benefits crewmen and small vessel owners who would be able to use small category B blocks on smaller vessels without affecting the market price of category B medium and large blocks and unblocked QS.

Regulation Summary

Amendment 42 and a regulatory amendment to the IFQ Program for fixed gear Pacific halibut and sablefish fisheries in and off Alaska allowed QS initially assigned to a larger vessel category to be used on smaller vessels, while continuing to prohibit the use of QS or its associated IFQ assigned to smaller vessel categories on larger vessels. QS will continue to be assigned to vessel categories by existing criteria at Sec. 679.40(a)(5) (i) through (vi) and will retain original vessel category assignments. However, halibut and sablefish QS and their associated IFQ assigned to vessel Category B, can be used on vessels of any size and halibut QS assigned to vessel Category C likewise can be used on vessels of categories C and D. The regulations continue to prohibit the use of QS and IFQ on vessels larger than the maximum length on average (LOA) of the category to which the QS was originally assigned. It does not apply to halibut in IFQ regulatory areas 2C or to sablefish east of 140° W. long. Halibut QS assigned to vessel Category B in IFQ regulatory areas 2C and sablefish QS east of 140° W. long. are prohibited from use on vessels less than or equal to 60 feet (18.3 m) LOA except in QS blocks equivalent to less than 5,000 lb (2.3 mt) based on the 1996 Total Allowable Catch (TAC).

Results

Amendment 42 is assumed to have attained its goal of increasing the availability of QS's to owners of smaller vessels, however, no systematic evaluation has been performed.



Individual Fishing Quota Vessel Sweep Up

Council Action
1995Proposed Rule
September 27, 1996
61 FR 50797Final Rule
December 26, 1996
61 FR 67962Effective
December 20,
1996

Purpose and Need

This amendment along with a regulatory amendment to effect the same regulatory change for halibut was deemed necessary to increase the consolidation ("sweep-up") levels for small quota share (QS) blocks for Pacific halibut and sablefish managed under the IFQ program. The IFQ longline industry reported that current sweep-up levels do not equal the harvest of a viable fishing trip and proposed a moderate increase in these levels to allow greater amounts of QS to be swept-up into economically "fishable" amounts, without overly increasing consolidation or allowing the creation of large-sized blocks. This action is intended to maintain consistency with the objectives of the IFQ program (i.e., prevent excessive consolidation of QS, maintain diversity of the fishing fleet, and allow new entrants into the fishery), while increasing the program's flexibility by allowing a moderately greater amount of QS to be "swept-up" into larger amounts that can be fished more economically.

Analysis

A 32-page analysis (Secretarial review draft dated November 27, 1996) included a range of alternatives of setting the sweep-up level at 1,000, 3,000, and 5,000 lb for halibut and 3,000, 5,000, and 7,000 lb for sablefish. The Council rejected the status quo levels (the lowest) and the highest levels. The analysis concluded that a moderate increase in the sweep-up levels would likely increase the transfer of very small, blocked QS to crew and small boat fishermen who seek to increase their holdings. While some price increases in small block shares might have occurred, a price differential was projected to remain between smaller and larger QS blocks. If the ability to transfer and consolidate small blocks would increase, then the number of unfished blocks would decrease.

Regulation Summary

Amendment 43 increased the sweep-up levels for small QS blocks for Pacific halibut and sablefish from a 1,000 lb (0.45 mt) maximum for Pacific halibut and 3,000 lb (1.4 mt) maximum for sablefish to a 3,000 lb (1.4 mt) maximum and a 5,000 lb (2.3 mt) maximum, respectively. Two other changes were recommended to accompany these increases:

- 1) The base year TAC for determining the pounds would be the 1996, rather than 1994, TAC which was used for the first sweep-up levels;
- 2) Once QS levels are established for the appropriate regulatory areas based on the 1996 TAC, those QS levels would be fixed and codified. This would eliminate any confusion as to the appropriate sweep-up level in pounds, which would fluctuate with changes in the annual TAC.

The maximum number of QS units that may be consolidated into a single QS block in each IFQ regulatory area is shown in the above table.

Results

Relatively few sweep-up transactions occurred in 1995 and 1996. Following implementation of Amendment 43, the number of sweep-up transactions increased substantially related to the higher sweep-up limits. In 1998, the number decreased to levels closer to those similar to 1995 and 1996. In total, the number of sweepable blocks declined by 693 for halibut and 151 for sablefish from 1995 through 1998.



Purpose and Need

In response to the national standards established in the Magnuson Act and advisory guidelines, the Council developed an objective and measurable definition of overfishing and, in 1991, implemented that definition under Amendments 16 (BSAI) and 21 (GOA) to the FMPs. In the years since implementation of that definition, fishery scientists had the opportunity to evaluate the efficacy of these definitions of ABC and overfishing. In light of that experience and with the increased understanding of the reference fishing mortality rates used to define ABCs and overfishing, fishery scientists had raised several concerns about the definitions and the extent to which they reflect and account for levels of uncertainty about fish populations. Consequently, NMFS's Overfishing Definitions Review Panel and the Council's Scientific and Statistical Committee recommended redefining ABC and overfishing to facilitate more conservative, risk-averse management measures when stock size and mortality rates are not fully known. The purpose of this Amendment was to revise the ABC and overfishing definitions to be consistent with these recommendations.

Analysis

A 60-page EA (final draft dated January 6, 1997) was prepared for this amendment. Two alternatives including the status quo were considered. The alternative chosen was more conservative for several reasons. First, the overfishing rate varies with biomass. Second, the ABC fishing rate is reduced when biomass is below levels that produce maximum sustainable yields. Lastly, more caution is incorporated into establishing fishing rates when less information is available; this is particularly true of tier 1.

Tiers used to determine ABC and OFL for BSAI groundfish stocks under Amendment 44.

(1) Information available: Reliable point estimates of B and B_{MSY} and reliable pdf of F_{MSY} .

1a) Stock status: $B/B_{MSY} > 1$

$F_{OFL} = m_A$, the arithmetic mean of the pdf

$F_{ABC} \leq m_H$, the harmonic mean of the pdf

1b) Stock status: $\alpha < B/B_{MSY} \leq 1$

$F_{OFL} = m_A \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

$F_{ABC} \leq m_H \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

1c) Stock status: $B/B_{MSY} \leq \alpha$

$F_{OFL} = 0$

$F_{ABC} = 0$

(2) Information available: Reliable point estimates of B , B_{MSY} , F_{MSY} , $F_{30\%}$, and $F_{40\%}$.

2a) Stock status: $B/B_{MSY} > 1$

$F_{OFL} = F_{MSY}$

$F_{ABC} \leq F_{MSY} \times (F_{40\%}/F_{30\%})$

2b) Stock status: $\alpha < B/B_{MSY} \leq 1$

$F_{OFL} = F_{MSY} \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

$F_{ABC} \leq F_{MSY} \times (F_{40\%}/F_{30\%}) \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

2c) Stock status: $B/B_{MSY} \leq \alpha$

$F_{OFL} = 0$

$F_{ABC} = 0$

(3) Information available: Reliable point estimates of B , $B_{40\%}$, $F_{30\%}$, and $F_{40\%}$.

3a) Stock status: $B/B_{40\%} > 1$

$F_{OFL} = F_{30\%}$

$F_{ABC} \leq F_{40\%}$

3b) Stock status: $\alpha < B/B_{40\%} \leq 1$

$F_{OFL} = F_{30\%} \times (B/B_{40\%} - \alpha)/(1 - \alpha)$

$F_{ABC} \leq F_{40\%} \times (B/B_{40\%} - \alpha)/(1 - \alpha)$

3c) Stock status: $B/B_{40\%} \leq \alpha$

$F_{OFL} = 0$

$F_{ABC} = 0$

(4) Information available: Reliable point estimates of B , $F_{30\%}$, and $F_{40\%}$.

$F_{OFL} = F_{30\%}$

$F_{ABC} \leq F_{40\%}$

(5) Information available: Reliable point estimates of B and natural mortality rate M .

$F_{OFL} = M$

$F_{ABC} \leq 0.75 \times M$

(6) Information available: Reliable catch history from 1978 through 1995.

OFL = the average catch from 1978 through 1995, unless an alternative value is established by the SSC on the basis of the best available scientific information
 $ABC \leq 0.75 \times OFL$

Regulation Summary

Amendments 44/44 provided for more conservative definitions of ABC and OFL. The fishing mortality rate used to calculate ABC was capped by the overfishing rate. The maximum allowable fishing rates were prescribed through a set of 6 tiers which are listed in descending order of preference, corresponding to descending information availability. These tiers are shown in the adjacent table. Harvest rates used to establish ABCs are reduced at low stock size levels, thereby allowing rebuilding of depleted stocks. If the biomass of any stock falls below B_{msy} or $B_{40\%}$ (the long-term average biomass that would be expected under average recruitment and $F=F_{40\%}$), the fishing mortality is reduced relative to stock status. This serves as an implicit rebuilding plan should a stock fall below a reasonable abundance level.

Results

The amendment resulted in lower (more conservative) ABCs; consequently, total allowable catch levels were reduced for many species. The definitions adopted under Amendments 44/44 were further revised under Amendments 56/56.



Permanently Extend Community Development Quota Allocation

Council Action
June 1998

Proposed Rule
September 3, 1998
63 FR 46993

Final Rule
January 26, 1999
64 FR 3877

Effective
January 21, 1999

Purpose and Need

The allocation of pollock TAC to the CDQ program from 1992 through 1998 had been instrumental in providing the revenues, employment, and training benefits to achieve the Council's goals of helping western Alaska communities to develop and support commercial fishery activities that result in ongoing, regionally based commercial fisheries or related businesses. The 1996 amendments to section 305 of the Magnuson-Stevens Act require the Council and the Secretary to "establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program." An amendment to the FMP was necessary to continue the allocation of pollock to the CDQ program.

Amendments 18 and 38 authorized the allocation of 7.5% of pollock total allowable catch (TAC) in the Bering Sea and Aleutian Islands (BSAI) to the Western Alaska Community Development Program for the groundfish and crab fisheries for three years periods between 1993 and 1998. Amendment 45:

- 1) permanently extended the CDQ allocation which was to sunset December 31, 1998;
- 2) removed the pollock CDQ program from the inshore/offshore section of the FMP and reorganized three separate CDQ-related sections of the FMP;
- 3) increased the pollock allocation to 10% through December 31, 2004 to comport with the provisions of the American Fisheries Act of 1998.

Analysis

A 146-page analysis (Secretarial review draft dated December 1, 1998) considered the economic impacts of the first 6 years of the pollock CDQ program in western Alaska. The analysis estimated that 249 entities are affected by regulations governing the BSAI pollock fishery, of which 130 are small entities. Sixty-five Alaska villages near the Bering Sea formed six CDQ groups and established partnerships with fishing corporations. Five communities whose residents participate in the BSAI pollock fisheries but are not eligible for the CDQ program, 140 trawl catcher vessels, 31 trawl catcher/processors, three motherships, and eight shoreside processing plants were also affected.

The EA/RIR/IRFA estimates that in 1997, over 200 people from CDQ communities were employed directly in the pollock harvesting and processing industry, and a total of about 1,200 CDQ program related jobs had been created. These jobs are in CDQ program management (6 % of jobs), pollock harvesting and processing (27 %), other fisheries harvesting and processing (50 %), and other employment (17 %).

NMFS considered two alternatives to minimize economic impacts on the small entities negatively affected by this action. The first alternative would be to allocate 3.5 % of pollock TAC to the CDQ reserve. Although this alternative would benefit the small entities not receiving CDQ allocation, the benefits accruing to the (then) 56 CDQ communities would have been considerably less. Those communities have limited opportunities for generating income and investment such that the reduction from 7.5 % to 3.5 % reserve would have likely produced significant negative economic impacts on these small entities. The second alternative would have let the present reserve of 7.5 % of pollock TAC expire at the end of 1998. This action would result in a further shift of impacts from one set of small entities to another. It would benefit the non-CDQ participants in the fishery while cutting revenues of the CDQ groups.

Regulation Summary

Ten percent of pollock and 7.5% of all other groundfish and crab TACs are set aside for the Western Alaska CDQ program.

Results

The pollock CDQ allocations have led to training and employment opportunities for community residents. Since the inception of the program in 1992, the program has provided approximately 1,000 jobs annually for Western Alaska residents. Total wages exceeded \$30 million during the 1992-1999 period. The CDQ program has also contributed to infrastructure development projects within the region as well as loan programs and investment opportunities for local fishermen. Through 1998, the six CDQ groups earned over \$20 million per year from contracts with their industry partners that harvest the pollock CDQ quotas on behalf of the CDQ groups. The value of the CDQ groups' equity ownership in fishing vessels, on-shore development projects, loan portfolios, and Individual Fishing Quota holdings increased an average of 37 % per year since 1992, and totaled approximately \$64 million in 1997.



Pacific Cod Allocation II

Purpose and Need

Amendment 46 was proposed to extend the management measures authorized by Amendment 24 beyond 1996. Amendment 24 authorized the explicit allocation of BSAI Pacific cod among vessels using trawl, hook-and-line or pot gear, and jig gear. The amendment also authorized the seasonal apportionment of the amount of Pacific cod allocated to vessels using hook-and-line or pot gear and the reallocation of the unused portion of one gear's allocation to other gear types.

Amendment 24 was proposed in response to socioeconomic concerns of the fishing

industry and the need for stability in the trawl gear and fixed gear (longline, pot, and jig) fleets. The fishery was exhibiting numerous overcapitalization problems such as compressed fishing seasons, high bycatch and waste, gear conflicts, and an overall reduction in benefit from the fishery. At the April 1993 meeting, the Council developed a problem statement that focused on resolving overcapitalization in the BSAI Pacific cod fishery, and in June recommended the Amendment 24 management measures to be implemented through 1996. The alternative approved allocated the BSAI Pacific cod TAC to the jig gear (2%), hook-and-line or pot gear (44%) and trawl gear (54%) fleets.

The Council's action was intended to provide industry and community stability by directly allocating to gear groups approximately the average percent of Pacific cod taken with these gear types during 1991-1993. In addition, the intent of the seasonal apportionment in the fixed gear sector was to allow for a first and third season fishery when halibut bycatch rates, product quality, and markets are most advantageous. Upon the expiration of Amendment 24, the

Council began an analysis to extend the allocations. At the December 1995 Council meeting, it was noted that while the action provided the necessary stability to the various gear sectors, significant regulatory, economic, and biological changes had occurred in the Pacific cod fishery since the amendment was implemented in 1994. These changes were incorporated into the original analysis with a specific focus on reducing prohibited species mortality, impacts on habitat, and cod discards by the different gear sectors. The analysis examined a range of possible allocations, and the Council then tasked an industry-based negotiating committee to agree on a new allocation regime that would be acceptable to all sectors of the fishery. The final percentages were chosen based on the current harvest percentage taken by the trawl and fixed gear sectors under current halibut PSC limits while retaining the 2% allocation for jig gear.

Analysis

A 173-page EA/RIR (final draft dated October 1996) was prepared for this amendment. Six alternative allocation splits, including no action, were considered. While the specific allocation preferred by the negotiating group and approved by the Council was not explicitly identified in the analysis, it was well within the range of alternatives considered. Thus, the Council had sufficient information on the impacts of the alternative to make a decision.

Regulation Summary

- 1) BSAI Pacific cod TAC Apportionments: Trawl sector: 47% (The trawl apportionment will be split between

Council Action
June 1996

Proposed Rule
August 22, 1996
61 FR 43325

Final Rule
November 20, 1996
61 FR 59029

Effective
January 1, 1997

catcher vessels and catcher processors 50/50.); Fixed gear sector: 51%; Jig gear sector: 2%

- 2) Roll-overs: On September 15 of each year, the Regional Director shall reallocate 100% of any projected unused amount of the Pacific cod allocated to jig vessels to the fixed gear vessels. If, during a fishing year, the Regional Director determines that vessels using trawl gear or hook-and-line or pot gear will not be able to harvest the entire amount of Pacific cod allocated to those vessels, then NMFS shall reallocate the projected unused amount of Pacific cod to vessels using the other gear type(s).
- 3) Halibut PSC Mortality Caps: The trawl halibut PSC mortality cap for Pacific cod will be no greater than 1,600 mt. The hook-and-line gear halibut PSC mortality cap for Pacific cod will be no greater than 900 mt.
- 4) Review: No sunset provision, but the Council will review this agreement in four years following the date of implementation.

Results

The allocations established in Amendment 46 stabilized the BSAI cod fishery as the Council continued on the path towards comprehensive rationalization. Since the amendment was passed, there have been further allocation and limited entry measures imposed on the BSAI Pacific cod fishery by Amendments 64, 67 and 77.



Pacific cod (*Gadus microcephalus*). Photo courtesy of NPFMC.



Authorize an Interim North Pacific Groundfish and Halibut Observer Program

Council Action
April 1996

Proposed Rule
August 2, 1996
61 FR 40380

Final Rule
November 1, 1996
61 FR 56425

Effective
January 1, 1997

Purpose and Need

In December 1989, BSAI Amendment 13 and GOA Amendment 18 authorized a comprehensive observer program for U.S. fisheries. To fulfill the objectives of Amendments 13 and 18, the Council and NMFS developed the North Pacific Fisheries Research Plan (Research Plan), which required observers to be stationed on certain groundfish vessels and established a fee structure to fund the observer program. The Research Plan was partially implemented in 1994 and minor changes were made in 1995. However, the Council was reluctant to fully implement the Research Plan until they had more time to reconsider the changes and requested additional time to analyze the effects of fully implementing the Research Plan. This extension maintained 1995 observer coverage requirements through 1996. In 1995, the Council asked NMFS to repeal the Research Plan in favor of a program that allowed direct payment for observer services as had been done in the past. This request initiated the analysis process to explore alternatives to the Research Plan. After hearing the Alternatives in April 1996, the Council determined that the information was not sufficient to make a decision and requested additional cost comparisons. However, since current observer coverage requirements expired on December 31 of that year, the Council adopted an alternative that authorized an interim groundfish observer program and superseded the Research Plan.

Analysis

A 44-page EA/RIR/IRFA was prepared to analyze two action alternatives and a status quo alternative. Two alternatives were included under the status quo alternative: 1) Reinitiate the fee collection program during 1997 as authorized under section 313 of the Magnuson Act so that the Research Plan may be fully implemented by 1998, or 2) Do not reinitiate the fee collection program so that the Research Plan expired at the end of 1996. Under Option 2, and analysts clarified that lacking further action by the Council to supersede the Research Plan by an FMP amendment under Alternatives 2 or 3, no observer coverage would be authorized for the Alaska groundfish fisheries in 1997 and beyond. Alternative 2 would revert back to the observer program as it existed before implementation of the Research Plan with an option to implement an interim observer program to supersede the Research Plan on January 1, 1997. A third alternative to establish a pay-as-you-go groundfish observer program was also considered, but was seen by many as inequitable, because although all participants in the groundfish, halibut, and crab fisheries benefited from the groundfish and crab observer programs, only those with observer coverage requirements bore the cost. The EA determined that none of the alternatives would significantly affect the quality of the human environment. The Council selected Alternative 2, Option 1 as its preferred alternative to authorize mandatory groundfish observer coverage requirements through 1997 and supersede the Research Plan.

Regulation Summary

BSAI Amendment 47 created an interim North Pacific Groundfish Observer Program that would expire December 31, 1997 or when superseded by a permanent observer program, and superseded the Research Plan. The amendments also clarified existing regulation requirements that the observer coverage requirements for CVs participating in the CDQ fisheries were in addition to the regular groundfish observer coverage requirements.

Results

The modified Observer Program was superseded by Amendment 86.



Establish Procedure for Total Allowable Catch Setting

Council Action
October 2003

Proposed Rule
July 27, 2004
69 FR 44634

Final Rule
November 8, 2004
69 FR 64683

Effective
April 1, 2005

Purpose and Need

The BSAI and GOA Plan Teams first proposed streamlining the groundfish specifications process in 1996. The Council initiated Amendments 48 to the BSAI and GOA FMPs in December 1996 to address administrative and public notice issues. The Council's preferred action to rollover harvest specifications from one year to the next was approved in June 1998. ABCs, TACs, and PSC amounts would remain unchanged from year to year until revised in a final rule. In July 1999, the NMFS Regional Administrator notified the Council that the Council's preferred alternative was not in compliance with the National Environmental Policy Act, the Administrative Procedures Act, and the Regulatory Flexibility Act. As a result, Amendment 48 needed to be revised to meet the requirements set forth in NEPA, APA, and RFA, extending deliberations for four years until the Council approved new annual harvest specifications in October 2003.

Despite the initial setback in 1999, the Council and NMFS acknowledged the continuing need to revise the existing TAC specification process to meet the following objectives:

- 1) manage fisheries based on the best available information;
- 2) make adjustments to TAC amounts to respond to new information or conservation concerns;
- 3) comply with NEPA, ESA, and RFA provisions while minimizing unnecessary disruption to fisheries;
- 4) provide adequate opportunity for public review and comment on new information leading to annual TAC recommendations; and
- 5) promote administrative efficiency while minimizing public confusion regarding proposed and interim specifications.

In October 2003, the Council approved a new annual harvest specification process for the Alaska groundfish fisheries to:

- 1) eliminate the publication of proposed and possibly misleading information in proposed and interim specifications;
- 2) enhance the ability of NMFS to adjust the TAC and PSC amounts inseason;
- 3) remove obsolete references to foreign and joint venture management measures.

Analysis

A 186-page analysis evaluated four action alternatives and three stand-alone options. A Finding of No Significant Impact (FONSI)

was also prepared by NMFS for this action. An earlier analysis concluded that the existing specification process could be improved. Proposed specifications may be outdated by the time they are published for public review. Interested parties realize that those numbers will change, sometimes considerably, after release of the final SAFE reports and December Council meeting. The Federal Register publication of proposed specifications, therefore, may no longer serve a useful purpose.

One rejected alternative was scheduling the Council and Plan Team meetings to occur earlier in the year to allow more time to publish proposed and final specifications; interim specifications would be unnecessary. A limiting factor to the specification process is the time needed by the Plan Teams to analyze data and produce final SAFE documents. Survey data is not available until late summer or early fall, and it is unlikely that assessments of the fisheries could be made any earlier. The Plan Teams and the Council prefer to base their recommendations on the most current possible information. A minimum of two weeks is needed between the November Plan Team meeting and the December Council meeting for the SAFE reports to be released for public review. It would be impracticable, therefore, for the specification process to occur any earlier in the year.

Regulation Summary

Amendment 48 revised the title of the BSAI FMP to "The Fishery Management Plan for

Groundfish of the Bering Sea and Aleutian Islands Management Area." Sections 679.20 and 679.21 were revised to implement the new administrative process for harvest specifications that allowed for proposed and final harvest to remain in effect for up to two years. This provides flexibility for harvest specifications to be effective for more than 12 months, allowing time to comply with APA rulemaking requirements and ensuring that management is based on the best available scientific information.

Amendment 48 also gave NMFS the authority to specify a comment period based on the circumstances present when the proposed specifications are published, rescinded provisions for interim harvest specifications, revised species listed for seasonal allowances for the final harvest specifications, and revised §679.20(c)(5), 679.20(c)(6), and 679.62(a)(3) to remove references to interim harvest specifications.

Results

Amendment 48 revised some administrative procedures associated with the harvest specifications process that are still in use today.



Development of the Improved Retention/Improved Utilization Program

Council Action
September 1996

Proposed Rule
June 26, 1997
62 FR 34429

Final Rule
December 3, 1997
62 FR 63880

Effective
January 3, 1998

Purpose and Need

To reduce discards, the Council adopted an improved retention and utilization program (IR/IU) for all groundfish target fisheries. This action was deemed necessary to address one of the Council's comprehensive fishery management goals, adopted in 1984, to "minimize the catch, mortality, and waste of non-target species and reduce the adverse impacts of one fishery on another." The Council also recognized that fish caught as bycatch in one fishery represent an allocation away from any target fishery for the bycatch species. In addition, a priority objective of the FMP is to "provide for the rational and optimal use, in a biological and socioeconomic sense, of the region's fisheries resources as a whole."

The IR/IU program was intended to improve utilization and effective control/reduction of bycatch and discards in the fisheries off Alaska to address the following problems:

- 1) bycatch and discard loss of groundfish, crab, herring, salmon, and other non-target species;
- 2) economic loss and waste associated with the discard mortality of target species harvested but not retained for economic reasons;
- 3) inability to provide for a long-term, stable fisheries-based economy due to loss of fishery resources through wasteful fishing practices;
- 4) the need to promote improved retention and utilization of fish resources by reducing waste of target groundfish species to achieve long-term sustainable economic benefits to the nation.

Analysis

A 200-page analysis (Secretarial review draft dated September 3, 1997) reviewed a variety of bycatch reduction plans that had been discussed by the Council since 1993. While other alternatives were discussed, primary focus was given to these three alternative programs:

- 1) individual fishing quotas for groundfish species;
- 2) a "Harvest Priority" program that would provide for quota set-asides for vessels exhibiting low bycatch rates of non-target species;
- 3) retention and utilization mandates, with

built-in incentives for fishing operations to avoid unwanted species.

In the 1997 Bering Sea/Aleutian Islands groundfish fisheries, a total of 258,000 mt of groundfish was discarded, equating to about 15% of the total groundfish catch. The analysis determined that pollock, Pacific cod, rock sole, and yellowfin sole represent approximately 76 percent of the total discards of allocated groundfish in the BSAI groundfish fisheries. The Council concluded that by requiring 100 percent retention of these four species, initially pollock and Pacific cod, and subsequently yellowfin and rock sole, the Council's objective of "substantially reducing discards of unprocessed groundfish" in these fisheries could be achieved.

Regulation Summary

Amendment 49 required all vessels fishing for groundfish in the BSAI to retain all pollock and Pacific cod beginning January 1, 1998, and all rock sole and yellowfin sole beginning January 1, 2003. It established a 15-percent minimum utilization standard for all at-sea processors.

Results

Beginning in 1998, 100% retention of pollock and Pacific cod was required, regardless of how or where it was caught. Only fish not fit for human consumption can be legally discarded. This measure dramatically reduced overall discard of groundfish. For example in 1997, about 22,100 mt of cod (8.6% of the cod catch) and 94,800 mt of pollock (8.2% of the pollock catch) were discarded. In 1998, discard amounted to only 4,300 mt of cod (2.2%) and 16,200 mt of pollock (1.6%). Bering Sea and Aleutian Islands rock sole and yellowfin sole retention were to be required beginning in 2003; the delay would allow for development of new markets and gear technological responses by the vessels engaged in these fisheries. These retention requirements were expected to reduce overall discard rates (all species) from about 15% to about 5%.

The implementation of IR/IU for rock sole and yellowfin sole was repealed in 2003 (see Amendment 75).



Halibut Donation Program

Council Action
April 1997

Proposed Rule
March 4, 1998
63 FR 10583

Final Rule
June 12, 1998
63 FR 32144

Effective
July 13, 1998 –
December 31,
2000

Purpose and Need

Approximately 6,500 metric tons of halibut were taken incidentally to the Alaska groundfish fisheries during 1999. Vessels participating in these fisheries typically use trawl, hook-and-line, or pot gear, with trawl gear accounting for most of the groundfish catch and halibut bycatch. A portion of this bycatch is landed dead at shoreside processing facilities and must be returned to Federal waters for disposal as a prohibited species. The Council's intent was to:

- 1) reduce regulatory discards and protein waste in the groundfish trawl fisheries;
- 2) provide additional opportunity to collect biological samples or scientific data; and
- 3) support an industry initiative to reduce regulatory discards and provided a healthy alternative to the diets of needy people.

The purpose of this amendment was to reduce the waste of dead, but wholesome, fish, and in doing so provide public benefit by allowing fish that would otherwise be discarded to be retained for processing and delivery to food bank organizations. Any costs associated with this recommended action would be borne by the voluntarily participating shore side processors and the NMFS authorized distributor.

Analysis

The Council discourages the discard of incidental catches of fish as wasteful. Managing halibut incidentally caught in the groundfish fisheries as a prohibited species is an appropriate short term bycatch measure. Except under the prohibited species donation program, retention of prohibited species captured while harvesting groundfish is prohibited to prevent covert targeting on these species. The prohibition removes the incentive that groundfish fishermen might otherwise have to target on the relatively high valued prohibited species, and thereby, results in a lower incidental catch. It also eliminates the market competition that might otherwise exist between domestic halibut fishermen and groundfish fishermen who might land halibut in the absence of the prohibition.

A 20-page analysis (Secretarial review draft dated September 12, 1997) determined that no changes in fishing activities that would affect the amount of groundfish harvested nor the amount of halibut taken as bycatch in the Alaska trawl fisheries was expected by the preferred alternative. The total burden to processors resulting from the preferred alternative could not be estimated because participation would be voluntary; however, based on information acquired through the SDP, costs were estimated at approximately 20 cents per pound for donated halibut.

Regulation Summary

This action authorized the voluntary donation of Pacific halibut taken as bycatch in specified groundfish trawl fisheries off Alaska to economically disadvantaged individuals. Under the prohibited species donation program, NMFS expanded the existing salmon donation program to also authorize distributions by tax-exempt organizations through a NMFS-authorized distributor. The program is limited to dead halibut landed by trawl catcher vessels to shoreside processors.

Results

Waste of salmon and halibut has been reduced by allowing bycatch to be donated to food banks. The food banks in turn distribute the fish to needy people in the northwestern United States. Many fishing companies voluntarily participate in the donation program. In 2015, 482,165 pounds of PSC salmon and 48,285 pounds of PSC halibut were distributed. Of that, 182,000 pounds were donated to Alaska, bring the three year total to over 630,000 pounds. Currently, SeaShare is the only organization authorized by NMFS to retain and distribute PSC fish for hunger relief.



Pacific halibut (*Hippoglossus stenolepis*). Public domain image by Neptune Canada.



Purpose and Need

The TACs for pollock in the BSAI and for pollock and Pacific cod in the GOA have been allocated between the inshore and offshore components of the groundfish fisheries since 1992. Amendments 51/51 were proposed to extend the provisions of Amendment 38 to the BSAI FMP and Amendment 40 to the GOA FMP, which expired on December 31, 1998. Amendments 38 and 40 previously extended BSAI Amendment 18 and GOA Amendment 23, respectively. The original amendments set processor allocations of the pollock TAC in the BSAI and pollock and Pacific cod processor allocations in the GOA, as a response to an early closure in 1989 when several catcher/processors harvested substantial amounts of pollock in the BSAI and GOA and forced an early closure of the GOA pollock fishery. The amendments allocated 35% to the inshore and 65% to the offshore processing sector of the BSAI pollock fishery, and allocated 90% of the cod and 100% of the pollock to the inshore processing sector in the GOA. The Catcher Vessel Operational Area (CVOA) and the Community Development Quota (CDQ) program were also established. The CVOA limited access to pollock within the area to catcher vessels delivering to either inshore or offshore processors. The CDQ program allocated 7.5% of the BSAI pollock TAC to CDQ fisheries.

At its meeting in June 1998, the Council took final action to adopt Amendments 51/51 to the FMPs. By proposing these FMP amendments, the Council intended to

change the inshore/offshore allocations in the BSAI but continue the existing allocations. The AFA, among other things, allocated the BSAI pollock TACs differently than the Council had recommended. The Council held a special meeting November 10-13, 1998, in part to discuss the effects of AFA on its inshore/offshore proposal and other management programs. In light of the AFA, the Council recommended specific changes to its Amendment 51/51 proposal, and on December 15, 1998, NMFS partially approved BSAI Amendment 51 and fully approved GOA Amendment 51. The decision not to approve parts of BSAI Amendment 51 is consistent with the Council's intent for achieving consistency with the AFA as expressed at its meeting in November 1998.

The AFA specifically mandates an allocation of 10% of the pollock TAC to a directed fishing allowance for the CDQ program plus an additional allocation of pollock for incidental catches in all non-pollock fisheries. Of the remaining pollock TAC, the law stipulates the following allocations: 50% to the inshore component, 40% to the offshore component, 10% to the offshore component (motherships). The effective period of the inshore/offshore allocations specified in the AFA is January 1, 1999, through December 31, 2004.

Analysis

A 299-page EA/RIR/IRFA (final draft dated December 9, 1998) was prepared for Amendment 51/51. Five alternatives were considered, including: the no action alternative; a rollover of the existing inshore/

offshore program; several options to revise the BSAI pollock processing inshore/offshore percentages; a set-aside for catcher vessels less than 125' length overall; and a set-aside for catcher vessels less than 155' length overall. The Council's preferred alternative was to allocate 39% of the BSAI pollock TAC inshore and 61% offshore (after CDQs are deducted from the BSAI TAC), and to maintain the current GOA allocations of 90% Pacific cod and 100% pollock to the inshore sector. The Council also adopted a 2.5% set-aside for BSAI catcher vessels less than 125' length overall delivering to processors in the inshore sector. While the Council's preferred BSAI allocation split was not a specified alternative, it was well within the range of BSAI allocation percentages evaluated in the analysis—the analysis evaluated options to allocate 25%, 30%, 40%, and 45% of the BSAI pollock TAC to the inshore sector. With the passage of the AFA, however, the portions of the amendment stipulating BSAI pollock allocations became immaterial, thus only the GOA portions of the amendment and the provisions relevant to the CVOA were approved.

Regulation Summary

As adopted by the Council in June 1998, the BSAI amendment contemplated four changes to the current inshore/offshore allocation regime. In light of the AFA, the BSAI inshore/offshore pollock allocations were disapproved, and the only change (partially) approved related to the Catcher Vessel Operational Area (CVOA). The original Amendment 51 would have

changed the existing CVOA rules by excluding from the CVOA all catcher vessels that deliver pollock to the offshore component (catcher/processors and motherships). Motherships had previously been allowed to operate within the CVOA, receiving and processing pollock harvested by catcher vessels. Catcher/processor vessels had not been allowed to harvest pollock in the CVOA during the B season. In recommending the CVOA portion of Amendment 51, the Council attempted to create parity between motherships and catcher/processor vessels. NMFS approved all of the proposed amendment maintaining the CVOA with the exception of that component. This is because the AFA specifies separate allocations of the pollock TACs for the mothership and catcher/processor sectors, thereby achieving the parity intended by the Council. Hence, the exclusion of catcher vessels from the CVOA that deliver to the offshore component was an unnecessary duplication of an AFA provision, and as such, was inconsistent with National Standard 7. Note that although the approved CVOA provisions are effectively the same as they were for 1996-98, further restrictions on fishing in the CVOA were implemented in 1999 to mitigate the effects of pollock fishing on Steller sea lions and their critical habitat, within which much of the CVOA lies.

Results

The major provisions of this amendment (primarily the percentage allocations of the TAC for pollock processing) were disapproved given the passage of the AFA.



Purpose and Need

Management of the inshore pollock and Pacific cod fisheries of the Western and Central (W/C) Regulatory Area of the Gulf of Alaska (GOA) had become increasingly difficult. The risk of harvest overruns had grown due to TAC amounts that are small relative to the potential fishing effort. The problem has been most acute in the Western Regulatory Area due to the constant potential pressure that numerous large catcher vessels based in the Bering Sea (BS) could cross into the GOA to participate in pollock and Pacific cod openings that have relatively small TACs. NMFS lacked a pre-season vessel registration program that could gauge potential effort in these fisheries prior to openings, and inseason catch information in these fisheries was neither timely nor accurate enough to allow adequate management.

The objective of Amendment 52 was to create a vessel registration program to require vessels to announce their participation in either the BSAI or GOA pollock and Pacific cod fisheries before the fishery commenced. This action is necessary to prevent unexpected shifts of fishing effort between BSAI and GOA fisheries that can lead to overharvests of total allowable catch (TAC) in the Western and Central Regulatory Areas of the GOA. It is intended to further the stated goals and objectives of the BSAI and GOA FMPs.

Analysis

A 25-page EA/RIR/IRFA (public review draft dated January 1998) was prepared for this amendment. Two complementary management actions were considered by the Council, in addition to the status quo alternative. The analysis concluded that the fleet as a whole would benefit if NMFS is able to manage “at risk” fisheries so that quotas are more fully harvested and the overhead costs associated with re-crewing and transiting to the fishing grounds for short term “mop-up” openings could be avoided. A registration requirement would reduce the flexibility of vessel operators to enter and leave fisheries at will. In some cases, this could pose costs for certain operations if they realize mid-course that they would prefer to be participating in a short term fishery for which they have not registered. Nevertheless, while a registration requirement for certain “at risk” fisheries will increase the constraints on the fleet, it will serve to increase the ability of NMFS to manage such fisheries to obtain optimum yield and provide the greatest net benefit to the nation.

Regulation Summary

Under a vessel registration program, NMFS would establish criteria to determine which fisheries would require registration. Based on these criteria, NMFS would create a roster of “registration fisheries” that would be announced at the beginning of each year and supplemented as necessary on an inseason basis throughout the year. Criteria for establishing a registration requirement for a fishery could include:

- 1) the size of the TAC amount or PSC limit specified for the fishery relative to the degree of interest in that fishery,
- 2) a fishery for which the TAC or PSC limit was exceeded by a significant amount in the previous year and the current year’s quota and expected effort are similar,
- 3) a fishery for which the above two criteria may not apply but an expanded interest has developed inseason, and
- 4) a “mop-up” fishery.

Vessel operators would be required to register with NMFS a certain number of days before beginning directed fishing in a registration fishery and penalties would be established for non-compliance.

Results

Due to higher priorities, the vessel registration program was not developed. As a result of the American Fisheries Act of 1998, the structure of the pollock fisheries in the BSAI has been significantly altered, obviating the need for the vessel registration program as originally envisioned by the Council.



Shortraker/Rougheye Rockfish Allocation in Aleutian Islands by Gear

Council Action
February 1999

Proposed Rule
April 28, 1998
63 FR 23261

Final Rule
July 28, 1998
63 FR 40190

Effective
July 22, 1998

Purpose and Need

Shortraker rockfish and rougheye rockfish (SR/RE) are commercially valuable species which are managed together as a complex. However, amounts available to the commercial fisheries are limited by a relatively small total allowable catch (TAC) amount that is fully needed to support incidental catch or bycatch needs in other groundfish fisheries. As a result, the directed fishery for SR/RE typically is closed at the beginning of the fishing year. Bycatch of SR/RE is highest in the Pacific ocean perch (POP) and Atka mackerel trawl fisheries, but SR/RE also are taken in non-trawl fisheries.

In 1997, unanticipated high harvest rates of SR/RE in the POP and Atka mackerel trawl fisheries undermined the effectiveness of inseason management and resulted in harvest amounts that exceeded the acceptable biological catch. Estimates of SR/RE bycatch through mid-1997 indicated that the overfishing level would be reached if fisheries that took these species in the AI were not closed. As a result, NMFS prohibited the retention of Atka mackerel, Pacific cod, and rockfish by vessels using trawl gear and retention of Pacific cod and Greenland turbot by vessels using hook-and-line gear. Thus, although overfishing concerns stemmed primarily from the bycatch of SR/RE in the POP and Atka mackerel trawl fisheries, non-trawl fisheries that also take incidental amounts of these rockfish also were closed, or threatened with closure, to

prevent overfishing of SR/RE. These overfishing closures disrupted fishing plans and resulted in a loss of economic opportunity for the trawl and non-trawl fishing industry. To get at this problem, separate maximum retainable bycatch (MRB) percentages were established for SR/RE that would minimize the impact that "topping off" behavior may have on the rate at which the SR/RE TAC is reached. "Topping off" occurs when vessel operators alter fishing operations to catch more of these species up to the amount under MRB constraints. To minimize this practice, a separate MRB percentage was established for SR/RE of 7 percent relative to certain deepwater species (primarily POP) and 2 percent relative to all other species except arrowtooth flounder, which cannot be used

as a species against which SR/RE may be retained.

In spite of the proposed MRB percentages, overall bycatch amounts of SR/RE still could pose concern because the TAC amounts annually specified for SR/RE are small in comparison to the high volume POP and Atka mackerel trawl fisheries. Consequently, representatives of the trawl and non-trawl industries recommended that the Council adopt an FMP amendment to allocate SR/RE between gear groups.

Analysis

A 27-page EA/RIR (final draft dated June 1998) was prepared for this amendment. Two alternatives including the status quo were considered. The alternative adopted and approved was based on an industry

recommended allocation of SR/RE TAC between trawl and non-trawl vessels, which was intended to provide an allocation to the non-trawl fleet in excess of actual relative harvest in recent years. Trawl industry representatives endorsed this split, recognizing that trawl bycatch rates likely will decrease as a result of the proposed reduction in the MRB percentages for SR/RE. A gear allocation based solely on historical catch between gear groups would not adequately account for the fact that non-trawl fisheries have been preempted in the past by closures resulting from trawl bycatch of SR/RE. The gear-specific allocation of SR/RE will allow more effective management of SR/RE in both fisheries and minimize the potential for over harvest of the SR/RE TAC.

Regulation Summary

At its February 1998 meeting, the Council approved Amendment 53 to the FMP. After subtraction of reserves, this amendment would allocate 30 percent of the remaining SR/RE TAC to non-trawl gear and 70 percent of the remaining SR/RE TAC to trawl gear.

Results

Since the amendment was approved, more SR/RE was landed by vessels using longline gear, and less by those using trawl gear. Also, the inseason management issues relative to unanticipated effort in this fishery were resolved.



Shortraker rockfish (*Sebastes borealis*). Photo courtesy of AFSC.



Individual Fishing Quota Indirect Ownership and Use Caps

Council Action
October 1998Proposed Rule
October 12, 2001
66 FR 52090Final Rule
April 29, 2002
67 FR 20915Effective
May 29, 2002

Purpose and Need

During the 1995-97 IFQ seasons, NMFS broadly interpreted the FMP and regulatory language to allow persons holding initial allocation QS to hire skippers to fish their IFQ on vessels owned by other “persons,” provided that the QS holder could show a corporate association to the owner of the vessel. This policy allows individual QS holders to hire skippers to fish their IFQ on vessels owned by corporations or partnerships in which the individual QS holders are shareholders or partners. The policy also allows corporations or partnerships holding QS to fish the collectively held QS on a vessel owned by individuals who are shareholders or partners in the corporation or partnership. At the beginning of the 1997 IFQ season, NMFS announced to the IFQ fleet that this policy of broadly interpreting the term “person” as it pertains to IFQ hired skipper provisions would continue until the Council could clarify its original intent. Two other clarifying FMP language changes were also included in this action.

Analysis

A 20-page EA/RIR/IRFA (Secretarial Review draft dated January 2001) was prepared for this amendment. Three separate management actions were considered. One status quo and one proposed alternative were considered for each action.

Regulation Summary

Three actions proposed for this plan amendment were:

- 1) Revise the FMP to allow a QS holder's association to a vessel owner, through corporate or other collective ties, to substitute for the QS holder's vessel ownership per se for purposes of hiring a skipper to fish the QS holder's IFQ. (This document analyzes a proposal to revise the current FMP language and pertinent regulations to authorize a QS holder's indirect vessel ownership, through corporate or other collective ties, to serve as a substitute for direct vessel ownership per se for purposes of the IFQ program's hired skipper provisions.)
- 2) Revise the definition of “a change in the corporation or partnership” in the FMPs to include language specific to estates. Estates are included under the definition of the term “Person” in the FMPs and 50 CFR 679.2 as “corporations, partnerships, associations, or other entities.” The FMPs and IFQ implementing regulations require that upon any change in a corporation, partnership, or

other entity that holds QS the QS transfer to a qualified individual. A “change” in a corporation, partnership, or other entity is defined as the addition of a shareholder or partner to the corporation, partnership, or collective entity. This definition is not applicable to estates, because estates are not collective entities which may acquire additional shareholders, partners, or members. Nevertheless, because an estate's QS would not automatically transfer to an heir once the estate is probated, the FMPs and IFQ regulations need to define the point at which estates must transfer their QS to a qualified individual.

- 3) Change sablefish use limits from percentages of the total number of QS units in the QS pool for each area to a specific number of QS units. In June 1996, the Council approved a regulatory amendment to increase the Bering Sea (Area 4) halibut use caps from ½ percent to the QS equivalents of 1 ½ percent based on 1996 QS pools. This amendment also revised the halibut use limits to be expressed as a fixed number of QS units rather than as a percentage, in order to provide QS holders with a more stable reference for measuring their holdings against area use caps. Sablefish IFQ use limits are set in the FMPs. Consequently, the regulatory change to the halibut use limits could not at the same time change the calculation of sablefish use limits to a fixed number of QS units for consistency. This FMP amendment would effect that revision to calculate the sablefish in QS units based on the appropriate percentage of the 1996 QS

pools. This change would standardize the application of use caps for both halibut and sablefish fisheries and would provide the same level of predictability for sablefish QS holdings as currently exists for halibut QS.

Results

Aspects of this amendment will be evaluated in the forthcoming IFQ Program review in 2016



Define Essential Fish Habitat

Council Action
June 1998Proposed Rule
None on FileFinal Rule
April 26, 1999
64 FR 20216Effective
January 20, 1999

Purpose and Need

The Magnuson-Stevens Act was amended in 1996 by the Sustainable Fisheries Act. The new Act mandated that any FMP must include a provision to describe and identify essential fish habitat (EFH) for the fishery, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. Essential fish habitat has been broadly defined by the Act to include “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity”. All eight regional councils are required to amend their fishery management plans by October 1998 to:

- identify and describe EFH for species managed under a fishery management plan;
- describe adverse impacts to that habitat from fishing activities and non-fishing activities;
- recommend conservation and enhancement measures necessary to help minimize impacts, protect, and restore that habitat; and
- include conservation and enhancement measures necessary to minimize to the extent practicable, adverse impacts from fishing on EFH.

The purpose of this amendment is to provide for improved long-term productivity of the fisheries, to allow NMFS and the Council to be more proactive in protecting habitat areas, and by alerting other federal and state agencies about areas of concern.

Federal agencies engaging in activities that may adversely affect EFH must consult with NMFS regarding those activities. NMFS must, and the Council may, make suggestions on how to mitigate any potential habitat damage. The Council will be required to comment on any project that may adversely affect salmon habitat or habitat of any other anadromous fish (smelt, steelhead, etc.).

Analysis

A 364-page EA (final draft dated January 1999) and a background assessment report were prepared for this amendment. Three alternatives including the status quo were considered. The other alternative that was not chosen would have defined EFH only as areas of high concentration for each life stage. The alternative chosen was more conservative in that defining a larger area may offer more protection.

Regulation Summary

The alternative adopted and approved defined EFH as all habitat within a general distribution for a species life stage, for all information levels and under all stock conditions. A general distribution area is a subset of a species range. For any species listed under the Endangered Species Act, EFH includes all areas identified as “critical habitat”. EFH was described in text, tables, and maps. Habitat areas of particular concern were identified as living substrates in shallow and deep waters, and freshwater habitats used by anadromous fish.

Results

After the amendment was approved, NMFS was sued by a coalition of plaintiffs (Earthjustice Legal Defense Fund, Center for Marine Conservation, National Audubon Society, and others) who alleged that the EFH amendment failed to meet statutory requirements (did not analyze the effects of fishing on habitat, and did not impose practicable measures to minimize impacts of fishing gear) and violated the National Environmental Policy Act (NEPA).

In February 2000, the Council reviewed the first draft analysis for management measures that would identify additional habitat areas of particular concern (HAPC) types and areas, and take additional measures to protect HAPC from potential effects caused by fishing activities. Alternative management actions that were considered included making HAPC biota (e.g., mussels, kelp, sponges) a prohibited

species, and prohibiting bottom fishing in areas shown to have concentrations of Gorgonian coral, which have been shown to be long lived (500 yrs), vulnerable to fishing gear, and important habitat for rockfish. Based on public testimony, and input from its advisory committees, the Council voted to split the amendment and associated analysis into two parts. Part one, which the Council adopted as final action in April 2000 was to prohibit the commercial harvest, sale, and processing of sponges and corals. However, this prohibition was never implemented.

The Council further addressed EFH comprehensively in Amendment 78.



Purpose and Need

The 1996 amendments to the Magnuson-Stevens Act defined the terms “overfishing” and “overfished” to mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield (MSY) on a continuing basis. Additionally, it required that all FMPs specify objective and measurable criteria for identifying when the fishery is overfished and, in the case of a fishery which is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing and rebuild the fishery. The Magnuson-Stevens Act further required regional fishery management councils to submit amendments, by October 11, 1998, that would bring fishery management plans into compliance.

The Magnuson-Stevens Act and the revised guidelines indicate that MSY, treated as a target strategy under the current FMP definition of overfishing, should represent a limit rather than a target. This means that “limit” harvest strategies (such as the rules used to specify overfishing levels [OFL]) should result in a long-term average catch that approximates MSY, and that “target” harvest strategies (such as the rules used to specify ABC) should result in catches that are substantially more conservative than the limit. Because tiers 2-4 of the current FMP definition could be interpreted as treating MSY as a target rather than as a limit, Amendment 56 revised tiers 2-4 by changing the default fishing mortality rate

value from F30% to the more conservative estimate of F35%.

Analysis

A 24-page EA (final draft dated June 23, 1998) was prepared for this amendment. Two alternatives including the status quo were considered. The alternative chosen was more conservative in that it consistently treats MSY as a limit rather than a target.

Tiers used to determine ABC and OFL for BSAI groundfish stocks under Amendment 56.

(1) Information available: Reliable point estimates of B and B_{MSY} and reliable pdf of F_{MSY} .

1a) Stock status: $B/B_{MSY} > 1$

$F_{OFL} = m_A$, the arithmetic mean of the pdf

$F_{ABC} \leq m_H$, the harmonic mean of the pdf

1b) Stock status: $\alpha < B/B_{MSY} \leq 1$

$F_{OFL} = m_A \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

$F_{ABC} \leq m_H \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

1c) Stock status: $B/B_{MSY} \leq \alpha$

$F_{OFL} = 0$

$F_{ABC} = 0$

(2) Information available: Reliable point estimates of B , B_{MSY} , F_{MSY} , $F_{35\%}$, and $F_{40\%}$.

2a) Stock status: $B/B_{MSY} > 1$

$F_{OFL} = F_{MSY}$

$F_{ABC} \leq F_{MSY} \times (F_{40\%}/F_{35\%})$

2b) Stock status: $\alpha < B/B_{MSY} \leq 1$

$F_{OFL} = F_{MSY} \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

$F_{ABC} \leq F_{MSY} \times (F_{40\%}/F_{35\%}) \times (B/B_{MSY} - \alpha)/(1 - \alpha)$

2c) Stock status: $B/B_{MSY} \leq \alpha$

$F_{OFL} = 0$

$F_{ABC} = 0$

(3) Information available: Reliable point estimates of B , $B_{40\%}$, $F_{35\%}$, and $F_{40\%}$.

3a) Stock status: $B/B_{40\%} > 1$

$F_{OFL} = F_{35\%}$

$F_{ABC} \leq F_{40\%}$

3b) Stock status: $\alpha < B/B_{40\%} \leq 1$

$F_{OFL} = F_{35\%} \times (B/B_{40\%} - \alpha)/(1 - \alpha)$

$F_{ABC} \leq F_{40\%} \times (B/B_{40\%} - \alpha)/(1 - \alpha)$

3c) Stock status: $B/B_{40\%} \leq \alpha$

$F_{OFL} = 0$

$F_{ABC} = 0$

(4) Information available: Reliable point estimates of B , $F_{35\%}$, and $F_{40\%}$.

$F_{OFL} = F_{35\%}$

$F_{ABC} \leq F_{40\%}$

(5) Information available: Reliable point estimates of B and natural mortality rate M .

$F_{OFL} = M$

$F_{ABC} \leq 0.75 \times M$

(6) Information available: Reliable catch history from 1978 through 1995.

OFL = the average catch from 1978 through 1995, unless an alternative value is established by the SSC on the basis of the best available scientific information
 $ABC \leq 0.75 \times OFL$

Regulation Summary

Amendment 56 revised the ABC and overfishing definitions set under Amendment 44 to be more precautionary. Like Amendment 44, the maximum allowable rates are prescribed through a set of six tiers which are listed below in descending order of preference, corresponding to descending order of information availability. For most tiers, ABC is based on F40%, which is the fishing mortality rate associated with an equilibrium level of spawning per recruit (SPR) equal to 40% of the equilibrium level of spawning per recruit in the absence of any fishing. To further minimize the possibility of catches jeopardizing a stock's long term productivity, there is a buffer established between ABC and OFL. Amendment 56 modified the OFL definition from F30% to F35% for stocks having tiers 2-4 information.

Results

These definitions are currently used in the annual catch limit specifications process.



Pollock Bottom Trawl Gear Prohibition, Reduce Crab and Halibut Prohibited Species Catch Limits

Council Action
June 1998

Proposed Rule
December 29, 1999
64 FR 73003

Final Rule
May 16, 2000
65 FR 31105

Effective
March 1999

Purpose and Need

The Magnuson-Stevens Act was amended in 1996 by the Sustainable Fisheries Act. The new Act emphasized the importance of reducing bycatch to maintain sustainable fisheries. National Standard 9 of the Magnuson-Stevens Act mandates that conservation and management measures

shall minimize bycatch, to the extent practicable, and shall minimize mortality where bycatch cannot be avoided. The objective of Amendment 57 is to reduce bycatch in the BSAI pollock fishery.

Analysis

A 72-page EA/RIR/IRFA (final draft dated November 1999) was prepared for this

amendment. Two alternatives including the status quo were considered. In addition, three options for PSC reductions were evaluated. The alternative chosen prohibited the use of bottom trawls for pollock fishing as FMP language, and the option chosen resulted in the most reduced bycatch of halibut and crabs.

Regulation Summary

Amendment 57 prohibited the use of non-pelagic trawl gear when participating in the BSAI pollock fisheries. The definition of a pelagic trawl is relatively complex, whereas non-pelagic trawls are all other trawls not meeting the pelagic trawl definition. Regulations that define pelagic trawl gear are listed in the accompanying table. In addition, regulations prohibit any vessel engaged in directed pollock fishing from having 20 crabs larger than 1.5 inches carapace width onboard the vessel at any time. Crabs were chosen for the standard because they inhabit the seabed, and if caught, provide proof that a trawl has been in contact with the bottom. Vessels fishing for CDQ pollock were exempted from the non-pelagic trawl gear prohibition.

Amendment 57 also reduced the bycatch limits for halibut and crab due to the bottom trawl prohibition. Halibut bycatch mortality was reduced by 100 mt, and the PSC allowance for red king crabs was reduced by 3,000 animals, for *C. bairdi* crabs by 50,000 animals, and for *C. opilio* crabs by 150,000 animals. For *C. bairdi* crabs, the limit was lowered by 20,000 in Zone 1 and by 30,000 in Zone 2.

Results

The trawl fisheries have prosecuted under lower crab and halibut PSC bycatch limits.

Definition of pelagic and nonpelagic trawl gear.

(§ 672.2 Parts 5 and 7)

(5) Nonpelagic trawl means a trawl other than a pelagic trawl;

(6)...

(7) Pelagic trawl means a trawl that:

(I) Has no discs, bobbins, or rollers;

(ii) Has no chafe protection gear attached to the foot rope or fishing line;

(iii) Except for the small mesh allowed under paragraph (7)(ix) of this definition:

(A) Has no mesh tied to the fishing line, head rope, and breast lines with less than 20 inches (50.8 cm) between knots, and has no stretched mesh size of less than 60 inches (152.4 cm) aft from all points on the fishing line, head rope, and breast lines and extending past the fishing circle for a distance equal to or greater than one half the vessel's length overall; or

(B) Has no parallel lines spaced closer than 64 inches (162.6 cm), from all points on the fishing line, head rope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm), extending aft for a distance equal to or greater than one half the vessel's LOA;

(iv) Has no stretched mesh size less than 15 inches (38.1 cm) aft of the mesh described in paragraph (7)(iii) of this definition for a distance equal to or greater than one half the vessel's length overall;

(v) Contains no configuration intended to reduce the stretched mesh sizes described in paragraphs (7)(iii) and (iv) of this definition;

(vi) Has no flotation other than floats capable of providing up to 200 pounds (90.7 kg) of buoyancy to accommodate the use of a net-sounder device;

(vii) Has no more than one fishing line and one foot rope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle;

(viii) Has no metallic component except for connectors (e.g., hammerlocks or swivels) or net-sounder device aft of the fishing circle and forward of any mesh greater than 5.5 inches (14.0 cm) stretched measure;

(ix) May have small mesh within 32 feet (9.8 m) of the center of the head rope as needed for attaching instrumentation (e.g., net-sounder device); and

(x) May have weights on the wing tips;



Reduced Chinook Salmon Prohibited Species Catch Limits, Modify Chinook Salmon Savings Area

Council Action
February 1999

Proposed Rule
December 21, 1999
64 FR 71390

Final Rule
February 2, 2000
65 FR 60587

Effective
November 13, 2000

Purpose and Need

Chinook salmon bycatch control measures, originally implemented under Amendment 21b, were thought to be needed for two reasons. First, many Chinook salmon stocks are fully utilized, and uncontrolled bycatch constitutes an additional, unaccounted for allocation of the resources. Second, uncontrolled bycatch levels exceeding recent highs may lead to conservation problems for Alaskan and Canadian Chinook salmon populations.

In 1996, the Magnuson-Stevens Act was amended in 1996 by the Sustainable Fisheries Act. The new Act emphasized the importance of reducing bycatch to maintain sustainable fisheries. National Standard 9 of the Magnuson-Stevens Act mandates that conservation and management measures shall minimize bycatch, to the extent practicable, and shall minimize mortality where bycatch cannot be avoided. The objective of Amendment 58 is to reduce Chinook salmon bycatch in the BSAI groundfish fisheries.

Analysis

A 238-page E A/RIR/IRFA (final draft dated September 29, 1999) was prepared for this amendment. Five primary alternatives including the status quo were considered along with several options for seasonal allocation, area closures, and applicable fisheries. The alternatives not chosen would have established a time/area closure but without a PSC limit that triggered a closure, or established a closure based on an annual limit of 36,000 salmon. The preferred alternative was the most conservative in that it reduced the PSC limit to only 29,000 Chinook salmon taken in the pollock fisheries.

Regulation Summary

Amendment 58 reduced the amount of Chinook salmon allowed to be taken as bycatch in BSAI trawl fisheries. Specifically, the adopted alternative did the following (1) reduced the chinook salmon PSC bycatch limit from 48,000 to 29,000 chinook salmon over a 4-year period, (2) implemented year-round accounting of chinook salmon bycatch in the pollock fishery, beginning on January 1 of each year, (3) revised the boundaries of the Chinook Salmon Savings Areas, and (4) set new closure dates. In the event the limit is triggered before April 15, the Chinook Salmon Savings Area closes immediately. The closure would be removed on April 16, but would be reinitiated September 1 and continue through the end of the year. If the limit were reached after April 15, but before September 1, then the areas would close on September 1. If the limit were reached after September 1, the areas would close immediately through the end of the year.

Results

Total number of Chinook salmon taken annually as bycatch in BSAI groundfish fisheries is shown in the table below.

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Chinook Salmon	22,691	63,179	50,519	55,427	12,924	7,470	37,970	37,555	50,939	59,965	75,020	87,080	130,005	23,898	14,316	12,200	27,974	13,504	16,977	19,343	27,830



Purpose and Need

In 1987, concerned with excess harvesting capacity in the groundfish, crab, and halibut fisheries of the BSAI and GOA, the Council established a committee to examine the problem of overcapitalization. Upon conclusion that allocation conflicts and overcapitalization would worsen under the current open access system, the committee recommended a limited access management approach for these three fisheries. Concerned with the potential for speculative entry into the fisheries during discussions of management alternatives, the Council adopted Amendment 23 to the BSAI FMP and Amendment 28 to the GOA FMP, which required a moratorium permit for vessels within specific vessel categories that harvest groundfish and BSAI crab resources off Alaska. Generally, a vessel qualified for a moratorium permit if it made a legal landing of any moratorium species during the qualifying period of January 1, 1988 through February 9, 1992.

The purpose of Amendments 23 and 28 was to provide for an interim measure to slow significant increases in the harvesting capacity of the groundfish and crab fishing fleets until additional measures, such as the License Limitation Program (LLP) could be implemented. The LLP is part of a developing Comprehensive Rationalization Plan intended to resolve the overall issue of overcapitalization on a long-term basis, and transition the fisheries from an open access management system to a more market-based, limited access system. Without a

moratorium, the Council feared that potentially unlimited new entry into the fishery would exacerbate overcapitalization and hinder the ultimate development of a successful Comprehensive Rationalization Plan.

The original amendments instituting the moratorium (Vessel Moratorium Program) were scheduled to expire on December 31, 1998. The License Limitation Program, intended to replace the Vessel Moratorium Program, would not be in effect until January 1, 2000. Therefore, regulatory action was necessary to extend the moratorium in order to eliminate the one year lag time between the expiration of the moratorium and the beginning of the LLP.

Analysis

A 10-page RIR (final draft dated August 1998) was prepared for Amendments 59, 57, and 9. Two alternatives were considered: 1) allowing the Vessel Moratorium Program to expire (no action alternative), and 2) extending the program for one year. The analysis determined that although all of the impacts of a one-year lapse between the moratorium program and the LLP were not known, one potentially significant impact could be speculative entry into the affected fisheries by persons who would not qualify to fish under the moratorium program or the LLP. Because allowing new entry would exacerbate overcapitalization and the race for fish, the analysis determined that the no action alternative was inconsistent with the overall intent of comprehensive rationalization. The

preferred alternative extended the moratorium for one year, allowing time for NMFS to complete the design and implementation of the LLP.

Regulation Summary

The final rule simply extended the Vessel Moratorium Program and the existing moratorium permits through December 31, 1999. The regulation also provided that no person could apply for a new moratorium permit after the original moratorium program expiration date of December 31, 1998, unless the application was based on a moratorium qualification that was used as a basis for obtaining a moratorium permit issued on or before that date.

Results

As anticipated, the LLP to limit entry into the groundfish and crab fisheries off of Alaska went into effect January 1, 2000, effectively replacing the Vessel Moratorium Program (The authorization for the LLP is contained in BSAI Amendment 60/GOA Amendment 58/BSAI Crab Amendment 10). For general licenses, the base qualifying period established was January 1, 1988, through June 27, 1992, approximately four months longer than the moratorium qualification period, in order to be consistent with the Council's published cutoff date for qualification under the Comprehensive Rationalization Plan. The LLP also required an area endorsement for the BS, AI or the GOA, to provide for present participation in the fisheries (the qualifying period being January 1, 1992 through June 17, 1995). The moratorium established by Amendments 23 and 28 and extended by Amendments 59, 57, and 9 limited speculative entry into the fisheries while the LLP was being developed and approved, and kept the overcapitalization situation from worsening.



Adjustments to the License Limitation Program

Council Action
October 1998

Proposed Rule
January 16, 2001
66 FR 17397

Final Rule
September 24, 2001
66 FR 48813

Effective
January 1, 2002

Purpose and Need

Following the approval of the original LLP program, industry members requested that the Council revise several of the provisions and qualification criteria, including adding a recent participation criteria for crab. BSAI Amendment 60, GOA Amendment 58, and BSAI Crab Amendment 10 encompass a package of changes focusing primarily on further capacity reductions and transferability restrictions, to tighten up the License Limitation Program before implementation.

Analysis

A 203-page EA/RIR/IRFA (final draft dated July 1999) was prepared for these amendments. Six proposed actions were analyzed along with the status quo for each alternative, and the five changes outlined above were adopted. The change that was not approved would have clarified the Council's intent that catch history transfers be recognized, except those occurring after June 17, 1995, and where the owner of the vessel at that time was unable to document a vessel under Chapter 121, Title 46, U.S.C. NOAA General Counsel advised the Council that this action may violate foreign reciprocity agreements listed in the Magnuson-Stevens Act; therefore, the Council decided not to proceed with this proposed action.

Regulation Summary

Five changes were adopted and approved under these amendments: 1) a requirement that the vessel itself would be a specific characteristic of the license and could not be severed (i.e., the license could not be used on any other vessel); 2) license designations for the type of gear authorized to harvest LLP groundfish as either "trawl" or "non-trawl" gear (or both); 3) rescission of the Community Development Quota (CDQ) exemption and thus the requirement that CDQ vessels hold a crab or groundfish license; 4) the addition of a crab recency requirement which requires one landing during 1/1/96-2/7/98 in addition to the general license and area endorsement qualifications; and 5) allowance of limited processing (1 mt) for vessels <60' LOA with catcher vessel designations. The most significant addition under these amendments was the recent participation requirement of at least one landing in the king and Tanner crab fisheries between January 1, 1996 and February 7, 1998, which applied only to the base qualifying period under the crab LLP.

Results

Amendment 60 reduced the number of vessels eligible to participate in the overcapitalized crab fisheries, and provided further capacity restrictions in the groundfish fisheries.



American Fisheries Act Implementation

Council Action
June 1999

Proposed Rule
December 17, 2001
66 FR 65028

Final Rule
December 30, 2002
67 FR 79692

Effective
January 29,
2003 – December
31, 2008

Purpose and Need

In October 1998 the U.S. Congress passed the American Fisheries Act to achieve the following primary objectives:

- 1) remove excess capacity in the offshore pollock sector through the retirement of 9 factory trawlers (through a combination of appropriated funding and a loan to the onshore sector);
- 2) establish U.S. ownership requirements for the harvest sector vessels;
- 3) establish specific allocations of the BSAI pollock quota as follows - 10% to the western Alaska CDQ program, with the remainder allocated 50% to the onshore sector, 40% to the offshore sector, and 10% to the mothership sector;
- 4) identify the specific vessels and processors eligible to participate in the BSAI pollock fisheries;
- 5) establish the authority and mechanisms by which the pollock fleet can form fishery cooperatives; and,
- 6) establish specific measures to protect the non-AFA (non-pollock) fisheries from adverse impacts resulting from the AFA or pollock fishery cooperatives.

In addition, the AFA included provisions for the North Pacific Fishery Management Council to enact measures as necessary to further protect non-AFA fisheries from adverse impacts resulting from the AFA and pollock fishery cooperatives. In addition to implementing the prescribed portions of the AFA, Amendment 61 contains various specific protective measures developed by

the Council which limit the pollock industry's participation in other fisheries - these are referred to as 'sideboards'.

Analysis

The original analysis for Amendment 61, upon which the emergency rules are based, is 320 pages plus several appendices. That analysis focuses on alternatives for establishing sideboard limits for the AFA harvesters and processors, and also examines alternatives for the structure of inshore sector co-ops (the relationship between harvest vessels and the shore plants to which they deliver pollock). Primarily, the alternatives analyzed cover a wide range of options for determining the amount of the sideboard limits for each sector, whether such sideboards are applied at the sector level vs individual vessel/plant level, and whether and to what extent there may be exemptions from the sideboards. The analysis also examines the ownership structure of the pollock industry to determine the entities and companies to which sideboards will be applied. Implementation and monitoring aspects of the various alternatives are also considered. The EIS further examined the prescribed measures of the AFA, including the specific sector allocations and limited entry aspects of the Act.

Regulation Summary

Regulations establish the sector allocations of pollock, define the eligible vessels and processors, define the vessel/processor co-op linkages (which vessels are eligible for which co-ops), make allocations of the pollock TAC among each of the co-ops, and define the sideboard amounts of crab and non-pollock groundfish (based on historical share) that can be harvested and processed by the AFA operators, in both the BSAI and the GOA.

Results

The AFA was fully implemented in 2000 via emergency rules, with permanent implementing regulations (through at least 2004) in 2002. Several issues continued to consume NMFS and Council resources. Included are further consideration of the issues of inshore co-op structure, processing sideboards for crab and groundfish, recalculation of sideboard amounts, consideration of further exemptions from sideboards, and vessel replacement.



Single Geographic Location and Inshore/Offshore Language Changes

Council Action
April 2008

Notice of Availability
April 2, 2009
74 FR 14950

Final Rule
July 17, 2009
74 FR 34701

Effective
August 17, 2009

Purpose and Need

Single geographic location restriction originated in Amendment 18/23, the initial inshore/offshore allocation. The restriction applied to floating processors processing targeted pollock and GOA Pacific cod. A processing vessel could leave specified inshore location to process other species of groundfish, but if they processed pollock or GOA Pacific cod, the processing vessel would have to return to its original location where it processed these species at the beginning of the season. In October of 1998, the American Fisheries Act was signed into law. The Act, among other things, established specific allocations of the BSAI pollock quota to onshore, offshore and motherships and established the authority and mechanisms by which the pollock fleet could form fishery cooperatives. As a result of these allocations and allowance for cooperatives, some in the industry approached the Council to revise the single geographic restriction from one year to one week. In October 2001, the Council requested staff to provide an analysis of the single geographic location restriction revision. Revising the single geographic location restriction would provide greater flexibility for AFA-qualified inshore floating processors during a fishing year allowing these floaters to process targeted BSAI pollock in more than one geographic location.

The inshore/offshore portion of this amendment would remove obsolete and

inconsistent language in the Groundfish FMP. With the passage of AFA, inshore/offshore language in the FMP was superseded. As a result, inshore/offshore language currently contained in the FMP is obsolete or no longer consistent with AFA.

Analysis

61-page EA was prepared for this amendment. The analysis included options for single geographic location and inshore/offshore revisions. Two options, including status quo, were considered for single geographic location revisions. Five options, including status quo, were considered for the inshore/offshore revisions. Two of these options addressed issues in the Gulf of Alaska Groundfish FMP.

Regulation Summary

The regulation allows AFA inshore floating processors to relocate in state waters in the Bering Sea directed pollock fishery between reporting weeks for a maximum of four times per calendar year. In addition, AFA inshore floating processors would be required to process all GOA pollock and Pacific cod in the same location at which they processed these species in 2002. The Council selected preferred alternatives for inshore/offshore revisions in June 2002. The regulations also:

- 1) updated the CVOA to accommodate AFA-related changes,
- 2) removed references to BSAI inshore/offshore from the GOA FMP, and
- 3) removed the December 31, 2004, sunset date for GOA inshore/offshore allocations from the GOA FMP. Regulations removing obsolete inshore/offshore language from the BSAI FMP were implemented via Amendment 83.

Results

Originally, the single geographic location restriction was implemented in the inshore/offshore regulations to prevent floating processors, which have limited mobility and which operate in the inshore processing sector, from having an unfair economic advantage over operators of onshore processing plants. It was also intended to prevent offshore catcher/processors and motherships, which have greater mobility, from entering the inshore sector. With the passage of the AFA in 1998, and the associated cooperative agreements, these concerns diminished in the BSAI pollock target fishery. The most obvious potential benefit of change to the single geographic location is the increased efficiency that accrues to the stationary floating processor sector. These efficiency gains would be realized by both the floating processing plant and those catcher vessels delivering to it, by reducing delivery costs and improving pollock production quality.



Classify Skates, Sharks, Sculpins, and Octopus as Target Species (Tabled)

Council Action
October 1998

Summary

In October 1998, at the request of the joint Board of Fisheries/North Pacific Council committee, the council initiated an analysis for shark and skate management that considered 3 action alternatives. The Council took up the issue again in October 1999 and added three new alternatives based on the recommendation of the Advisory Panel. The Council refined and modified the amendments again in April 2001 to include squid, octopi, and sculpins in the analysis that combined a number of proposed actions:

- 1) separate BSAI and GOA “other species” into their component groups,
- 2) allow determination of ABCs for GOA groups,
- 3) prohibit directed fishing for sharks and skates,
- 4) prohibit shark finning,
- 5) remove “other species” from the multi-species CDQ program.

By October 2003 the BSAI Amendment 63 package was tabled and only the GOA Amendment 63 package moved forward. After the implementation of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), the Council once again took up skate management and in October 2009 and April 2010 initiated BSAI Amendment 95 and 96, respectively. These amendments implemented maximum retainable amounts for the BSAI skate

complex and improved the description of the harvest specification process.

Top: Cabezon (*Scorpaenichthys marmoratus*) guarding eggs. Photo courtesy of AFSC.

Bottom Left: Giant Pacific Octopus (*Enteroctopus dofleini*). Photo courtesy of NOAA.

Bottom Right: Salmon shark (*Lamna ditropis*). Photo courtesy of AFSC.



Pacific Cod Fixed Gear Allocations

Council Action
June 1999

Proposed Rule
May 26, 2000
65 FR 34133

Final Rule
August 24, 2000
65 FR 51553

Effective
September 1, 2000

Purpose and Need

In 1996, NMFS published the final rule for Amendment 46, which allocated the TAC for BSAI Pacific cod among three main gear sectors: jig, trawl, and fixed. The proportions of the allocations were based on historical participation in the fishery and included a number of economic, social, and biological factors. Since the allocations were assigned as an amendment to the BSAI FMP, an amendment was necessary to reallocate percentages of the TAC to the gear-type sectors. Since Amendment 46, shortened or cancelled crab seasons in the BSAI and increased cod prices prompted a substantial participation shift from the BSAI pot crab fishery to the BSAI pot cod fishery. Since the allocated TAC was based on pre-influx participation in the cod fishery, fishermen who had traditionally participated in the Pacific cod fishery feared that their portion of the gear harvest share would be reduced to accommodate new entrants. At the June 1999 meeting, the Council drafted a problem statement in response to the growing concerns. The problem statement called for prompt action to stabilize the BSAI fixed gear cod fishery until comprehensive rationalization was complete.

Analysis

A 9-page EA and 17-page RIR analysis were prepared to analyze a status quo alternative and an alternative to apportion the BSAI Pacific cod fixed gear TAC. Under Alternative 2, four options were considered for what years of catch history to include when determining the TAC for BSAI Pacific cod by gear type. When providing a rationale for the allocation, the Council stated that setting aside 1.4 percent for catcher vessels less than 60 feet LOA would ensure that the smaller catcher vessels would have cod available even after the larger catcher vessels in their sector had taken their allocation. Roll-overs would be apportioned to freezer longline and pot sectors according to the actual harvest of roll-overs from 1996-1998. Based on the preferred option, the Council used historical harvest data between 1996 and 1998 to determine that pot C/Ps harvested 74.3 percent of the Pacific cod taken by pot, and CVs harvested the remaining 25.7 percent. This data provided a rough estimate of what the distribution of catch within the pot sector would be in the future, assuming the structure of the fishery remained constant. The RIR found that revenue changes between baseline and the Council's preferred alternative were primarily due to 1) relatively less catch in 1998 than other years considered by the Council, which was likely due to relatively low cod prices and a large opilio GHL; and 2) the Council's desire to provide fishing opportunities for smaller vessels.

Regulation Summary

Amendment 64 made three changes to the existing FMP: reallocated Pacific cod TAC to jig, fixed, and trawl gear sectors, created seasonal apportionments to be set forth in regulations, and directed fishing allowances within the fixed gear sector. The allocations within the fixed gear sector are as follows:

- 80%** to catcher/processor vessels using hook-and-line gear
- 0.3%** to catcher vessels using hook-and-line gear
- 18.3%** to vessels using pot gear
- 1.4%** to fixed-gear catcher vessels less than 60 feet LOA

The regulation continued the 50/50 catcher vessel/catcher processor split in the trawl allocation established in Amendment 46.

The Council voted to sunset the amendment package on December 31, 2003. Either the continuation of existing allocations or reallocation after that date would require Council and Secretarial approval of a new amendment.

Results

The Pacific cod allocations for fixed gear were further modified by Amendment 77.



Habitat Areas of Particular Concern Harvest Control Measures (Not Implemented)

Council Action
September 2000

Purpose and Need

FMPs should specify specific types or areas of habitat within EFH as habitat areas of particular concern (HAPC) based on one or more of four considerations: ecological function, sensitivity to human degradation, extent that human activities are stressing the habitat type, and rarity of the habitat type. Under Amendments 55/55, the council identify three HAPC types as HAPC: living substrates in shallow waters (e.g., eelgrass), living substrates in deep waters (e.g., corals), and freshwater areas used by anadromous fish. The Council solicited proposals to identify HAPC areas, and establish conservation measures to minimize, to the extent practicable, adverse effects of fishing on HAPC.

In February 200, the Council reviewed an analysis that would identify additional HAPCs and two measures to protect HAPC from fishing impact: prevent direct fishing on HAPC biota (corals, sponges, kelp, rockweed and mussels), and establish closure areas for gorgonian coral protection. The Council decided to move forward with the amendment to control harvests of HAPC biota, but put off a decision on HAPC conservation by establishing a more comprehensive and iterative process for HAPC identification and habitat protection involving researchers, stakeholders, and management agencies.

In April 2000, the Council took final action on harvest control measures of HAPC Biota. The purpose of this amendment was to provide for improved long-term productivity of the fisheries by controlling

harvest on invertebrates that provide important habitat for fish, but have the potential to develop into large-scale commercial fisheries.

Analysis

A 67-page EA (draft dated March 6, 2000) was prepared for this amendment. Three alternatives including the status quo were considered. The alternatives include establishing HAPC biota as a prohibited species, or establishing a new HAPC category to allow for a controlled fishery to develop. Various options would allow some HAPC species (e.g., coral and sponges) to be prohibited from harvest, while allowing controlled fisheries to occur on the remaining species (e.g., kelp and mussels).

At the April 2000 meeting, the Council took final action on harvest control measures of HAPC Part 1. The Council voted to add corals and sponges to the prohibited species category. This action would have essentially split prohibited species into two types: the first type would continue to allow no retention for halibut, salmon, herring, and crab species, and the second type would include only corals and sponges as prohibited species whose management would be specified in the regulations. The HAPC-prohibited species regulations would allow retention, but would prohibit the sale, barter, trade, or processing of corals and sponges. Kelp (including rockweed) and mussels would not be subject to any management actions.

Regulation Summary

In February 2001, NMFS informed the Council that it would not be pursuing Amendment 65 regulations because the approach could not fully achieve the stated goal of preventing a fishery from developing for corals and sponges. NMFS instead suggested that the most efficient option would be for the Council to ask the state to prohibit commercial fishing for these HAPC species in the EEZ outside of state waters. The Council wrote a letter to the Alaska Board of Fisheries (dated 2/8/01) requesting this action. The BOF then enacted 5AAC 38.062(e) in 2003, prohibiting retention of corals and sponges within the 3-mile limit.

Additionally, due to the court case on Essential Fish Habitat (see Amendment 55), the further action on HAPC was put on hold.

Results

Amendment 65 was not implemented. HAPC was later addressed in the EFH EIS in Amendment 78.



Removing Allocation of Squid, and Defining Directed Fishing for Pollock Under the Western Alaska Community Development Quota Program

Council Action
June 1999

Proposed Rule
July 7, 2000
65 FR 44018

Final Rule
March 7, 2001
66 FR 13672

Effective
April 6, 2001

Purpose and Need

Through the CDQ program, the Council and NMFS allocated a portion of the BSAI groundfish, prohibited species, halibut, and crab TAC limits to 65 eligible Western Alaska communities. These communities had to use the proceeds from the CDQ allocations to start or support commercial fishery activities that resulted in ongoing, regionally based, commercial fishery or related business. The CDQ program began in 1992 with the allocation of 7.5% of the BSAI pollock TAC. The fixed gear halibut and sablefish CDQ allocations began in 1995 as part of the halibut and sablefish IFQ program. In 1998, the allocations of 7.5% of the remaining groundfish TACs, 7.5% of PSC, and 7.5% of the crab GHs were added to the CDQ program.

With the addition of the remainder of the groundfish species and PSC allocations, NMFS implemented regulations combining two separate CDQ fisheries—pollock, and fixed gear halibut and sablefish—with the new groundfish and prohibited species into the multispecies groundfish and halibut CDQ fisheries. Under these regulations, all groundfish catch and PSC by vessels fishing for CDQ groups accrued against the CDQ groups' allocation, and none of the groundfish or PSC caught in the groundfish CDQ fisheries accrued against the non-CDQ fisheries' TACs or PSC limits.

According to a provision in the AFA, NMFS had to estimate the expected incidental catch of pollock in the non-Pollock CDQ fisheries in order to provide a sufficient

amount of pollock in the ICA to cover incidental catch in the CDQ and non-CDQ fisheries. To meet this requirement, NMFS had to define directed pollock fishing for Western Alaska CDQ participants to determine incidental catch rates.

Analysis

A 44-page EA/RIR/IRFA was prepared for Amendment 66 that analyzed four action alternatives. The EA determined that implementation of the preferred alternative to define directed fishing for pollock CDQ as a haul or a delivery consisting of at least 60% pollock would not significantly affect the quality of the human environment.

The RIR found that CDQ groups benefit from alternatives that maximized the amount of pollock from the CDQ fisheries that accrued against the pollock ICA. It also concluded that the preferred alternative would not result in increased costs as a result of new recordkeeping and reporting requirements.

In addition, the Council considered two alternatives for defining directed fishing for pollock that were not carried forward in the analysis:

- 1) Based on the percent of pollock in a weekly reporting period rather than the haul or delivery
- 2) Based on the predominant species in the haul or delivery rather than on a specific percentage of pollock

Regulation Summary

In addition defining directed pollock fishing, the regulatory language excluded squid from the 7.5% allocation of the TAC for all BSAI groundfish species or species groups.

Results

CDQ groups have been successful in catching their allocations of groundfish.



Pacific Cod Species and Gear Endorsements to License Limitation Program License

Council Action
April 2000

Proposed Rule
October 1, 2001
66 FR 49908

Final Rule
April 15, 2002
67 FR 18129

Effective
May 15, 2002

Purpose and Need

In June 1995, the Council approved the License Limitation Program (LLP) for vessels operating in Federal waters off Alaska's coast (BSAI Amendment 39/GOA Amendment 41). Vessels began fishing under that program on January 1, 2000. Since the LLP was approved, changes in the fixed gear fisheries prompted industry to petition the Council to further allocate Pacific cod in the BSAI among the various sectors of the fixed gear fleets. BSAI Amendment 64, adopted at the October 1999 Council meeting, encompassed these changes and established separate Pacific cod directed fishing allowances for different sectors of vessels using hook-and-line or pot gear. The Pacific cod Total Allowable Catch (excluding the amount of BSAI Pacific cod taken as incidental catch in other groundfish fisheries by fixed gear vessels) was allocated as follows: 80% to freezer longline vessels; 0.3% to longline catcher vessels; 18.3% to pot gear vessels; and 1.4% to catcher vessels (longline or pot) less than 60 feet length overall. Amendment 64 was approved by NMFS on July 13, 2000.

Participants in the BSAI fixed gear cod fishery include longline and pot fishermen with extensive catch histories. However, given the economics of the current cod fishery, persons may wish to bring vessels into the fishery that have little or no history in the BSAI cod fishery. Public testimony and implementation of the original LLP has shown that there is considerable latent

capacity in the fixed gear Pacific cod fishery, especially in the pot fleet (many vessels are qualified under the LLP but to date have not participated to a great degree in the cod fishery) and freezer longline fleet. This action is in response to concerns that the stability of this fully utilized fishery is threatened by new entrants, driven in part by recent increases in the market value of cod and the decline of the opilio crab resource. At the April 1999 meeting, the Council initiated an analysis to add a Pacific cod endorsement to BSAI fixed gear licenses as a follow-up amendment to the recent allocations.

Amendment 67 establishes participation and harvest requirements for a BSAI cod endorsement for fixed gear vessels in the directed commercial BSAI Pacific cod fishery. It is intended to limit entry into the fishery by substantial numbers of fixed gear vessels that have not participated, or have not participated at a level that could constitute significant dependence on the fishery, in the past. Without the action, a potential of 67 catcher processors and 365 catcher vessels could prosecute the fixed gear Pacific cod fishery under the LLP. This

is approximately fifty-seven more vessels than have participated in the fishery to any degree since 1995.

Analysis

A 105-page EA/RIR/IRFA and appendix (public review draft dated March 2000) were prepared for this amendment. The analysis outlined several participation and harvest options for each gear sector of the fixed gear fleet, as well as the no action alternative. The analysis also noted that while the official number of LLP qualified vessels was not yet finalized at the time of review, the analysis presented both the maximum number of qualifying vessels under the recent participation criteria and the estimated number of LLP qualified vessels to provide a comprehensive look at the effect of limiting entry into the fishery. The Council considered a wide range of alternatives, and the chosen alternative was well within the range of alternatives analyzed.

Regulation Summary

Amendment 64 made three changes to the The preferred alternative identified by the Council consists of different qualification criteria for freezer longliners, longline catcher vessels, pot catcher processors, and pot catcher vessels, as outlined below. Additional provisions addressing the combining of catch histories, hardships, multiple endorsements, and bait landings are detailed in the regulations.

Results

Beginning in January 2003, a Pacific cod endorsement, specific to the non-trawl gear used by the vessel, must be specified on a person's LLP groundfish license for that person to participate in the hook-and-line or pot gear BSAI Pacific cod fisheries. Hook-and-line and pot vessels <60' LOA are exempt from this requirement.

Vessel Type	Participation Years	Harvest Requirement
Freezer longline vessels	Any one year 1996-1999	270 mt in any one year
Longline catcher vessels	No action for vessels <60 feet LOA Vessels >60 feet: any one year 1995-1999	7.5 mt in any one year*
Pot catcher processors	Any two years 1995-1998	300,000 lbs in each two years
Pot catcher vessels	No action for vessels <60 feet LOA Vessels >60 feet: any two years 1995-1999	>100,000 lbs in each two years

*Jig landings of cod (by vessels of any length) count towards qualification for the endorsement as if they had been made with longline gear.



Pacific Cod Allocation (Withdrawn)

Presented to Council (took no action)
June 2002

Purpose and Need

In June 1995, the Council approved the License Limitation Program (LLP) for vessels operating in Federal waters off Alaska's coast (BSAI Amendment 39/GOA Amendment 41). Vessels began fishing under that program on January 1, 2000. Since the LLP was approved, changes in the fixed gear fisheries prompted industry to petition the Council to further allocate Pacific cod in the BSAI among the various sectors of the fixed gear fleets. BSAI Amendment 64, adopted at the October 1999 Council meeting, encompassed these changes and established separate Pacific cod directed fishing allowances for different sectors of vessels using hook-and-line or pot gear. The Pacific cod Total Allowable Catch (excluding the amount of BSAI Pacific cod taken as incidental catch in other groundfish fisheries by fixed gear vessels) was allocated as follows: 80% to freezer longline vessels; 0.3% to longline catcher vessels; 18.3% to pot gear vessels; and 1.4% to catcher vessels (longline or pot) less than 60 feet length overall. Amendment 64 was approved by NMFS on July 13, 2000.

At the time the Council approved Amendment 64, it acknowledged that a further split between the pot catcher processor sector and pot catcher vessel sector may be necessary to ensure the historical harvest distribution between the pot sectors in the BSAI Pacific cod fishery. Concern was expressed that the pot sector needed the stability of a direct gear

allocation, much like was done for the hook-and-line sector under Amendment 64. However, because the public had not been noticed that this action would be taken under Amendment 64, the Council decided to delay action specific to the pot sector and include the proposal in a follow-up amendment (Amendment 68). The following problem statement was adopted for the analysis of the effects of Amendment 68:

The catcher processor and catcher vessel pot fisheries for Pacific cod in the BSAI are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining ABC/TAC.

Pot catcher processors who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from pot catcher vessels who want to increase their Pacific cod harvest. This requires prompt action to promote stability in the BSAI pot cod fishery until comprehensive rationalization is completed.

Analysis

A 79-page EA/RIR/IRFA (public review draft dated June 2002) was prepared for this amendment. The analysis outlined two primary alternatives: 1) no action, or 2) establish separate direct allocations to the pot catcher processor and pot catcher vessel sectors in the BSAI Pacific cod

fishery. Six options were provided under Alternative 2 to determine a method by which to determine the split between the pot sectors, based on combinations of years of catch history from 1995-1999. In addition, the analysis contained options to determine whether to also apportion reallocated quota the pot sector may receive annually from the trawl and jig sectors between pot catcher processors and pot catcher vessels. Suboptions were also included to determine how to reallocate any quota projected to remain unused by the pot sectors on an annual basis.

Results

The Council voted to take no action on Amendment 68. The amendment would have further split the 18.3% of the fixed gear Pacific cod TAC allocated to the pot fleet under Amendment 64 according to recent catch histories from 1995 - 1999. The Council decided to take no action, partly due to the potential implications of the Pacific cod endorsement required under BSAI Amendment 67 which will be effective January 1, 2003. The Council also noted that BSAI Amendment 64, which established the BSAI Pacific cod allocations to the fixed gear sectors, including the 18.3% allocated to pot vessels, expires December 31, 2003. Therefore, continuing or modifying the allocations of Pacific cod among the hook-and-line and pot gear sectors in the BSAI after that date will require Council and Secretarial approval of a new amendment. This amendment (BSAI Amendment 77) was initiated by the Council in December 2002 and included alternatives and options to establish separate allocations between the pot sectors.



American Fisheries Act Inshore Cooperative Contracts with Catcher Vessels Outside Cooperative

Council Action
June 2001

Proposed Rule
August 23, 2002
67 FR 54610

Final Rule
February 11, 2003
68 FR 6833

Effective
March 13, 2003

Purpose and Need

In 1998, the American Fisheries Act (AFA) was signed into law, allowing the BSAI pollock fleet the opportunity to rationalize the fishery through the formation of cooperatives while protecting non-AFA participants in other fisheries. The AFA eliminated the race for pollock through the establishment of cooperatives with specific provisions for their allocations, structure, and participation by catcher vessels and processing plants, as well as annual reporting requirements and excessive share limits. In response to a directive in the AFA, the Council added measures to protect other fisheries from adverse effects arising from the exclusive pollock allocation. Cooperative fishing began under the AFA program in 1999. The Council heard inshore sector concerns of the adverse economic impacts of prohibiting members of an inshore cooperative from leasing their pollock to members of other AFA-eligible inshore cooperatives, as defined in AFA regulations. The ability for the AFA inshore sector to lease quota was limited to the point where the market did not function properly.

In turn, the Council adopted a problem statement identifying the need to increase the flexibility of quota leasing in the AFA sector in order to meet three objectives:

- 1) Increase efficiency and provide catcher vessel owners with a more functional market for leasing of individual pollock allocations,
- 2) ensure that an inshore cooperative is able to harvest its entire allocation in the event of vessel breakdowns or other unanticipated emergencies, and
- 3) improve safety by providing greater flexibility for larger catcher vessels to harvest cooperative allocations during hazardous weather in winter months and when Steller sea lion conservation measures require that fishing be done further offshore.

Analysis

A 34-page RIR/IRFA was prepared for the amendment that analyzed a status quo alternative, and the Council-preferred action alternative to allow inshore cooperatives to contract with AFA eligible inshore cooperative member vessels outside of their cooperative.

Regulation Summary

Amendment 69 to the BSAI FMP allowed AFA inshore catcher vessel cooperative to contract with a non-member vessel to harvest a portion of its inshore pollock allocation so long as the non-member vessel holds an AFA catcher vessel permit with an inshore processing endorsement and is a member of another inshore cooperative. This amendment supersedes subparagraph 210(b)(1)(B) of the AFA which prohibits inshore cooperative vessels from fishing in excess of their cooperative allocation, and paragraph 210(b)(5) which prohibits inshore cooperative vessels from

fishing for any BSAI pollock that is not allocated to that cooperative.

Results

The result of the amendment is a greater assurance that cooperatives would be able to harvest their entire BSAI pollock allocation, and the persons leasing the quota would receive a higher price per pound for their pollock. Additionally, the amendment provides the fleet with the flexibility to respond to management measures implemented to protect Steller sea lions that would otherwise place a great burden on small independent vessels.



UniSea, Inc. AFA CVs. Photo courtesy of NPFMC.



Steller Sea Lion Protection Measures

Council Action
October 2001Proposed Rule
January 8, 2002
67 FR 956Final Rule
November 25, 2014
67 FR 34860Effective
Implemented
through
Regulations

Purpose and Need

The western population of Steller sea lions declined by over 70% since the 1960s, and was listed as endangered in 1997 (62 FR 24345). One hypothesis to explain the continued decline of the western stock of Steller sea lions was nutritional stress due to competition with fisheries for prey. The 11/30/00 Biological Opinion concluded that fisheries for walleye pollock, Pacific cod and Atka mackerel being managed under the fisheries regulations in effect in the year 2000, jeopardized the survival and recovery of Steller sea lions and adversely modified their critical habitat. The 2000 Biological Opinion included a reasonable and prudent alternative (RPA) that included, among other things, areas closed to trawling, which if implemented in its entirety, would have had substantial adverse impacts to the fishing industry and fishing communities. Federal legislation (Public Law 106-554) allowed for a phase-in of the RPA for the 2001 fisheries while the Council developed an alternative approach which would allow fisheries to operate in such a manner that would not jeopardize the continued existence of Steller sea lion and would prevent adverse modification of their critical habitat.

Analysis

A 2,206 page EIS/RIR/IRFA (final draft dated November 2001) was prepared for this amendment. Five alternatives were considered including no action, a low and slow approach (from draft programmatic SEIS), a restricted and closed area approach (from the 11/2000 RPA), an area and fishery specific approach (from RPA Committee) and a critical habitat catch limit approach (based on measures in place in

2000). A map packet, containing poster sized maps that show the closure areas proposed for each alternative, was also provided. The analysis the preferred alternative would avoid jeopardy and adverse modification while at the same time, have the least negative social and economic impacts to fishermen, processors, and communities.

Regulation Summary

The preferred alternative implements the restricted and closed area approach. This alternative is the RPA detailed in the November 30, 2000, Biological Opinion. Essential elements of this approach are: 1) to establish large areas of critical habitat where fishing for pollock, Pacific cod, and Atka mackerel is prohibited, 2) to restrict catch levels in remaining critical habitat areas, 3) seasonally apportion catches, 4) to establish a modified harvest control rule that prohibits directed fishing should pollock, cod, or mackerel stocks fall below 20% of the unfished level, and 5) a vessel monitoring system requirement for all vessels (except jig gear) participating in these fisheries.

Results

Amendment 70 was implemented as a regulatory amendment, and not a plan amendment. The Biological Opinion on the preferred alternative, dated October 19, 2001, was challenged in US District Court. A list of trailing amendments was proposed when the Council took final action in October 2001. Two of these amendments (prohibition of AI pollock fishery, and pot gear exemptions for Cape Barnabus and Caton Island haulouts) have been analyzed.



Steller sea lions (*Eumetopias jubatus*). Photo courtesy of NOAA.



Community Development Quota Policy and Administrative Changes

Council Action
June 2002

Proposed Rule
November 26, 2004
69 FR 68865

Final Rule
March 25, 2005
70 FR 15010

Effective
April 25, 2005

Purpose and Need

In 1992, the Council approved the Community Development Quota (CDQ) Program to provide communities in western Alaska a fair and reasonable opportunity to participate in the BSAI groundfish fisheries, to expand their participation in salmon, herring, and other nearshore fisheries, and to help alleviate the growing social and economic crises within these communities. Under Federal regulations, the eligible communities have formed six non-profit corporations (CDQ groups). The program is allocated a specific percentage of the total allowable catch for each Bering Sea fishery, which is further allocated among the CDQ groups. The CDQ groups manage and administer the CDQ allocations, investments, and economic development projects for the benefit of their member communities.

At the time the Council approved the CDQ Program, it established that the program was to provide the means for starting or supporting commercial fisheries business activities to support fisheries-related economies in these communities. Since implementation in 1992, the groups have matured significantly and gained valuable experience in managing their fisheries and related investments. This level of experience and the subsequent desire for increased autonomy by the groups spurred concerns with the general administration and government oversight of the program. In addition, recommendations from the National Research Council and proposed Congressional legislation introduced similar

issues to be addressed by the Council, including that of relaxing the requirement that all CDQ revenues must be spent on fisheries-related projects. As the Council recognized the program's rapid growth and evolving nature, it determined that an evaluation of some of the general policy issues related to the program was warranted. The Council formed a CDQ Policy Committee to identify issues of concern and propose alternatives for analysis.

Based on the committee's recommendations, the following issues were analyzed in Amendment 71:

Issue 1: Determine the process through which CDQ allocations are made

Issue 2: Periodic or long-term CDQ allocations

Issue 3: Define the role of government in oversight of the CDQ Program

Issue 4: CDQ allocation process - Type of quotas

Issue 5: CDQ allocation process - The evaluation criteria

Issue 6: Extent of government oversight (definition of a CDQ project)

Issue 7: Allowable investments by CDQ groups (fisheries-related restriction)

Issue 8: Other administrative issues

Analysis

A 217-page RIR/IRFA and appendices (public review draft dated May 15, 2002)

were prepared for this amendment. The analysis outlined several alternatives, options, and suboptions for each of the eight issues. The analysis of alternatives was guided by the problem statement, which stated that some of the policy and administrative aspects of the program may need to be restructured to adapt to changes, or may need to be clarified in Federal regulations, so that they will best suit the long-term goal of the program. Among the alternatives analyzed were options to modify the original statement of purpose of the CDQ Program, which is "to allocate CDQ to eligible western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally-based fisheries-related economy," to include a secondary purpose of strengthening the non-fisheries related economy in the region.

Regulation Summary

The Council's preferred alternative on Amendment 71 included the following:

- 1) further define the allocation process in Federal regulations, including an expanded State hearing and public comment process;
- 2) establish a fixed allocation cycle of 3 years, with a provision allowing the State to reallocate mid-cycle under extraordinary circumstances;
- 3) amend the BSAI FMP to limit the government's responsibility in the program to six specific elements;

- 4) revise and condense the evaluation criteria used to make the allocations and publish them in Federal regulations;
- 5) clarify that government oversight extends to subsidiaries controlled by the CDQ groups, as defined by >50% interest and effective management control;
- 6) allow each CDQ group to annually invest up to 20% of its previous year's pollock royalties in non-fisheries related economic development projects within the CDQ region;
- 7) amend the overall purpose of the program to include a secondary purpose of strengthening the non-fisheries related economies in the region; and
- 8) simplify the quota transfer and alternative fishing plan process. In addition, NMFS added provisions to formally identify in Federal regulations the process for appealing a Federal administrative determination (i.e., a CDQ group's appeal of an allocation decision).

Results

In addition to the 8 components identified in the Regulation Summary, NMFS added provisions to formally identify in Federal regulations the process for appealing a Federal administrative determination (i.e., a CDQ group's appeal of an allocation decision).



Prior Notice of Landings Requirements

Council Action
April 2002Proposed Rule
January 24, 2003
68 FR 3485Final Rule
July 29, 2003
68 FR 44473Effective
August 28, 2003

Purpose and Need

The IFQ Program, a limited access management system for the fixed gear Pacific halibut and sablefish fisheries off Alaska, was approved by NMFS in January 1993 and fully implemented beginning in March 1995. During the implementation of the IFQ Program, NOAA Office of Law Enforcement and the International Pacific Halibut Commission staff indicated that prior notice of landing (PNOL) would be helpful for personnel staffing. Regulations enacted with the implementation of the IFQ Program in 1995 required a six hour advance notice as well as the name of the registered buyer and location to which the delivery was being made.

Over the next few years, IFQ fishing industry expressed four main concerns about specific aspects of the PNOL requirement. 1) Existing regulations require vessel operators to commit to a specific Registered Buyer at least 6 hours before landing, which disadvantaged fishermen in price negotiations; 2) communications at sea are often limited, as a result, a vessel operator may rely on a third party to call in the PNOL to the toll-free number in Juneau; 3) Registered Buyers are restricted in their ability to bid on a load of IFQ fish if they have to wait 6 hours to begin offloading fish from a vessel; and 4) if a particular processor is operating at maximum capacity, or experiences mechanical or other operational difficulties, at the time a vessel is scheduled to deliver to that processor, then that vessel must locate

another Registered Buyer, and provide a six hour notice before offloading to this other Registered Buyer, rendering vessels unable to respond to necessary changes in business conditions. This action was necessary to improve IFQ fishing operations, while complying with IFQ Program requirements, to improve NMFS' ability to efficiently administer the program, and to improve the clarity and consistency of IFQ Program regulations.

Analysis

A 34-page RIR/IRFA was prepared that analyzed a status quo and action alternative for each of the three main action items in the amendment package. The analysis determined that the impacts projected for the proposed actions appeared to be largely positive, but without the data necessary to make that determination conclusively, NMFS could not certify that these actions would not have a significant adverse effect on a substantial number of small entities within the meaning of the RFA.

Regulation Summary

Amendments 72 consist of three federal regulatory and FMP changes related to recordkeeping and reporting of halibut and sablefish IFQ vessels:

- 1) Modify PNOL reporting requirements by
 - replacing the reporting of "registered buyers" with "location of landings" and
 - change the minimum PNOL reporting requirements from six hours to three hours
- 2) Eliminate the shipment report and require that IFQ species be reported on the product transfer report
- 3) Require a verbal departure report instead of the vessel clearance requirement for vessels with IFQ halibut or sablefish leaving the jurisdiction of the Council.

Results

The revised recordkeeping and reporting requirements have improved fishing operations and NMFS' ability to administer IFQ programs.



Remove Dark Rockfish from the FMP

Council Action
April 2007Proposed Rule
September 24, 2008
73 FR 55010Final Rule
December 31, 2008
73 FR 80307Effective
January 30, 2009

Purpose and Need

A 2004 scientific paper titled "The dusky rockfishes (Teleostei: Scorpaeniformes) of the North Pacific Ocean: resurrection of *Sebastes variabilis* (Pallas, 1814) and a re-description of *Sebastes ciliatus* (Tilesius, 1813)" by James W. Orr and James E. Blackburn found that the two forms of dusky rockfish – "light dusky rockfish" and "dark dusky rockfish" – were two distinct species. The dusky rockfish (*Sebastes variabilis*) is primarily found in deeper water, while the "dark dusky rockfish" or dark rockfish (*S. ciliatus*) is found in shallow water. With the recognition of two distinct species and with dark rockfish primarily occupying habitats found in State waters, the Council initiated a discussion paper to analyze the impacts of transferring management authority of the nearshore species to the State. Management by the State of Alaska would better address localized assessment and harvest requirements for this nearshore species than was provided by Federal management under the larger pelagic shelf rockfish (PSR) complex in the GOA and the "other rockfish" (OR) component in the BSAI. A similar situation was addressed by Amendment 46 to the GOA groundfish FMP, which removed black rockfish and blue rockfish, both nearshore species not well-assessed by the trawl survey, from the GOA groundfish FMP, and turned management over to the State of Alaska.

Analysis

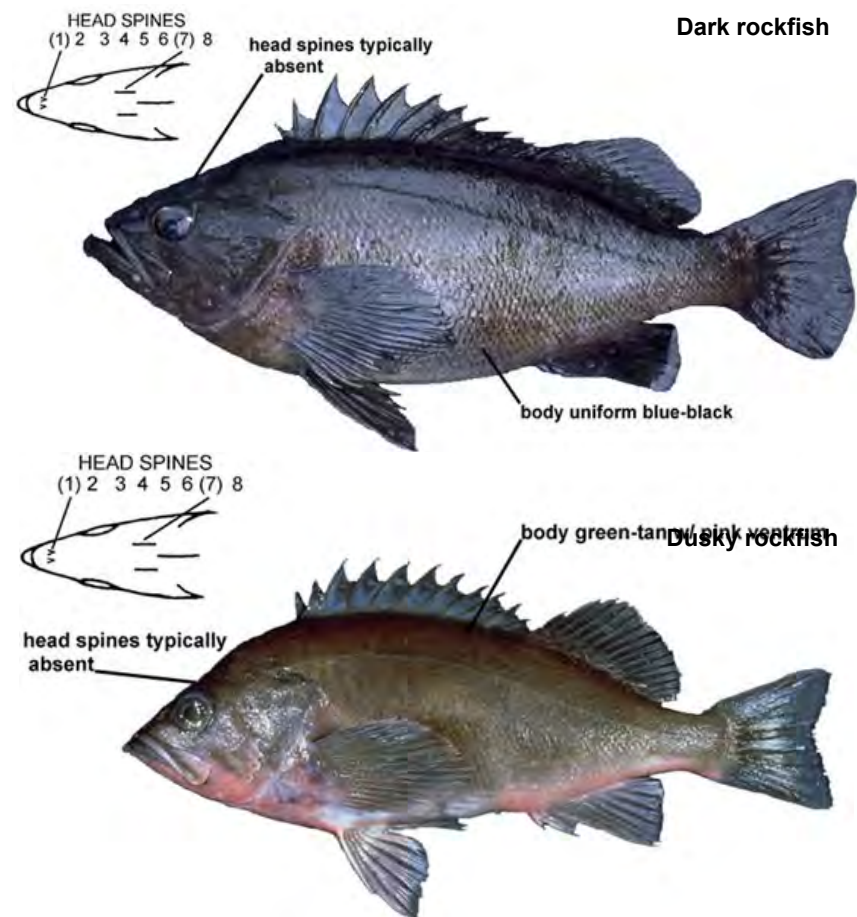
A 96-page EA/RIR/IRFA was prepared to analyze a status quo alternative and an alternative to remove dark rockfish from the GOA and BSAI groundfish FMPs. The Council also discussed an alternative to transfer dark rockfish management authority to the State of Alaska, but still retain the species under the FMPs. This alternative was not carried forward because of the difficulty in reconciling State and Federal management procedures. The EA determined that there would be minimal effect on the groundfish fishery should dark rockfish be assigned to State management. Similarly, the RIR found that there would be no significant costs associated with the action alternative.

Regulation Summary

BSAI Amendment 73/GOA Amendment 77 transfers management authority of dark rockfish from the FMPs to the State of Alaska. Further, the amendments update the language of the FMPs to account for the updated taxonomic information.

Results

The OY no longer includes TAC or catch of dark rockfish, and is no longer assessed as part of the SAFE report. This nearshore species now receives more localized conservation and management through the State of Alaska.



Repeal of Improved Retention/Improved Utilization Program Flatfish Requirement

Council Action
October 2002

Proposed Rule
March 28, 2003
68 FR 15144

Final Rule
September 2, 2003
68 FR 52142

Effective
October 2, 2003

Purpose and Need

In September 1996, the Council adopted Amendment 49, which required all vessels fishing for groundfish in the BSAI management area to retain all pollock and Pacific cod beginning January 3, 1998 and retain all rock sole and yellowfin sole beginning January 1, 2003.

The Council adopted an improved retention and utilization program (IR/IU) for all groundfish target fisheries to reduce discards. This action was deemed necessary to address one of the Council's comprehensive fishery management goals, adopted in 1984, to "minimize the catch, mortality, and waste of non-target species and reduce the adverse impacts of one fishery on another." The Council also recognized that fish caught as bycatch in one fishery represent an allocation away from any target fishery for the bycatch species. In addition, a priority objective of the FMP is to "provide for the rational and optimal use, in a biological and socioeconomic sense, of the region's fisheries resources as a whole."

In an effort to balance the need to meet stated Council objectives of ensuring healthy fisheries, reducing discards and waste, and improving utilization of fish resources with the need to minimize the negative effects of regulations on small entities, the Council recognized the need to conduct additional assessment of the impacts of IR/IU rules for flatfish on such entities and to determine whether a modification of these would minimize such

impacts and continue to meet the Council's objectives for fisheries health and resource utilization.

Recognizing the potential significant adverse economic impacts on a substantial number of small entities, the Council initiated an analysis of possible mitigating measures which would provide some balance between the NPFMC's original intent of IR/IU and the need to minimize the negative effects of IR/IU regulations on small entities.

Analysis

A 120-page analysis (Secretarial review draft dated February, 2003) was prepared for Amendment 75. Four alternatives were considered: 1) allow the existing IR/IU regulations for flatfish in the BSAI and GOA

to be implemented beginning in 2003 (no action alternative); 2) revise IR/IU regulations for flatfish to allow some discards of the IR/IU flatfish species ranging from 50 to 90 percent; and 3) delay implementation of IR/IU regulations for flatfish and includes three trailing amendments—Amendment A (PSC Cooperatives), Amendment B (flatfish bycatch limits) and Amendment C (minimum groundfish retention standards).

The analysis revealed that IR/IU rules for flatfish under the status quo will impact direct operational costs on certain sectors of the groundfish fleet that probably cannot be offset (in whole or in part) by expected revenues generated by the sale of the additional catch required to be retained. For Alternative 2, the analysis found that

retention requirements for the head and gut catcher processor fleet would have to be less than 50 percent in the Pacific cod and rock sole fishery to avoid impacts to the sector. In addition, less than 100 percent retention of IR/IU flatfish species is not enforceable. Alternative 3 would postpone the severe economic effects on the head and gut fleet thus accruing economic benefits from operational activity. Under Alternative 4, the Pacific cod fishery, flathead sole fishery, rock sole fishery and the yellowfin sole fishery would not be exempt from IR/IU rules for flatfish.

Regulation Summary

Amendment 75 was partially approved by the Secretary of Commerce—the delay of IR/IU flatfish implementation in the BSAI was approved, but the ending date (June 1, 2004) for the delay was not approved.

Results

The practical effect of the amendment is that it eliminates all reference to the requirements for 100 percent retention and utilization of rock sole and yellowfin sole in the groundfish fisheries of the BSAI. Nevertheless, retention of these species by the Amendment 80 fleet is nearing 100 percent.



Assorted flatfish. Photo courtesy of NPFMC.



Improved Retention/Improved Utilization Flatfish Exemptions (Withdrawn)

Council Action
October 2002

Purpose and Need

In October 2002, the Council approved Amendment 75 to the BSAI FMP. This amendment entailed delaying implementation of IR/IU flatfish regulations for the BSAI until June 1, 2004. IR/IU rules for shallow-water flatfish harvested in the GOA became effective January 1, 2003. Coincident with approving the delay in implementation of IR/IU, the Council initiated assessments of four trailing amendments intended to mitigate potentially negative consequences of IR/IU in the flatfish fisheries. One of the four trailing amendments was Amendment 76, which would exempt fisheries in the GOA and BSAI with minimal amounts of flatfish bycatch from IR/IU retention and utilization regulation. Further analysis of the exemption provision was undertaken with the expressed purpose of developing a means of reviewing the status of exempt fisheries and removing the exempt status if a particular fishery began experiencing higher bycatch rates of flatfish.

Analysis

A 45-page EA/RIR/IRFA was prepared for the amendment that analyzed an action alternative with two subalternatives. The RIR found that the harvest and discard of these fish in the amounts that were currently occurring in the groundfish fisheries that are affected by the alternative, did not appear to result in any lost economic benefits to society.

Results

BSAI Amendment 75 was partially approved by the Secretary. The delay for IR/IU flatfish implementation was approved, but the specific ending date of June 1, 2004 was not. Thus, Amendment 76 no longer had any practical application in the BSAI and was withdrawn.



Pacific Cod Fixed Gear Allocations

Council Action
April 2003Proposed Rule
August 18, 2003
68 FR 49416Final Rule
December 1, 2003
68 FR 67086Effective
January 1, 2004

Purpose and Need

Amendment 77 was initiated to retain or modify the allocations of BSAI Pacific cod to the fixed gear sectors that were first established under BSAI Amendment 64. Amendment 64 expires on December 31, 2003. This amendment was developed to further refine the BSAI fixed gear Pacific cod allocation established in BSAI Amendment 46. Amendment 46, approved by the Council in June 1996, effectively allocated the BSAI Pacific cod Total Allowable Catch (TAC) to the jig gear (2%), fixed gear (51%), and trawl gear (47%) sectors.

The fixed gear fishery is fully utilized in the BSAI, and competition has been increasing for a variety of reasons, including increased market value of cod products and the recent decline of the opilio crab stock. Amendment 77 is based on a problem statement similar to that of Amendment 64, which focuses on the need to stabilize the BSAI fixed gear cod fishery and protect those who have made significant long-term investments and are dependent on the fishery from others who have limited history and wish to increase their participation in the fishery. The action is intended to help stabilize the fixed gear fleet until comprehensive rationalization can be completed for the groundfish fisheries of the BSAI. A second problem statement identifies the same concern for protecting the relative catch distribution between pot catcher processors and pot catcher vessels. Under Amendment 64, pot vessels share an allocation of 18.3

percent of the total fixed gear Pacific cod TAC.

Although the fixed gear (hook-and-line or pot gear) fleet has a direct allocation of 51% of the fixed gear Pacific cod TAC, a further split was deemed necessary to stabilize the growing hook-and-line and pot fleets. Amendment 64 established the allocations based closely on Pacific cod catch histories (excluding discards and cod quota reallocated from the jig and trawl sectors) of each sector from 1995 - 1998, with a separate allocation for hook-and-line and pot vessels <60' LOA.

In effect, hook-and-line and pot vessels less than 60 feet first utilize the 0.3% and 18.3% allocations open to all length classes of their gear group, respectively, and then utilize the 1.4% allocation when those fisheries close. Managing the allocations in this way is consistent with the Council's desire to provide fishing opportunities for smaller catcher vessels, ensuring that Pacific cod is available to the smaller catcher vessels even after the larger vessels in their gear sector have taken their allocation.

Analysis

A 169-page EA/RIR/IRFA (initial review draft dated March 14, 2003) was prepared for this amendment. Four primary alternatives were proposed: 1) No action; 2) Status quo - continue the allocations as established under Amendment 64; 3) Modified status quo - establish allocations based on catch histories from each sector from 1995 - 1999; and 4) Pot split -

establish separate allocations for the pot catcher processor and pot catcher vessel sectors. In addition, there are several options to address Pacific cod quota that is reallocated from the jig and trawl sectors to the fixed gear sector in the fall, as well as quota that is projected to remain unused in one or more of the fixed gear sectors. Also included is an option to sunset the Council's action on this amendment five years from the date of implementation.

Regulation Summary

The Amendment 77 fixed gear allocations superseded Amendment 64. Vessels using hook-and-line or pot gear receive 51% of the Pacific cod TAC in the BSAI. Of that 51%, the TAC was allocated as follows:

80% to hook-and-line C/Ps
0.3% to hook-and-line CVs
15% to pot CVs
1.4% to small CVs

This preserves the allocation implemented under Amendment 64, but splits the pot vessel share further between pot catcher/processors and pot catcher vessels.

Results

The revised allocations have provided stability among the fixed-gear sectors targeting Pacific cod.



Crew aboard a longline vessel landing a Pacific cod. Photo courtesy of Kenny Down.



Essential Fish Habitat Environmental Impact Statement, Habitat Areas of Particular Concern Harvest Control Measures

Council Action
February 2005

Proposed Rule
March 22, 2006
71 FR 14470

Final Rule
June 28, 2006
71 FR 36694

Effective
July 28, 2006

Purpose and Need

The 1996 amendments to the Magnuson-Stevens Act require NMFS and regional Fishery Management Councils (Councils) to describe and identify essential fish habitat (EFH) within FMPs based on guidelines established by the Secretary, minimize to the extent practicable adverse effects on EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of EFH. EFH is defined in the Magnuson-Stevens Act as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.”

The regulations at 50 CFR 600.815(a)(8) provided guidance to Councils in identifying habitat areas of particular concern (HAPCs). HAPCs are areas within EFH that are of particular ecological importance to the long-term sustainability of managed species, are of a rare type, or are especially susceptible to degradation or development. HAPCs are meant to provide for greater focus of conservation and management efforts.

The Council took final action on the EFH EIS in February 2005.

Analysis

NMFS and the Council published a Draft Environmental Impact Statement (EIS) for EFH in January 2004. The Draft EIS evaluated three actions:

- 1) Describe and identify EFH
- 2) Adopt an approach to identify HAPCs, and
- 3) Minimize to the extent practicable the adverse effects of fishing on EFH.

The Council's preliminary preferred alternative for HAPCs was to adopt a site-based approach for future HAPC designations.

Regulation Summary

Amendment 65 and 78 superseded Amendment 55.

The Time and Area Restrictions description was revised to read as follows:

All trawl: Fishing with trawl vessels is not permitted year-round in the Crab and Halibut Protection Zone and the Pribilof Islands Habitat Conservation Area. The Nearshore Bristol Bay Trawl Closure area is also closed year-round except for a subarea that remains open between April 1 and June 15 each year. The Chum Salmon Savings Area is closed to trawling from August 1 through August 31.

Nonpelagic trawl: The Red King Crab Savings Area is closed to nonpelagic trawling year-round, except for a subarea that may be opened at the discretion of the Council and NMFS when a guideline harvest level for Bristol Bay red king crab has been established. The Aleutian Islands Habitat Conservation Area is closed to nonpelagic trawling year-round.

Bottom contact gear: The use of bottom contact gear is prohibited in the Aleutian Islands Coral and Alaska Seamount Habitat Protection Areas year-round. The use of mobile bottom contact gear is prohibited year-round in Bowers Ridge Habitat Conservation Zone.

Directed pollock fishery: Catcher/processor vessels identified in the American Fisheries Act are prohibited from engaging in directed fishing for pollock in the Catcher

Vessel Operational Area during the non-roe (“B”) season unless they are participating in a community development quota fishery.

Marine mammal measures: Regulations implementing the FMP may include conservation measures that temporally and spatially limit fishing effort around areas important to marine mammals.

Gear test area exemption: Specific gear test areas for use when the fishing grounds are closed to that gear type, are established in regulations that implement the FMP.

Additionally, the amendments:

- Prohibited the use of nonpelagic trawl gear in the Aleutian Islands Habitat Conservation Area
- Prohibited the use of bottom contact gear in the Aleutian Islands Coral Habitat Protection Areas and Alaska Seamount Habitat Protection Areas
- Prohibited the use of mobile bottom contact gear in the Bowers Ridge Habitat Conservation Area
- Prohibited anchoring in the Aleutian Islands Coral and Alaska Seamount Habitat Protection Areas.

Results

This amendment addressed habitat conservation requirements, which were further addressed in Amendment 89.



Groundfish Retention Standard Program for the Non-American Fisheries Act Trawl Catcher Processing Sector

Council Action
June 2003

Proposed Rule
June 16, 2005
70 FR 35054

Final Rule
April 6, 2006
71 FR 17362

Effective
January 20, 2008

Purpose and Need

In 1996, Congress passed the Sustainable Fisheries Act (SFA) as an amendment to the Magnuson-Stevens Fishery Conservation and Management Act. As part of the amendment package three new national standards were implemented, which included the bycatch- and discard-reducing National Standard 9 (NS9). The SFA reflected a nationwide movement towards the development of bycatch reduction measures.

In December 1994, the Council unanimously adopting a motion to develop a set of regulatory options for implementing an Increased Retention/Increased Utilization (IR/IU) program for BSAI groundfish fisheries. To bring the FMPs into compliance with the SFA and NS9, and to accomplish the goals of their December 1994 motion, the Council initiated an examination of existing bycatch reduction measures. The Council's wholesale reexamination of retention standards in the BSAI groundfish FMP resulted in the development of retention programs such as the Groundfish Retention Standard (GRS) and IR/IU programs. Originally, the development of the GRS was packaged with the flatfish Increased IR/IU program in Amendment 75. However, the Council felt that more analysis was necessary to understand the scope of a GRS program and made it a separate amendment altogether.

In June 2003, the Council adopted a problem statement addressing excessively

high groundfish discards in the BSAI trawl fishery. In an earlier analysis of retention rates done by the Council, vessels in non-AFA catcher/processor (CP) sector had the lowest retained catch rates of any trawl fishery in the BSAI with 75.1%, accounting for 67 percent of all discards in the BSAI. The newly implemented NS9 program and the excessive discard rates of the non-AFA trawl CPs prompted the Council to initiate an amendment to the BSAI FMP to address the issue.

Analysis

A 25-page EA and 56-page RIR were prepared that analyzed three action alternatives along with several components, options and suboptions. All the action alternatives involved implementing a GRS program, but to varying degrees. The Council's preferred alternative involved phasing-in a GRS calculated as the round-weight equivalent of retained groundfish as a percent to total groundfish weight. The Council felt that the preferred approach was the best way to address the multiple requirements of the SFA, fulfill the purpose and need statement put forward by the Council, and promote the management objectives of the IR/IU program, while still providing economic opportunity in the fishery.

Regulation Summary

Amendment 79 established a GRS program for BSAI trawl CPs greater than or equal to 125 feet length overall (LOA). The GRS is calculated as a ratio of the round-weight equivalent of total retained groundfish to total retained catch. All BSAI trawl CPs must meet a 15 percent utilization standard for all retained groundfish species. The total weight of the retained product must equal or exceed 15 percent of the round-weight catch of each species during a fishing trip. The amendment is enforced at the vessel level instead of the sector level so that non-compliant vessels do not affect the fishing activity of other non-AFA trawl CPs in the fishery.

Results

On December 15, 2010 (75 FR 78172), an Emergency Rule to Amendment 79 was published in the Federal Register after NMFS discovered that the regulatory methodology used to calculate the GRS percentages established for 2010 and 2011 effectively require the sector to meet GRS well above that considered by the North Pacific Fishery Management Council or that implemented by NMFS. As a result, the retention requirements were expected to impose significantly higher costs due to the increased level of retention and to generate an unanticipated level of noncompliance in the Amendment 80 fleet. An emergency action extension exempting AFA and Amendment 80 vessels from the GRS program in the BSAI was published in the Federal Register on June 2, 2011 (76 FR 31881).



Allocation of Non-Pollock Groundfish and Development of a Cooperative Program for the Non-American Fisheries Act Trawl Catcher Processor Sector

Council Action
June 2006

Proposed Rule
May 30, 2007
72 FR 30052

Final Rule
September 14, 2007
72 FR 52668

Effective
October 15, 2007

Purpose and Need

The Non-American Fisheries Act Trawl Catcher Processor sector (also referred to as the Head and Gut, or H&G trawl CP) had adverse effects on the fishery as a result of the management regime the fleet operated under. The H&G trawl CP targeted multiple species in such a way that encouraged a “race to fish,” or the maximization of harvest in as short a timeframe as possible to claim a larger share of the available quota. Among the numerous problems associated with the harvest strategy, the H&G trawl CP had the highest discard rate in the BSAI groundfish fisheries since at least 1995. Since non-cooperative vessels participated in a “race for fish,” individual vessels could be negatively impacted for attempting to reduce incidental catch, resulting in increased incidental catch rates. The Council decided to address the problems associated with the race to fish by facilitating the development of a cooperative, thus reducing bycatch, minimizing waste, and improving utilization of fish resources. Sector allocations and cooperatives would result in participants focusing less on maximizing harvest, and more on optimizing it, thus eliminating the race to fish and reducing associated consequences.

Analysis

A 307-page RIR analysis and a 51-page EA were prepared. Four alternatives were considered that compared number of factors: target species allocations, PSC allocations, eligibility, cooperative formation and allocation, excessive share limits, sideboards, and CDQ. Each alternative (aside from the status quo alternative) included varying degrees of new regulatory measures with Alternative 2 being the least number of new measures and Alternative 4 being the most. Alternative 4 (preferred) called for 100 percent allocation

percentages for rock sole and flathead sole, and the phasing in of final allocation percentages for Atka mackerel and AI POP. The preferred alternative included sideboards for GOA fisheries but not BSAI. The RIR determined that the cost of implementation would be significantly less than the crab rationalization data collection program because AM80 is the first of its kind and would be able to draw from crab rationalization. Also, the number of AM80 eligible participants is significantly less. The analysis as a whole determined that AM80 would have both economic and ecological benefits with increased retention and

utilization, greater incentive to avoid bycatch, and the elimination of the race to fish.

Regulation Summary

The primary function of AM80 was to facilitate the formation of harvesting cooperatives in the H&G trawl CP sector and establish a limited access privilege program (LAPP) to encourage participation in the voluntary cooperative. Catch limits, also known as sideboards, were established in the GOA for the AM80 fleet to limit the ability of AM80 vessels to expand their harvest efforts, thus preventing AM80 vessels from using the associated economic advantages in a way that could adversely affect other participants in the fisheries. AM80 also establishes a rationalized fishery for several fisheries in the BSAI, thus eliminating the race to fish.

Results

The Council prepared a 5-year review of the effects of AM80 in October 2014. Since AM80 was implemented there have been overall increases in total wholesale revenues in the BSAI and GOA groundfish fisheries. Overall retention has also increased from 74 percent before AM80 to 94 percent in 2012. With the reallocation of Pacific cod away from the AM80 fleet, industry reported that the shift from target species to incidental catch species has the potential to constrain harvest of other species.



Vaerdal, an Amendment 80 Program vessel. Photo courtesy of Diana Evans, NPFMC.



Programmatic Supplemental Environmental Impact Statement

Council Action
April 2004

Notice of Availability
June 2, 2004
69 FR 31091

Purpose and Need

Both Bering Sea Aleutian Island and Gulf of Alaska FMPs were informed by respective Environmental Impact Statements (EISs), as per NEPA requirements. EISs are action information analyses that NEPA recommends be reexamined every 5 years to ensure they encompass the current state of the fishery. NEPA requires that the EIS be updated if there is a significant change that falls outside the scope of the original analysis. With the passage of the Sustainable Fisheries Act in 1996, NMFS determined that the changes constituted a reexamination of the EIS. According to NEPA, such a change does not necessitate a complete revision of the EIS, only the parts that do not fall within the scope of the analysis. These changes are analyzed in a Supplemental EIS (SEIS). After the SEIS was prepared for BSAI and GOA FMPs, a major federal lawsuit (*Greenpeace v. National Marine Fisheries Service*, 55 F. Supp. 2d 1248, 1999) found that the document did not analyze all reasonable alternatives, and the judge ordered a PSEIS that analyzed a “no fishing” alternative. Thus, the Council initiated a PSEIS to fulfill the court order and update policy objectives to reflect shifts in fisheries management. After numerous extensions and an extensive development and public review process, the Council adopted the PSEIS in April 2004.

Analysis

The analysis of Amendments 81 and 74 was a programmatic evaluation of the groundfish fisheries, which entailed alternatives that examine fishery management from different policy approaches. Each alternative contained a policy statement that detailed an overall management approach and specific management objectives. All the action alternatives contain examples of FMPs that represent a range of management measures that would be employed to meet the policy statement. The analysis identified nine primary objectives to be considered over the life of the PSEIS:

- 1) Prevent overfishing
- 2) Promote sustainable fisheries and communities
- 3) Preserve food web
- 4) Manage, reduce, and avoid bycatch and incidental catch
- 5) Avoid impacts to seabirds and marine mammals
- 6) Reduce and avoid impacts to habitat
- 7) Promote equitable and efficient use of fishery resource
- 8) Increase Alaska Native consultation
- 9) Improve data quality, monitoring, and enforcement.

Regulation Summary

Amendments 81 and 74 formally adopted the new policy goals and objectives defined in the PSEIS for the FMPs. Five management goals were established through the PSEIS process:

- 1) Sound conservation of the living marine resource
- 2) Socially and economically viable fisheries and fishing communities
- 3) Minimal human-caused threats to protected species
- 4) Healthy marine resource habitat
- 5) Ecosystem-based considerations in management decisions

Results

The Council annually reviews its management objectives and priorities. The 2016 review concluded that no changes were needed at this time.



Framework for Management of the Aleutian Islands Subarea Directed Pollock Fishery

Council Action
June 2004

Proposed Rule
December 7, 2004
69 FR 70589

Final Rule
March 1, 2005
70 FR 9856

Effective
February 24, 2005

Purpose and Need

The passing of the 2004 Consolidated Appropriations Act allocated future directed fishing allowances of pollock in the Aleutian Islands to Aleut Corporation in order to encourage the economic development of the coastal community of Adak. Section 803 of the Consolidated Appropriations Act granted Aleut Corporation and its agents sole authority to harvest the allowance of pollock. The section further specified that the Aleut Corporation could only contract with vessels under 60 feet LOA or AFA vessels to harvest their allowance in the area. Following the passing of the Consolidated Appropriations Act of 2004, the Council passed a motion requesting an analysis of alternatives that would bring the BSAI FMP into compliance with the newly established Public Law. The Council revisited Amendment 82 later that year in October, and decided that the 10% allocation of TAC to Aleut Corporation was a sufficient allowance that conformed with the existing provision in the FMP that allocated 10% of the AI TAC to CDQ groups.

Analysis

A 356-page EA and 37-page RIR analysis were prepared for Amendment 82. The range of alternatives analyzed followed a set of decision elements and associated alternatives. The six decision elements included allocation size, allocation mechanism, monitoring vessel activity, small vessels, economic development report mandate, and Chinook salmon bycatch management. Within each decision element between two and five alternatives were considered. For allocation size the Council's preferred alternative was to allocate a combined Aleutian Islands ICA and DFA equal to either the ABC or 40,000 t, whichever was less, and, beginning in 2005, an AI pollock TAC of either 15,000 t or 40% of the AI pollock ABC, whichever was less. The Council also preferred the alternatives to fund the AI pollock TAC by a reduction in the EBS pollock TAC, increase monitoring with several components, take no steps to delay entry of vessels less than 60 feet LOA, require Aleut Corporation to submit an annual economic development report, and not have Chinook salmon bycatch in the AI pollock fishery count against BSAI Chinook salmon bycatch caps. The analysis also contained a RFA certification that the action would not have a significant impact on a substantial number of small entities.

Regulation Summary

Amendment 82 brought the BSAI FMP into compliance with Section 803 of the Consolidated Appropriates Act of 2004 by allocating a portion of the Aleutian Islands directed pollock fishery to the Aleut Corporation. The allocated TAC can only be harvested by AFA vessels and vessels 60 feet or less LOA. Allocation by vessel size was implemented gradually, with no more than 25 percent of the directed pollock fishery allocated to vessels 60 feet or less LOA between 2005 and 2008, no more than 50 percent between 2009 and 2012. Beginning in 2013, 50 percent of the AI directed pollock fishery was allocated to said vessels. The TAC of pollock to be harvested by the Aleut Corporation is equal to the amount already specified in the BSAI FMP unless the ABC is less than the regulatory allocation, in which case the harvest cannot exceed ABC.

Results

Two catcher processor vessels attempted directed fishing for pollock in February 2005, but failed to find commercially harvestable quantities outside of Steller sea lion critical habitat closure areas and in the end removed less than 200 t of pollock. In addition, bycatch rates of Pacific ocean perch were prohibitively high in areas where pollock aggregations were observed. The 2005 fishery is thought to have resulted in a net loss of revenue for participating vessels.

In 2009 the directed pollock fishery in the Aleutian Islands region took 403 t, and 1,326 t were taken as bycatch in other fisheries, predominantly the Pacific cod and rockfish fisheries. In 2010 through 2012, financial problems with the Adak processing plant greatly hindered the directed fishery. In 2010, 2011, 2012, and 2013 50 t, 0 t, 0 t, and 0 t were harvested in the directed fishery. As of October 6, 2014, 0 t had been taken in the directed fishery for 2014. In 2010, 2011, 2012, 2013, and 2014, 1,285 t, 1,208 t, 975 t, 2,964 t, and 2,375 t were harvested as bycatch in other fisheries. In 2015, as of October 24, 899 t had been taken as bycatch in other fisheries. The catch increase in recent years has primarily been in the arrowtooth flounder fishery, as a result of changing fishing tactics to fish shallower than in previous years to avoid Greenland turbot bycatch.



Housekeeping Amendments

Council Action
June 2004

Notice of Availability
March 24, 2005
70 FR 15067

Approval of Amendments
June 20, 2005
70 FR 35395

Purpose and Need

After the adoption of the Programmatic Supplemental Environmental Impact Statement (PSEIS) as BSAI Amendment 81 and GOA Amendment 74 in 2004, the Council identified the need to reorganize the content of the FMPs, technically edit the language, and update certain descriptions within the FMPs that did not reflect the current status of the groundfish fisheries. In December 2004, the Council unanimously recommended BSAI Amendment 83 and GOA Amendment 75 to update harvest, ecosystem, and socioeconomic information, consolidate text, and reorganize the FMPs to make them consistent with the adopted provisions in the PSEIS. Additionally, the Council adopted a substantive change to the groundfish FMPs, namely to remove language in the BSAI and GOA FMPs that allows TAC or OY to be set higher than ABC or the sum of ABCs, respectively. This change reflected to the new policy objectives in the FMPs.

Regulation Summary

BSAI Amendment 83 and GOA Amendment 75 consisted of housekeeping changes to update information and technically edit the FMPs to make them consistent with the PSEIS. The Amendments also revised the harvest specifications process in the FMPs to make them consistent with the new policy objectives established in Amendments 81 and 74.

Results

The FMP text better reflected existing conditions.



Modify Existing Chinook and Chum Salmon Savings Areas

Council Action
October 2005

Proposed Rule
April 18, 2007
72 FR 19454

Final Rule
October 29, 2007
72 FR 61070

Effective
November 28, 2007

Purpose and Need

In the mid-1990s the Council and NOAA implemented BSAI salmon bycatch mitigation measures in the pollock trawl fishery and established Chinook and Chum Salmon Savings Areas. A number of restrictions already existed in the BSAI pollock trawl fishery and there was concern that the bycatch measures were ineffective in protecting salmon and placed unnecessary constraints on the target groundfish fishery. Catch and observer data suggested that pollock trawl fishing restrictions in Salmon Savings Areas were counterproductive as there were greater bycatch rates outside of these areas. 2006 marked the highest salmon bycatch rates up until that point and trigger a closure in the Chinook Salmon Savings Area for the first time since the regulation was implemented. Due to the continued BSAI salmon bycatch rates in the pollock trawl fishery, the Council decided to discuss alternatives to the existing salmon bycatch control measures.

Analysis

A 152-page EA and 19-page RIR analysis were prepared for Amendment 84. Three alternatives were considered, two of which involved opening access to Salmon Savings Areas to various degrees. One considered eliminating the regulatory closures in the area, while the other suspended regulatory closures in the areas for pollock cooperatives and CDQ groups to practice their VRHS closure system. While both solved the problem of placing unnecessary economic and logistical burdens on the pollock trawl fishery, the Council favored the alternative that encouraged voluntary participation in a bycatch control system by penalizing the worst offenders. The RIR analysis cautioned relying too heavily on the estimates of foregone salmon ex vessel value. These estimates may overstate the true commercial ex vessel values foregone while understating the economic and social value when all uses and users are included. The RIR also found that the Council-supported Alternative 3 would reduce management and enforcement costs as much of the cost would be placed on the industry.

Regulation Summary

Amendment 84 established Chinook and non-Chinook salmon PSC limits for the Bering Sea pollock trawl fishery. Bycatch reduction is based on a voluntary rolling hot spot (VRHS) closure system implemented by pollock cooperatives and CDQ groups. The closures of the Chum Salmon Savings Area and Chinook Salmon Savings Area would be suspended contingent upon the implementation of a VRHS. The Council would initiate subsequent action if it determines that the VRHS closure system does not effectively reduce salmon bycatch. When the non-Chinook PSC limit of 42,000 has been reached, NMFS will prohibit directed fishing for pollock with trawl gear in the Chum Salmon Savings Area. Similarly, when the PSC limit for Chinook salmon is met Chinook Salmon Savings Area 1 and 2 will be closed to the pollock trawl fleet. However, vessels operating under the VRHS can participate in directed pollock trawl fishing in area 2.

Results

Salmon bycatch was better controlled by flexible VRHS closures than regulatory closures. Further modification to salmon bycatch controls were made under Amendment 91.



Purpose and Need

Beginning in 1994, Amendment 24 to the BSAI groundfish FMP established a total allowable catch (TAC) for BSAI non-Community Development Quota (CDQ), which was fully distributed among three gear sectors: fixed gear, trawl gear, and jig gear. The allocations for each sector were set under the FMP and reflected percentages of sector harvest between 1991 and 1993. Those allocations were later changed in 1997 with Amendment 46 of the FMP, and shifted the majority of the TAC from trawl to fixed gear. The amendment also bisected trawl apportionment between catcher vessels (CVs) and catcher processors (CPs) and authorized NMFS to reallocate any portion of the Pacific cod TAC that were projected to remain unused among the various sectors if necessary. Subsequent apportionment changes (BSAI Amendments 64, 67, and 77) have resulted in the BSAI non-CDQ Pacific cod TAC being divided among eight harvesting sectors. While Amendment 46 did not contain a sunset provision or regulatory requirement to revisit TAC allocation, the Council's motion included a provision to review allocations four years after implementation. To fulfill that provision, a reexamination of the BSAI Pacific cod TAC allocation was necessary.

Analysis

A 39-page EA and 255-page RIR analysis were prepared for Amendment 85. The analysis considered an action alternative to modify the existing BSAI Pacific cod allocations with multiple components, and a no action alternative. Under the action alternative, the analysis proposed an option to divide the trawl vessel sector into American Fisheries Act (AFA) and non-AFA, resulting in 10 unique gear sectors that would be apportioned non-CDQ TAC. The Council's preferred alternative was Alternative 2 with a suite of 9 main components:

- 1) establishing sectors for allocations,
- 2) sector allocations
- 3) seasonal apportionments
- 4) Rollovers
- 5) CDQ allocation
- 6) apportionment of trawl halibut and crab PSC to cod trawl fishery group
- 7) apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors
- 8) apportionment of cod non-trawl halibut PSC, and
- 9) other provisions. The other provisions included a soft cap directed fishing allowance and incidental catch allowance for each trawl sector, maintaining AFA trawl CV cod sideboards, and a review of the <60 foot LOA hook-and-line and pot CVs when the combined harvest of those sectors reaches a total of 3% of the BSAI Pacific cod ITAC.

Regulation Summary

Amendment 85 modified the BSAI non-CDQ Pacific cod TAC allocation and defined specific harvesting sectors. After removing 10 percent of the total cod TAC as a CDQ allowance, the remaining TAC was apportioned to the unique harvesting sectors as follows:

1.4% to Jig

2% to Fixed gear catcher vessels CVs less than 60 feet length overall (LOA)

0.2% to Hook and line CVs greater than or equal to 60 feet LOA

48.7% to Hook and line CPs

8.4% to Pot CVs greater than or equal to 60 feet LOA

1.5% to Pot CPs

2.3% to AFA trawl CPs

13.4% to Non-AFA trawl CPs

22.1% to Trawl CVs

Amendment 85 also revised the language of the FMP to reflect changes in the 2006 Magnuson-Stevens Fishery Conservation and Management Reauthorization Act.

Results

Starting in 2014, the BSAI Pacific cod stock was split into a separate AI stock and BS stock. While separate OFLs, ABCs, and TACs, were created for the AI and the BS, the actual sector allocations (except CDQ allocations) remain BSAI-wide allocations. Sector allocations are calculated as a percent of the summed AI and BS TACs, after adjustment are made to account for CDQ allocations (which receive 10.7%). Each of the non-CDQ sectors that receives an allocation, may fish their allocation within the AI or the BS, subject only to its overall harvest limit, and any seasonal or other restrictions on harvests.



Restructuring the Program for Observer Procurement and Deployment in the North Pacific

Council Action
December 2008

Notice of Availability
April 17, 2012
77 FR 22753

Final Rule
November 21, 2012
77 FR 70062

Effective
January 1, 2013

Purpose and Need

The North Pacific Groundfish Observer Program was largely successful during the early years of its implementation, but had a number of inherently restrictive components within the program's structure. Vessel coverage had not changed since the early 1990s, largely because cost and statutory constraints prevented the Council from addressing restructuring the program. Observer deployment was also a longstanding issue. Lack of funding and resources restricted coverage levels and deployment, and the structure did not allow for the flexibility to respond to future management needs. Furthermore, the existing structure did not allow for managers to control when or where observers were deployed resulting in potential sources of bias that could jeopardize the statistical integrity of the data. The cost structure of the program also meant that the cost of observer coverage on smaller vessels was disproportionately higher relative to gross earnings. The funding of the Observer Program did not provide the flexibility or resources to solve the inherent problems of the existing program and was too rigid to allow for adapting to shifting management objectives. This action was necessary to resolve data quality and cost equity concerns with the Observer Program's funding and deployment structure.

Analysis

A 240-page EA and RIR analysis was prepared for the amendments. Four alternatives were considered that analyzed various fee structures, within the 2% maximum as mandated by the Magnuson-Stevens Act. Additionally, two options were considered that addressed NMFS' reporting expectations for the Council. The preferred alternative by the Council was Alternative 3, a coverage-based restructuring alternative that would implement a 1.25% ex-vessel value fee for vessels participating in the groundfish fishery. The second option, which called for an annual financial report by NMFS laying out the Observer Program budget, was also supported by the Council.

In 2015, NMFS prepared a 140-page Supplemental EA for this action. NMFS prepared the supplement in response to a Court Order to consider whether the restructured Observer Program would yield reliable, high quality data given likely variations in costs and revenues. The agency collected and analyzed observer data, costs, and fee revenue from two complete years under the new program, 2013 and 2014.

Regulation Summary

BSAI Amendment 86 (which revised BSAI Amendment 13) and GOA Amendment 76 (which revised GOA Amendment 18) implemented an ex-vessel value-based fee structure for all vessels (including vessels under 60 feet length overall) fishing for groundfish with a federal fishing permit in federal waters, and all vessels fishing halibut and sablefish IFQ in federal or state waters. They also established two observer coverage categories: <100% observer coverage and ≥100% observer coverage. Vessels in the <100% category are subject to an ex-vessel value based fee not to exceed 2%. Vessels with ≥100% observer coverage obtain coverage by contracting directly with observer providers to meet coverage requirements.

Results

The restructured Observer Program was implemented at the start of the 2013 fishing year. Each year, an annual deployment plan is prepared by the agency and reviewed by the Council, which governs how and at what selection rate vessels in the partial coverage category will be randomly selected for observer coverage. The Annual Deployment Plan provides an annual evaluation of the risks associated with different allocations of deployment rates. An annual report on the previous year's observer program is also prepared for each June, which reports on the overall program budget, whether the deployment plan's sampling goals were met, enforcement

issues, and other issues that may be requested by the Council or highlighted by the agency.

Under the restructured Observer Program, observer coverage categories based on vessel length or processing volume were removed, and replaced with requirements based on the data needs for specific management programs. The number of participants in the full coverage category increased, although there were no other structural changes to the deployment or funding of observers in this category. In the partial coverage category, the number of vessels subject to coverage greatly increased, to include all vessels in the halibut fishery and groundfish vessels less than 60 feet length overall that had never carried an observer under the previous program. NMFS' ability to estimate total catch in all Federal fisheries in the North Pacific is considerably improved, both by expanding observer coverage to previously unobserved vessels, and adopting a representative sampling plan that resolves spatial and temporal coverage issues resulting from the previous ad hoc deployment method.



Community Development Quota Eligibility
(Withdrawn)Draft RIR Presented
April 2006

Purpose and Need

The Community Development Quota (CDQ) program was designed to improve social and economic conditions in western Alaskan communities by facilitating their participation in valuable commercial fisheries based on historical fishing effort. Since the CDQ program was implemented to foster local participation, criteria was laid out to determine eligibility. However, BSAI groundfish FMP and Federal regulations contained community eligibility criteria for the CDQ Program that differed, and neither were consistent with the community eligibility requirements added to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) in 1996 through the Sustainable Fisheries Act. At the time, NMFS determined 65 communities were eligible to participate in the CDQ Program. Based on the advice of NOAA GC to re-evaluate the eligibility status of the 65 eligible communities, a discussion paper was prepared and presented to the Council at its October 2003 meeting. Council and NMFS staff concluded that, if such a re-evaluation were done, some of the 65 communities participating in the CDQ Program would likely not meet all of the CDQ Program eligibility criteria. NOAA GC recommended regulatory and FMP amendments to make eligibility requirements consistent with the MSA.

Analysis

A 13-page RIR was prepared to analyze an action alternative that would make the eligibility criteria for CDQ participation in the FMPs consistent with Federal statutes. The RIR determined that the implementation of the action alternative would result in a net benefit to the Nation.

Results

Amendment 87 was superseded with the passing of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) of 2006 and subsequently withdrawn.



Aleutian Islands Habitat Conservation Area
Boundary AdjustmentCouncil Action
March 2007Proposed Rule
November 21, 2007
72 FR 65539Final Rule
February 19, 2008
73 FR 9035Effective
March 20, 2008

Purpose and Need

The Council established the Aleutian Islands Habitat Conservation Area (AIHCA) to protect the Aleutian Islands subarea from the potential adverse effects of bottom contact fishing. As part of an Aleutian Islands EFH package, certain areas were restricted to bottom contact fishing to protect corals, sponges, and hard-bottom habitat. After AIHCA was established as part of the AI EFH suite, fishery participants identified two changes necessary to fulfill the intent of the AIHCA while allowing fishing in areas that had historically been fished.

The Council responded by producing an EA and RIR to determine the environmental and socioeconomic impacts of opening an area that had been closed north of Agattu Island that had historically been fished and had an unknown occurrence of corals and sponges, and closing an area that had been open north of Buldir Island that had documented presence of sponges. Revisions to the AIHCA required amendments to the BSAI groundfish FMP, along with the crab, scallop, and salmon FMPs. However, only Amendment 88 to the BSAI groundfish FMP required regulatory changes.

Analysis

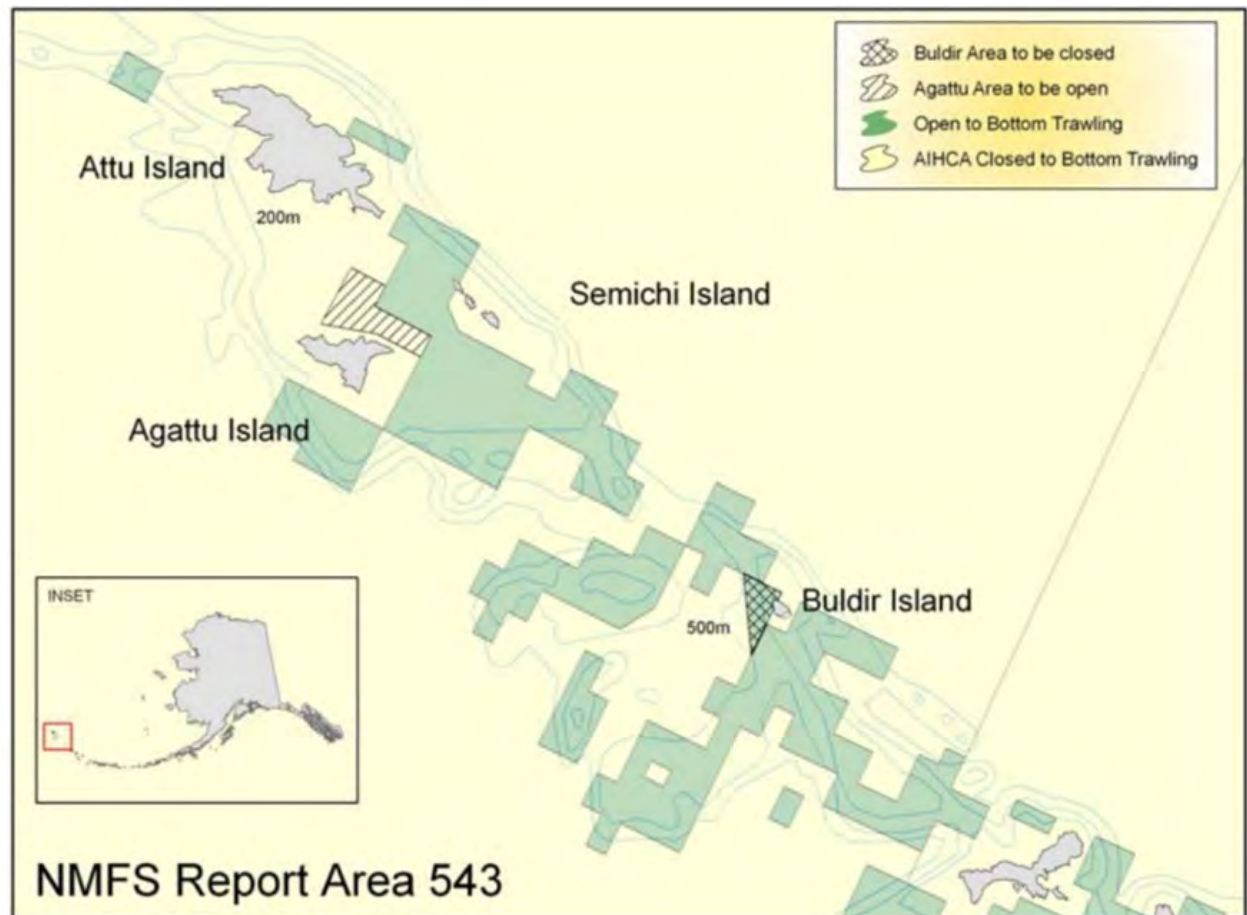
A 31-page EA and 20-page RIR analysis were prepared for the amendment. The two alternatives analyzed were no action, and to modify the boundaries for the AIHCA in two areas, one north of Agattu Island and one north of Buldir Island. The environmental effects of the action alternative would be limited to the area where the action would occur. Alternative 2 was determined to have no significant impacts but would provide socioeconomic benefit by opening a portion of the AIHCA north of Agattu Island to fishing.

Regulation Summary

Revised the Aleutian Islands Habitat Conservation Area to close additional waters near Buldir Island and to open waters near Agattu Island to nonpelagic trawl gear.

Results

The amount of fishing activity in these two areas since implementation has not been analyzed.



Aleutian Islands Habitat Conservation Area Adjustments



Bering Sea Habitat Conservation

Council Action
March 2007Proposed Rule
November 21, 2007
73 FR 12357Final Rule
February 19, 2008
73 FR 43362Effective
March 20, 2008

Purpose and Need

In February 2005, the Council took final action in the Gulf of Alaska (GOA) and Aleutian Islands (AI) to conserve essential fish habitat (EFH) by adopting a collection of management measures aimed to reduce the potential impacts of fishing on the areas. While the Bering Sea had been analyzed in the EIS, the Council chose not to take action because impacts of trawl fishing were lower and did not require immediate action like GOA and AI. The goal of the Council in their decision to proceed with an analysis of trawl restrictions in the Bering Sea was largely to isolate the footprint of the fleet.

The Council decided to focus on reducing the effects of nonpelagic trawling in the EBS largely because trawling employs gear that fishes hard on the bottom, has high long-term effect indices (LEI) on habitat, and was widely distributed, which could have potentially increased dramatically with increases in total allowable catch (TAC) limits for flatfish.

Analysis

A 230-page EA and RIR analysis was prepared for this amendment. Three alternatives were analyzed, which in addition to the status quo considered area

closures (Alternative 2 — termed an 'open area' approach where certain areas would be open to trawl fishing while others were prohibited) and gear modifications (Alternative 3 — specifically modifications to the trawl sweeps used in flatfish target fisheries). The analysis also included five options identifying specific closure areas. Any of the alternatives and options could be adopted in combination. Ultimately the Council adopted Alternative 2 and four of the area closure options. The Council did not adopt the proposed gear modification as part of Amendment 89 because the technology proposed had not been sufficiently tested. The EA found that there would be no significant impact on species in the area or habitat. The RIR analysis determined that the largest potential effect on revenue at risk would be from Alternative 2.

The NBSRA was established as a part of this amendment to consider and identify protection measures for various species within the NBSRA, as well as subsistence needs of Western Alaska coastal communities in the nearshore area. Within the NBSRA trawl fishing may be allowed at some point pursuant to a scientific research plan.

Results

Amendment 89 succeeded in freezing the footprint of nonpelagic trawl fishing in the Bering Sea by prohibiting nonpelagic trawl in the northernmost shelf area and the deepwater basing (Bering Sea HCA and NBSRA)

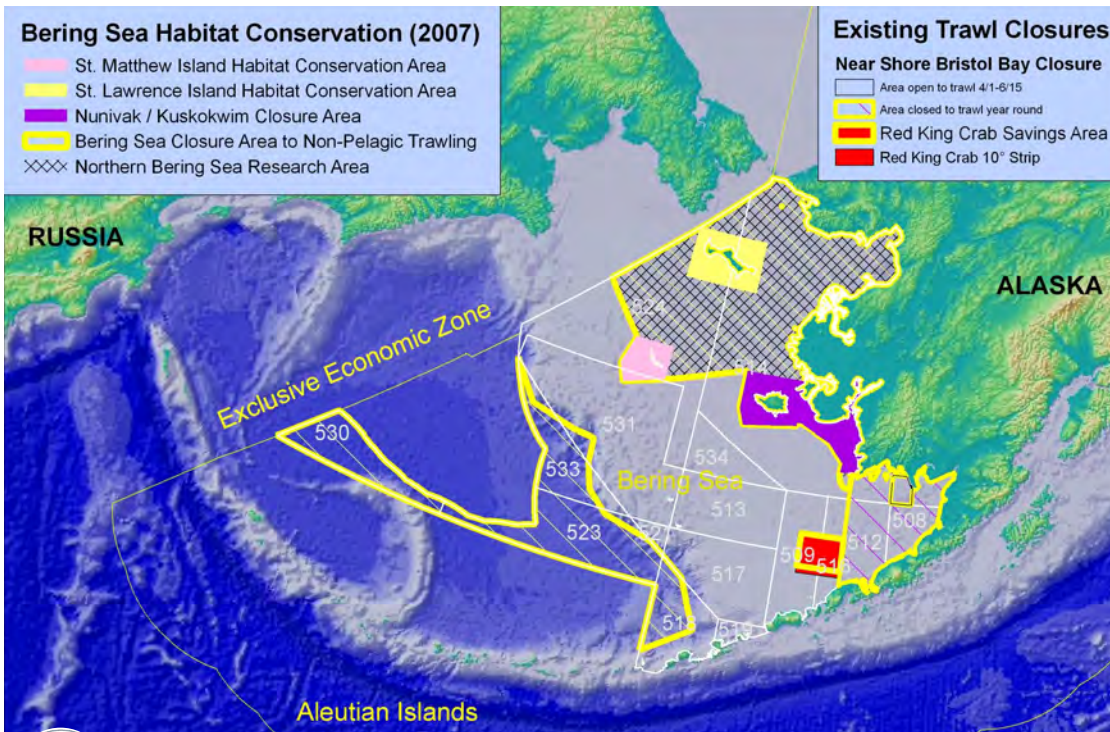
The creation of the NBSRA included a Council request for NMFS to develop a scientific research plan for the area, to identify where nonpelagic trawl fishing may be allowed, and to initiated an adaptive management experiment of the effects of nonpelagic trawl gear in previously untrawled areas. The AFSC began work on a research plan in 2010, but in June 2011, the Council suspended development of the plan in consideration of considerable testimony from tribes and members of communities adjacent to the research area opposing its development, as well as testimony from the trawl industry indicating that they were not actively interested in fishing in the area at that time.

The analysis' Alternative 3, which proposed gear modifications for all nonpelagic trawl gear used in flatfish target fisheries, was adopted two years later in Amendment 94.

Regulation Summary

Amendment 89 closed a 133,000 square nautical mile area of the EBS to nonpelagic trawl fishing. The areas closed to nonpelagic trawling are:

- Bering Sea Habitat Conservation Area (HCA),
- St. Lawrence Island HCA,
- St. Matthew Island HCA,
- Nunivak Island, Etolin Strait, and Kuskokwim Bay HCA, and
- Northern Bering Sea Research Area (NBSRA).



Allow Post-Delivery Transfers of Cooperative Quota in the Central GOA Rockfish Pilot Program and Amendment 80 Program

Council Action
February 2008

Proposed Rule
January 4, 2009
74 FR 254

Final Rule
August 21, 2009
74 FR 42178

Effective
September 21,
2009

Purpose and Need

When the Amendment 80 Program and the Central GOA Rockfish Pilot Program were established, NMFS issued quota share (QS) to individual vessels based on their historic participation in the fishery. QS holders could then either join cooperatives with other QS holders or participate in a limited access fishery with other non-cooperative QS holders. If QS holders opt to form a cooperative, a cooperative quota (CQ) is issued by NMFS based on the relative amount of QS held by members compared to the total QS pool. The CQ serves as a permit that provides exclusive harvesting privileges for a specific amount of groundfish.

Excess harvest of the CQ allocation is a regulatory violation and is punishable by confiscation of catch and other penalties. Concerns were expressed that a portion of the CQ went unharvested due to the risk of overages and associated penalties. Though strict overage penalties were in place, the fleet was relatively inflexible in how they could handle quota transfers, and therefore opted to forego harvesting a portion of their quota to avoid the risk of incurring the penalties associated with excess harvest. Under both Amendment 80 and the Central GOA Rockfish Pilot Program, cooperatives could transfer unused CQ to other cooperatives but were subject to NMFS approval before they were effective; post-delivery transfers – a transfer of CQ after delivery to rectify a negative CQ balance – were not permitted.

In a purpose and need statement, the Council identified the need to allow post-delivery transfers of CQ to reduce the number of violations and encourage a more complete harvest of the quota without the risk of overharvesting allocations.

Analysis

Both RIRs, prepared for the amendments, analyzed two action alternatives and a status quo alternative. Both action alternatives involved the allowance of post-delivery transfers, but at different amounts. Alternative 2 (the Council's preferred alternative) allowed for unlimited post-delivery transfers, while Alternative 3 provided moderately limited post-delivery transfers. Under Alternative 3, the strictly limited transfer of PSC were likely sufficient to cover an unintentional overage arising from a single tow, but could reduce the effectiveness of the provision in addressing harvesting efficiencies that could be realized through in-season transfers used to coordinate harvesting activity that could not be completed in a timely manner.

Regulation Summary

Amendment 78 to the GOA FMP and Amendment 90 to the BSAI FMP added the language to the respective FMP to allow for the transfer of CQ after a delivery to cover any potential overages given that the cooperative account had a zero or positive balance before the start of the trip.

Results

Both actions were instrumental in allowing unlimited post-delivery transfers within the cooperatives. In June 2010, the Council took final action defining a catch share program for the Central GOA directed rockfish fisheries. The program was intended to replace the pilot program since that program expired at the end of the 2011 season. As part of the new Central GOA Rockfish Program, post-delivery transfers of cooperative quota were authorized.



Chinook Salmon Bycatch Management

Council Action
April 2009

Proposed Rule
March 23, 2010
75 FR 14016

Final Rule
August 30, 2010
75 FR 53026

Effective
September 29,
2010

Purpose and Need

Amendment 91 addressed bycatch in the Bering Sea directed fisheries for pollock and revised BSAI Amendment 84 (implemented on June 22, 2007), which established the salmon bycatch intercooperative agreement allowing the directed fisheries to utilize their internal cooperative structure to reduce salmon bycatch. Historically, the Bering Sea pollock fishery caught up to 95 percent of the Chinook salmon taken as bycatch in the Bering Sea and Aleutian Island groundfish fisheries with a peak of about 122,000 in 2007. Genetic studies indicated that a substantial portion of the Bering Sea Chinook bycatch were members of Western Alaska river stocks. In response to the high rates of bycatch in the fishery the Council and NMFS considered alternative measures to minimize bycatch to the extent practicable while maintaining optimum yield, which mandates a fishery be managed to provide the greatest overall benefit to the Nation. These benefits include ecosystem considerations, recreational opportunity, and subsistence use.

Analysis

In cooperation with the Alaska Department of Fish and Game, a 492-page EIS and 225 -page RIR analysis were prepared. Three of the alternatives analyzed explored a hard cap on Chinook salmon PSC limits and the Council favored the alternative that imposed a hard cap PSC limit in combination with an incentive-based program. The EIS analysis included the effects of a PSC on other species including walleye pollock, chum salmon, other groundfish and forage fish, and other marine resources. The Council considered implementation alternatives such as starting with a cap that was a 20% increase in the highest year pre-2007 and gradually meeting the desired PSC limit, but they were rejected because they were not consistent with the purpose and need because it would not reduce bycatch significantly in the first three years of implementation. The Council also considered an alternative to charge a per-salmon fee, but the Magnuson-Stevens Act provides NMFS limited authority to impose fees.

Regulation Summary

This innovative regulation is a combination of a hard cap on allowable Chinook salmon bycatch in combination with incentive-based measures to encourage cooperation in establishing an incentive plan agreement (IPA). The Chinook salmon PSC limit available to AFA sectors in the Bering Sea pollock fishery that voluntarily participate in the IPA and meet a minimum performance standard is 60,000; if no IPA is approved by NMFS or if the sectors do not meet minimum standards the PSC limit for BSAI Chinook salmon is 47,591. Additionally, if performance standards are not met in three of seven consecutive years the 47,591 PSC limit will remain in effect for all future years. 70 percent of the PSC limit is allocated for season A and 30 percent is allocated for season B, with further apportionments among the four AFA sectors. Once the PSC limit for Chinook salmon has been met the pollock fishery is closed.

Results

This amendment established the first ever hard cap on the pollock fishery for Chinook salmon PSC. While this was effective in controlling the amount of Chinook salmon PSC, additional caps have been considered to incentivize staying below a second, lower cap. The amendment to Amendment 91 is BSAI groundfish FMP Amendment 110, and is currently a proposed rule published February 3, 2016 (81 FR 5681).



Rescind Latent Trawl Gear Licenses

Council Action
June 2006

Proposed Rule
December 30, 2008
73 FR 79773

Final Rule
August 14, 2009
74 FR 41080

Effective
September 14, 2009

Purpose and Need

In the mid to late 1990s, the Council developed the License Limitation Program (LLP) to address capacity concerns and take a first step toward rationalization of the groundfish fisheries under its management. The LLP established criteria for the issuance of licenses to persons based on fishing history of vessels. Generally, a vessel participating in groundfish fisheries in Federal waters in the BSAI or GOA is required to have an LLP license with the applicable area endorsement and designated for the gear (trawl or non-trawl) and operation type (catcher processor or catcher vessel) and of sufficient MLOA. After fishing under the program began in 2000, public testimony and review of landings data made NMFS aware that a large number of trawl LLP licenses were not being used for fishing in some, or all, of the regulatory areas for which they were endorsed. A review of "latent" LLP licenses – valid LLP licenses that were unused – was initiated after active trawl fishermen expressed that should latent LLP licenses become active it would adversely affect their fishing operations. So, in June 2006, the Council identified the need to reduce the future potential for an increase in trawl groundfish fishing effort from LLPs currently unused or underutilized in all areas. They noted that LLP holders currently fishing the BSAI and GOA groundfish trawl fisheries have made significant investments, have long catch histories, and are economically dependent on the groundfish resources from these areas. The intent of this action

was to provide protection for currently participating permit holders from those permit holders who could re-enter the fisheries in the future using a latent license.

Analysis

A 6-page EA and 66-page RIR analysis were prepared for this amendment. Two action alternatives to implement landing criteria to retail trawl LLP area endorsements and four components were considered. The components addressed landings thresholds, multiple LLPs stacked on a single vessel, exempting Amendment 80 licenses from the CG and WG thresholds, and adding new AI endorsements to trawl LLPs. The Council selected Alternative 3, Component 1, Options 3 and 5 as the preferred package and noted that the action represents a modest step between the status quo and a rationalized trawl fishery. Exemptions were established primarily because the participants in the rationalization programs have already met specified and more detailed thresholds for these specific management areas.

Regulation Summary

Amendment 92 consists of two different actions.

- 1) Latent LLP licenses that have not more at least two landings using trawl gear between the years 2000 and 2006 in a particular endorsement area will have that area removed from the LLP.
- 2) The issuance of new and additional trawl CV AI area endorsements for the Aleutian Islands subarea.

There were two exemptions to the forfeiture of latent LLP licenses:

- 1) Vessels with an LLP license that made more than 20 landings in at least one of the areas of the GOA from 2005 to 2007 may continue to hold an endorsement in both the Central Gulf (CG) and Western Gulf (WG). This exemption also allows trawl vessels participating in the CG to keep their WG endorsement because the TAC in the WG had not been fully harvested in recent years.
- 2) Vessels with LLP licenses assigned to Limited Access Privilege Programs (LAPPs). Exemptions for LLP licenses assigned to AFA vessels, the CG Rockfish Program, and the Amendment 80 Program allowed for the fulfillment of the goals of the programs, which is to facilitate the development of cooperatives.

Results

Capacity has been further constrained, while providing sufficient participation for AI trawl CVs.



Modifying Amendment 80 Cooperative Formation Criteria

Council Action
February 2010

Proposed Rule
August 10, 2011
76 FR 49417

Final Rule
November 4, 2011
76 FR 68354

Effective
December 5, 2011

Purpose and Need

In 2007, Amendment 80 was established to facilitate the formation of cooperatives in the non-American Fisheries Act (non-AFA) trawl catcher/processor sector. NMFS originally issued a quota share (QS) to a vessels that had an established catch history of the six Amendment 80 species and met the criteria specified by Congress in the Capacity Reduction Program (CRP). Under Amendment 80, qualifying non-AFA vessels receive cooperative quota, which are exclusive harvest privileges for a portion of the fishery.

Most participants in the Amendment 80 sector had successfully established a cooperative in the first year of the program. However, some participants expressed concern that over the long term, cooperative formation standards could have disadvantage them, and they would have been constrained from establishing cooperative relationships, receiving an exclusive annual harvest allocation, and end the “race for fish.” Smaller vessel owners with limited quota shares likely had weakened negotiating leverage as the groundfish retention standard increased if they could not be competitive in the limited access fishery and options in the GOA were not viable. Participants of any size would likely have found it difficult to receive the benefits of cooperative management if an unattractive outside option, or a cooperative is able to derive some benefit from forcing an entity into the limited access fishery.

Relaxing cooperative formation standards

either by reducing the number of quota share permits that must be assigned, or the number of owners required, or by requiring that any otherwise eligible member be accepted by a cooperative subject to the same terms and conditions as other members was thought to:

- 1) provide additional opportunities to quota shareholders to form cooperatives, because more relationships are possible
- 2) diminish the negotiating leverage of vessel owners who may be necessary to meet the threshold requirements under more stringent cooperative formation standards
- 3) reduce the potential risk of any one company being unable to negotiate settlement and be able to fish only in the limited access fishery; and
- 4) reduce the incentive for members of a cooperative to attempt to create conditions that are unfavorable for certain fishery participants to form a cooperative.

Analysis

A 12-page EA and 89-page RIR analysis were prepared for the amendment that analyzed five action alternatives and two sub-options. All action alternatives explored ways to make cooperative participation and formation more inclusive. In February 2009, the Council expressed concern that modifications to the Amendment 80 cooperative criteria could alter the nature of the program to the point of necessitating a new LAPP. In response, the analysis

clarified that the alternatives presented did not fundamentally change the nature of the Program and would only address one aspect of it. Ultimately, the Council supported Alternative 4 and two suboptions.

Regulation Summary

Amendment 93 consists of two changes to the Amendment 80 Program:

- 1) the number of persons and licenses required to form an Amendment 80 cooperative was reduced from three separate QS permit holding entities and nine QS permits to two separate QS permit holding entities and seven QS permits.
- 2) the amendment changed the Amendment 80 Program to require a quota share holder to assign all quota share permits to a cooperative or the limited access fishery. The regulation also allows the groundfish retention standard (GRS) to be applied in aggregate, to all cooperatives if the calculation meets or exceeds the GRS.

Results

In the year immediately following implementation of Amendment 93 and all years since, no Amendment 80 qualified vessels participated in the limited access fishery and all active Amendment 80 vessels are members of one of two established cooperatives.



Modifying Amendment 80 Cooperative Formation Criteria

Council Action
October 2009

Proposed Rule
July 15, 2010
75 FR 41123

Final Rule
October 6, 2010
75 FR 61642

Effective
January 20, 2011

Purpose and Need

A major component of the BSAI Amendment 89 EA was the analysis of trawl sweep modification in the nonpelagic trawl flatfish fishery. While the Council supported gear modification, they felt that further research and refinement of the specific details of the gear modification were required before it could be implemented. The Council deferred a specific decision

regarding modification and implementation until June 2008 with the promise that once trawl gear modification was implemented a portion of the Northern Bering Sea Research Area (NBSRA) could be re-opened to the trawl flatfish fishery. Participants in the fishery would be required to modify their trawl sweeps in a manner later decided by the Council. The potential to re-open the flatfish trawl fishery in the NBSRA was incentive for the fishing

industry to work out technological and implementation issues associated with trawl gear modification. Amendment 94 was the vehicle to implement what had been left out of Amendment 89 because of the lack of available information.

Analysis

A 203-page EA and RIR were prepared, with two alternatives to the status quo. Both

implemented a requirement for use of the trawl sweep modification in Bering Sea flatfish target fisheries, however the Council preferred Alternative 3, which additionally re-opened a small subarea of the Northern Bering Sea Research Area to non-pelagic trawl fishing for any target species, provided the vessels used the trawl sweep modification. An option in the analysis, also preferred by the Council, analyzed an adjustment to the eastern boundary of the SMIHCA to protect blue king crab habitat. Finally, the amendment included four housekeeping changes to the BSAI FMP: to remove reference to the Crab and Halibut Protection Zone in the BSAI FMP; to renumber and cross reference figures and tables; to adjust the northern boundary of the NBSRA to abut at Bering Strait; and to update the Community Development Quota (CDQ) eligibility list to be consistent with the Magnuson-Stevens Act. The RIR analysis described costs associated with implementing modified trawl

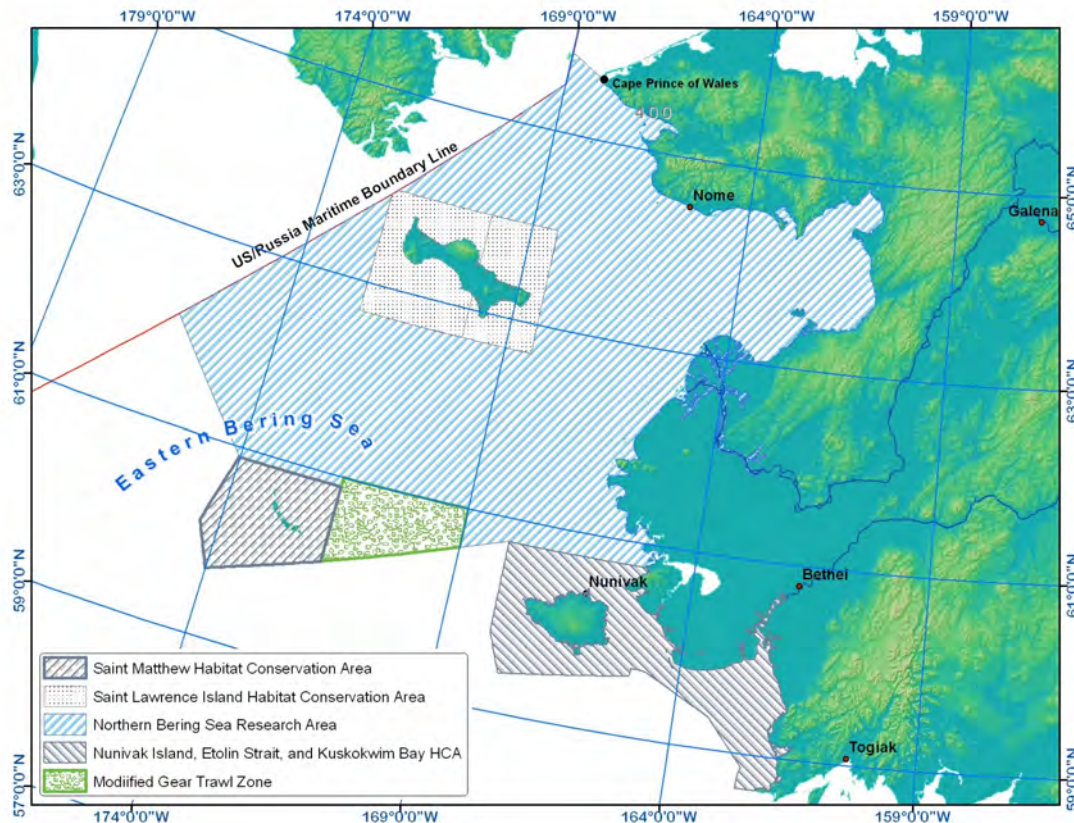
gear. The analysis found that implementing the trawl sweep modification would incur a one-time per-vessel cost for installation (estimates ranged from \$0-\$800,000), but that the annual cost of the modified gear may be offset by the elevated disks minimizing wear and tear on the trawl sweeps, and extending their useful life.

Regulation Summary

Amendment 94 required vessels participating in a Sea flatfish nonpelagic trawl fishery to use modified trawl gear in order to protect benthic habitat. In addition, a section of the Northern Bering Sea Research Area, called the Modified Gear Trawl Zone (MGTZ), was re-opened to nonpelagic trawl fishing for any species. Within the MGTZ, modified sweeps must be used on nonpelagic trawl gear regardless of the target fishery. The boundary of the St. Matthew Island Habitat Conservation Area (SMIHCA) was extended eastward to protect blue king crab habitat. A number of housekeeping items were also addressed.

Results

Implementation of nonpelagic trawl sweep modification was delayed until the start of the fishing year 2011, to ensure that all vessels had sufficient time to make any structural adjustments necessary to accommodate the use of modified sweeps. The trawl sweep modification requirement was subsequently extended to Central Gulf of Alaska trawl flatfish fisheries in GOA FMP Amendment 89.



Map showing Saint Matthew HCA, Saint Lawrence HCA, Northern Bering Sea Research Area, and the Modified Gear Trawl Zone.



Skates as a Target Species

Council Action
October 2009Proposed Rule
July 16, 2010
75 FR 41424Final Rule
October 6, 2010
75 FR 61639Effective
November 5,
2010

Purpose and Need

As part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), new requirements for annual catch limits (ACLs) and accountability measures (AMs) were introduced to reinforce existing requirements to prevent overfishing and rebuild fisheries. This measure was to be immediately applied to overfished fisheries, but could be delayed until the 2011 fishing year for fisheries not overfished. Since none of the Alaska groundfish fisheries were overfished the implementation of ACLs and AMs could be delayed until 2011. Additionally, BSAI and GOA groundfish FMPs were out of compliance with the “other species” management strategy National Standard 1 (NS1) guidelines set in 2009. Each year the overfishing limit (OFL), acceptable biological catch (ABC), and total allowable catch (TAC) are established for the “other species” group as a whole. For this reason, NS1 standards dictated that the “other species” category must be comprised of species with similar life histories. The FMPs combined the management of short-lived invertebrates like squid and octopus with long-lived vertebrates like shark and skate. In the BSAI FMP skate, shark, sculpin, and octopus groups were managed as a complex, and in the GOA FMP shark, sculpin, octopus, and squid were managed as a complex.

NMFS trawl surveys and catch information showed the 15 species of skate inhabited the BSAI, with different species abundances

occurring in each sub-region. Based on the new information available, the Council decided to address the current management strategy of managing the skate group as a whole or individual skate species in the BSAI.

Analysis

A 32-page EA was prepared for Amendment 95, which analyzed 3 alternatives. The preferred alternative identified was moving skates from the “other species” category to the “target species” category and establishing a “pollock/Atka mackerel/skates/other species” category for setting halibut PSC limit. An alternative considered but not carried forward was to establish skate MRAs at levels equal to average catches between years 2006 and 2008 in the groundfish fishery, but was not carried forward because it did not adequately address the problem statement.

Regulation Summary

BSAI Amendment 95 moves skates from the “other species” category to “target species” so that specific management strategies can be applied to individual skate species in the BSAI groundfish fishery. This amendment allows for better application of best available science in determining TAC, OFL, and ABC for skate species.

Results

Conservation has increased as catch specifications have been set separately for the skate species complex.



Sharks, Sculpins, and Octopus as Target Species

Council Action
April 2010Proposed Rule
July 16, 2010
75 FR 41424Final Rule
October 6, 2010
75 FR 61639Effective
November 5,
2010

Purpose and Need

As part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), new requirements for annual catch limits (ACLs) and accountability measures (AMs) were introduced to reinforce existing requirements to prevent overfishing and rebuild fisheries. This measure was to be immediately applied to overfished fisheries, but could be delayed until the 2011 fishing year for fisheries not overfished. Since none of the Alaska groundfish fisheries were overfished the implementation of ACLs and AMs could be delayed until 2011. Additionally, BSAI and GOA groundfish FMPs were out of compliance with the “other species” management strategy National Standard 1 (NS1) guidelines set in 2009. Each year the overfishing limit (OFL), acceptable biological catch (ABC), and total allowable catch (TAC) are established for the “other species” group as a whole. For this reason, NS1 standards dictated that the “other species” category must be comprised of species with similar life histories. The FMPs combined the management of short-lived invertebrates like squid and octopus with long-lived vertebrates like shark and skate. In the BSAI FMP skate, shark, sculpin, and octopus groups were managed as a complex, and in the GOA FMP shark, sculpin, octopus, and squid were managed as a complex.

NMFS trawl surveys and catch information showed the 15 species of skate inhabited the BSAI, with different species abundances

occurring in each sub-region. Based on the new information available, the Council decided to address the current management strategy of managing the skate group as a whole or individual skate species in the BSAI.

Analysis

A 9-page RIR and 75-page EA were prepared for Amendment 96. Three alternatives were analyzed to bring the FMPs into compliance with MRSA and NS1 standards. Six alternatives were considered but not carried forward because they did not comply with NS1 guidelines.

Regulation Summary

BSAI Amendment 96 and GOA Amendment 87 continued to allow the management of BSAI and GOA sharks, sculpins, octopuses, and GOA squids as a group for the purposes of prohibited species catch (PSC), but the term “other species” was removed from the paragraphs related to harvest limits, reserves, harvest specifications, and fishery closures to ensure consistency with “target species” management under Amendment 96 and Amendment 87. Both amendments brought BSAI and GOA FMPS into compliance with MRSA ACL and AM requirements.

Results

While Amendment 95 and 96 were initiated by the Council in October 2009 and April 2010, respectively, they were combined as a proposed rule as both Amendments created separate target species complexes in the BSAI groundfish FMP.



Amendment 80 Program Vessel Replacement

Council Action
June 2010Proposed Rule
April 4, 2012
77 FR 20339Final Rule
October 1, 2012
77 FR 59852Effective
October 31, 2012

Purpose and Need

In June 2006, the Council adopted a Limited Access Privilege Program (LAPP) that incentivized the establishment of a non-AFA catcher/processor cooperative by allocating a quota share to qualifying participants. This program, commonly referred to as Amendment 80, was designed to meet a number of policy objectives. Amendment 80, which was implemented in 2008, limited participation in the program to 28 originally qualifying vessels and prohibited vessel replacement unless it was with one from a list of qualifying vessels. Conditions for vessel replacement were contingent upon the inability of the vessel to continue participating in the Amendment 80 program. The inability of owners participating in the Amendment 80 sector to replace vessels in the program meant they were unable to diversify processing capabilities. The non-specialized catcher/processor fleet made groundfish harvest for Amendment 80 species inefficient, and retention concerns were brought to the Council. The Council decided to address retention in a non-regulatory action by allowing vessel replacement in the Amendment 80 fleet. The Council adopted Amendment 97 to address Amendment 80 vessel replacement, indirectly improving groundfish retention in the Amendment 80 fleet without imposing minimum retention standards.

Analysis

A 109-page RIR analysis and 10-page EA were prepared for the action. Three alternatives were considered with “no action” and “status quo” alternatives included in Alternative 1. Additionally, five options, three general sub-options, and a sub-option under Option 5 were analyzed. No direct or indirect environmental effects were anticipated to occur with any of the alternatives analyzed under the proposed action because none of the alternatives would change fishing practices from those previously analyzed. The RIR found that the expected result of the action would be that smaller vessels would be replaced by larger ones to accommodate additional hold and processing capabilities. The likely replacement of multiple small vessels with one large vessel would result in reduced harvest overall but an increased effective fishing capacity within the Amendment 80 sector.

The Council's preferred alternative was a composite of the alternatives, options, and sub-options presented. The Council motion included seven recommendations:

- 1) vessel size restrictions
- 2) GOA flatfish sideboard restrictions
- 3) sideboard restrictions for a replacement vessel that replaces the Golden Fleece
- 4) the ability to transfer a QS permit to a replacement vessel
- 5) the ability to replace Amendment 80 vessels with vessels previously

replaced

- 6) the authorization by the Council for vessels greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower to be used in the EEZ according to U.S. Maritime Administration Provisions and,
- 7) the specification that all management measures that apply to original Amendment 80 vessels would also apply to replacement vessels.

Regulation Summary

Amendment 97 consisted of ten (10) changes to Amendment 80, all involving the replacement of existing Amendment 80 vessels. The main change to Amendment 80 was the ability of owners to replace their vessels for any reason and at any time up to a one-for-one vessel replacement. The maximum length overall (MLOA) for replacement vessels is 295 feet LOA. This includes vessels on LLP licenses assigned

to Amendment 80. All Amendment 80 replacement vessels must be classed and loadlined or meet the requirements of U.S. Coast Guard Alternative Complaints and Safety Agreement to be used to replace other Amendment 80 vessels. Sideboard limitations were defined for replacement vessels to avoid a race to fish with competing non-AFA vessels. Finally, the amendment established a process by which owners would apply to NMFS for approval to use an Amendment 80 replacement vessel.

Results

Since implementation of Amendment 97, a few Amendment 80 companies are building new highly efficient vessels to replace their existing Amendment 80 vessels.



Seafreeze America, U.S. Seafoods Amendment 80 replacement vessel. Photo courtesy of Diana Evans.



Purpose and Need

Essential fish habitat (EFH) regulations state that a review of EFH provisions of FMPs should be conducted once every five years. Reviews are essential to insure that FMPs are based on the best available information. The purpose of these periodic reviews is to evaluate published scientific literature, unpublished scientific reports, information solicited from interested parties, and previously unavailable or inaccessible data. In 2009 and 2010 a 5-year EFH review was conducted for the Council of the BSAI Groundfish, GOA Groundfish, BSAI Crab, and Scallop FMPs. Based on the findings in the review, the Council identified a number of elements in the various EFHs that warranted updates with the most current scientific information.

Analysis

A 55-page EA was prepared for the omnibus amendments. The analysis was divided into seven actions, each with two alternatives: no action or amend the respective FMP based on the findings of the five-year review.

Action was preferred in all seven instances. The EA found that no regulatory action was necessary in to implement the Council's preferred alternatives.

Regulation Summary

While no regulatory change was required, a number of FMP components were revised for EFH in the five amendments in the EFH omnibus, and new habitat and life history information was applied to the FMPs:

- EFH provisions of the BSAI and GOA Groundfish FMPs for 24 species and complexes
- EFH provisions of the BSAI Crab FMP for five (5) crab species and complexes
- EFH provisions of the Scallop FMP for weathervane scallop
- EFH conservation recommendations for non-fishing activities in all five FMPs
- Maximum timeline for considering whether new habitat areas of particular concern are warranted extended from 3 to 5 years in all five FMPs
- Research Objectives for EFH revised in the five FMPs subject to the 2010 EFH 5-year review

None of the changes required regulatory action, and the 2010 EFH 5-year review concluded that no changes to the conclusions on the evaluation of fishing effects on EFH was necessary.

Results

These amendments updated the fishery management plans with the best available information with respect to essential fish habitat life history characteristics and habitat preferences for FMP species.



Adjustment of the Maximum Length Overall on BSAI Freezer Longline License Limitation Program Licenses

Council Action
June 2012

Proposed Rule
October 25, 2013
78 FR 63951

Final Rule
January 6, 2014
79 FR 603

Effective
February 6, 2014

Purpose and Need

The purpose of the amendment was to establish a process for owners of BSAI freezer longline (hook-and-line catcher/processor) vessels that fish for Pacific cod to establish a process to replace or rebuild their vessels to a length greater than that specified under the restrictions of the License Limitation Program (LLP) and the American Fisheries Act. The action was deemed necessary to improve the retention and utilization of groundfish catch by these vessels consistent with the BSAI FMP and other applicable law, to improve economic efficiency, and to promote safety-at-sea by requiring newly built vessels to meet modern vessel safety standards.

At the time Amendment 99 was adopted by the Council in 2012, the average age of vessels in the fleet was about 40 years old, with 30 percent of the fleet built before 1946. Vessel lengths were between 107 feet and 180 feet length overall (LOA), and the vessels were not designed specifically to target groundfish.

Analysis

A 53-page RIR analysis was prepared for Amendment 99. In addition to the status quo, the analysis considered an alternative to increase the maximum length overall (MLOA) listed on BSAI freezer longline LLP license by 20 percent, not to exceed 150 feet MLOA (Alternative 2), as well as the Council's preferred alternative to replace the existing MLOA on all eligible licenses with an MLOA of 220 feet. The analysis included options, which were not ultimately selected, which limited how a replaced vessel could be used in the BSAI fisheries. The Council did select an option under Alternative 3 that required the LLP owner to surrender the license's pot cod endorsement unless the owner chose to keep the MLOA on that license unchanged. The Council also included language to allow replacement vessels built within the larger MLOA to be given a certificate of documentation to fish in Alaska waters.

The analysis described that the amendment provides an opportunity for increased utilization of existing catch. The concern about the MLOA increase affecting other fisheries is small because the other fisheries in which they could potentially participate are constrained by sector allocations or IFQs. The first initial review draft considered including the GOA freezer longline fishery in the amendment, but the Council explicitly chose to limit this action to the BSAI. Exclusively GOA-endorsed vessels are much smaller than their BSAI counterparts, and no operational concerns

had been identified by the Council compared to the specific problems in the BSAI freezer longline cod fishery.

Regulation Summary

Amendment 99 increased the maximum length overall (MLOA) on all LLP licenses with catcher/processor and hook-and-line Pacific cod endorsements for the BS or AI to 220 feet LOA, and clarified that vessels named on these LLP licenses would be authorized for use in the EEZ under the jurisdiction of the Council (clarifying that these vessels are eligible to receive a certificate of documentation consistent with American Fisheries Act (AFA) and the Department of Transportation Maritime Administration (MARAD) regulations. The regulation also identified that owners of LLP licenses with catcher/processor and pot cod endorsements would have 36 months from the implementation of the amendment to either surrender the pot cod endorsements and receive a LLP license at 220 feet MLOA, or the current LLP length restriction would continue to apply.

Results

Since the implementation of this alternative, two new freezer longline vessels have been built in Alaska to replace vessels in the fleet.



Adding Grenadiers to the BSAI Groundfish FMP

Council Action
December 2013

Proposed Rule
May 14, 2014
79 FR 27557

Final Rule
March 5, 2015
80 FR 11897

Effective
April 6, 2015

Purpose and Need

Before Amendments 100 and 91 grenadiers were not considered in the management of groundfish fisheries in the EEZ off Alaska. Their absence from the FMP meant that there were no catch limits and no required monitoring of catch in the groundfish fisheries. Due to their abundance, an experimental commercial fishery developed targeting grenadier, but because of poor flesh quality there was little success. However, grenadiers were found to play a significant ecological role in their environment, especially the giant grenadier, an apex predator. By including grenadiers in the FMPs “in the fishery” or as an “ecosystem component” the Council would be able to improve the protection, conservation, and catch accounting of grenadiers.

Analysis

A 33-page EA and 9-page RIR analysis were prepared for BSAI Amendment 100/GOA Amendment 91. The EA considered two alternatives of including grenadiers in the FMP, one as an “in the fishery” component and the other as an “ecosystem component.” Since the grenadiers were not a commercially viable species, the Council favored incorporating them in the FMP as an ecosystem component. Within the definition of an ecosystem component species, unmanaged target fishing would be prevented and the development of a directed fishery would be prohibited. While the ecosystem component alternative would

allow for a small amount of grenadier to be harvested and sold, the development of a formal directed fishery would require an FMP amendment. The alternative to include grenadiers in the fishery was not chosen because a directed fishery would be a less conservative approach than if they were an ecosystem component relative to susceptibility to fishing. The RIR determined that since the present and past harvests of grenadiers taken incidentally are well below the current ABCs calculated for grenadiers, there would be no significant effects on the stock biomass, fishing mortality, spatial or temporal distribution, or changes in prey availability for grenadier and groundfish target species in either the BSAI or GOA

with the “ecosystem component” alternative. The “in the fishery” alternative would have de minimus effects on fishery participants.

Regulation Summary

BSAI Amendment 100 and GOA Amendment 91 add grenadiers (Pacific grenadier, Popeye grenadier, and giant grenadier) to the “ecosystem component” category of the FMP. The regulation was meant to address the incidental catch of grenadiers in the groundfish fisheries. As such, grenadiers fell under management measures of the BSAI FMP, which could include measures such as prohibitions on directed fishing, limitations on allowable retention amounts, or limitations on the sale, barter, trade, or any other commercial exchange, as well as the processing of grenadier in the commercial processing facility.

Results

It is too early to gauge the results of the amendment.



Doublethread grenadier (*Gadomus arcuatus*). Photo courtesy of NOAA.



Establishing a Community Quota Entity Program in Area 4B

Council Action
December 2010

Proposed Rule
November 14, 2013
78 FR 68390

Final Rule
February 14, 2014
79 FR 8870

Effective
March 17, 2014

Purpose and Need

The Gulf of Alaska (GOA) Community Quota Entity (CQE) Program was implemented in 2004, to provide commercial harvest opportunities for small, remote, coastal communities that lacked access to the halibut and sablefish fishery resource. While many small, fishery dependent, coastal communities in the BSAI were already associated with fishing opportunity through the Community Development Quota (CDQ) Program, Amendment 102 identified a similar need for residents in the community of Adak. Based on a proposal submitted by the Adak Community Development Corporation (ACDC), the Council developed a CQE program for halibut in IPHC regulatory Area 4B and for sablefish in the Aleutian Islands. Similar to the GOA CQE Program, this program was created to allow eligible communities establish a non-profit entity to purchase catcher vessel quota shares and lease them to community members. The Council sought to develop a program modeled after the GOA CQE program that would provide sustained participation for rural residents, allow for entry-level opportunities for fishers residing in fishery-dependent communities, while maintaining the goals of the halibut and sablefish IFQ program.

Analysis

An 83-page RIR was prepared for the amendment analyzing the economic impacts of developing a CQE in the BSAI halibut and sablefish IFQ program. Two alternatives were considered: status quo and the preferred alternative of establishing a CQE program in Area 4B. Additionally, four options for use caps for individual communities and four options for cumulative community use caps were considered. For both, the four options represented two halibut and two sablefish options. The preferred option would allow for the CQE to utilize 15% of the Area 4B halibut and AI sablefish QS pools as a cap for individual communities, and the same for cumulative community use caps. The RIR analysis determined that the development of a CQE would not only directly benefit fishers participating in the program, but would have positive externalities as well on the communities and secondary service providers. Community participation in the halibut and sablefish fisheries increases the potential for participants to utilize Adak processors, which in turn would benefit local businesses and reinvigorate the local economy.

A second RIR was prepared under Alternative 102 to allow IFQ derived from D share halibut QS to be fished on Category C vessels in Area 4B. This separate analysis was joined with the establishment of a CDQ Program in 4B in the proposed rule.

Regulation Summary

Amendment 102 amended the regulations for the halibut and sablefish IFQ Program and the CQE Program. This amendment grants Aleutian Island communities the ability to establish a non-profit organization as a CQE to purchase halibut catcher vessel quota share in Area 4B and sablefish quota share in the Aleutian Islands. Eligibility is determined by seven factors. The community must be: 1) located within the Aleutian Islands, 2) not eligible for a western Alaska Community Development Quota Program, 3) have a population greater than 20 and less than 1,500 people, 4) have direct access to saltwater, 5) lack direct road access to communities of 1,500 people or more, 6) have historic documentation of participation in the halibut and sablefish fisheries, and 7) be specifically designated on a list in Federal regulation. A CQE representing a qualified community or communities can hold no more than 15% of the AI sablefish quota share, and all CQEs collectively can hold no more than 15% of the AI sablefish quota share pool.

Results

This action provides additional fishing opportunities for residents of fishery dependent communities and the ability to sustain participation in halibut and sablefish IFQ fisheries. Given the prevalence of fishery dependent communities in the Aleutian Islands already associated with the CDQ Program, Adak has been the only eligible non-CDQ community located in Area 4B. Since ACDC was the recipient of an exclusive access to a percent of the Western Aleutian Islands golden king crab TAC, it has been successful in financing the acquisition of some Area 4B halibut QS and some AI sablefish QS (as of 3/30/2016).



Revise the Pribilof Islands Blue King Crab Rebuilding Plan

Council Action
October 2009

Proposed Rule
August 24,, 2014
79 FR 51520

Final Rule
December 4, 2014
79 FR 71344

Effective
July 1, 2015

Purpose and Need

Pribilof Island blue king crab (PIBKC) stocks had been cause for concern since the late 1990s and had been closed to directed fishing since 1999. In 2002, the Secretary of Commerce notified the Council that the PIBKC stock biomass was below the minimum stock size threshold (MSST), defined as half the biomass of maximum sustained yield (B_{MSY}). As a result, a rebuilding plan was implemented in 2003 that prohibited directed fishing until the stock biomass was rebuilt, the metric of which was two consecutive years of meeting BMSY. Despite joint conservation efforts by NMFS, the Council, and the State, in 2009 NMFS reported that current rebuilding plan had not achieved adequate progress to rebuild the stock by 2014. Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) the Council had two years from the time of notification to revise the existing rebuilding plan. However, due to the complexity of the issue, availability of information, and data limitations, additional time was required to ensure the Council had enough time to develop appropriate alternatives. The cause of the PIBKC population decline was thought to be the result of environmental changes that inhibited blue king crab reproduction. In order for the stock to rebuild there would have to be multiple years of above average recruitment and/or a change in environmental conditions. NMFS estimated that the time period to rebuild the stock would exceed 10 years, as

allowed under section 304(e)(4)(A)(ii) of the Magnuson-Stevens Act.

Analysis

A 154-page EA and 63-page RIR were prepared to analyze six alternatives. There were two options under Alternative 2 for year-round closures and a third option to provide additional observer coverage with a PSC limit closure. There were also two closure options were presented under Alternative 3, two under Alternative 4, four under Alternative 5. Alternative 5 also included four options for a PSC limit. Alternative 6 combined elements of Alternative 2 and Alternative 5 with two main components: a year-round closure to fishing for Pacific cod with pot gear and a triggered closure of the area representing the distribution of the PIBKC stock between 1984 and 2009. The Council's preferred alternative was Alternative 2, which would expand the Pribilof Islands Habitat Conservation Zone to apply to select groundfish fisheries and only Pacific cod pot fishing. The preferred option under Alternative 2 was the option to prohibit all Pacific cod pot fishing in the PIHCZ in addition to the existing trawl closure. A number of alternatives were considered but not carried forward in the analysis for various reasons. One alternative considered but not carried forward was a gear modification for a slick ramp for pot gear to deter blue king crab, but the Council felt that, while the technology may be useful in the future, it has not been tested enough for effectiveness to be determined and was not

considered a viable alternative within the timeframe of the amendment. Additional PSC limit alternatives were considered but not carried forward due to lack of sufficient observer coverage.

Regulation Summary

The BSAI groundfish FMP and Crab FMP defer to the State of Alaska to develop harvest strategies for blue king crab with NMFS and Council oversight. For that reason, Amendment 103 is a framework rebuilding plan to rebuild PIBKC populations. NMFS closed the Pribilof Islands Habitat Conservation Zone (PIHCZ) to trawl gear and to directed fishing for Pacific cod with pot gear, which greatly eliminates PIBKC bycatch and prevents overfishing.

Results

Too early to gauge the results of the amendment.



Development of Skate Habitat Areas of Particular Concern

Council Action
February 2013Notice of Availability
October 8, 2014
79 FR 60802Final Rule
January 5, 2015
80 FR 1378Effective
January 9, 2015

Purpose and Need

In April 2010, the Council set skate nurseries as a habitat priority type in conjunction with the results of the 5-year EFH review process. In October 2010 the Alaska Fisheries Science Center (AFSC) proposal for potential skate HPAC locations was accepted by the Council that identified six areas of relatively high concentrations of skate eggs (more than 1,000 egg cases per square kilometer in research bottom trawls) for several skate species in the Bering Sea. The Council decided that the areas designated skate HAPCs in the Bering Sea were rare and provided an important ecological function. These HAPCs emphasized the importance of essential fish habitat by making the areas subject for

consultation on fishing and non-fishing activities such as drilling, dredging and filling, and laying cables.

Analysis

A 100-page EA was prepared for Amendment 104 that analyzed three alternatives for the identification of skate egg concentration HAPCs and two options for gear-type prohibitions. The option to upgrade skate egg locations as a Council research priority was also analyzed. Alternative 2, which intended to identify the six areas of skate egg concentrations as HAPCs, was accepted. The alternative that would have restricted fishing in the HAPC with fixed gear was eliminated by the council after it was decided that these gear types have minimal to no impacts on the proposed HAPCs. The analysis found there would be no significant impacts on the human environment from any proposed alternative or option with minor economic impacts.



Skate eggs. Photo courtesy of NMFS.

Regulation Summary

Amendment 104 designated six areas (with a total area of roughly 82 nm²) of the Bering Sea with high concentrations of skate eggs as HAPCs, and defined the boundaries of each area. There are no fishing restrictions in the Bering Sea skate HAPCs. While there may be as-yet-unknown concentrations of skate eggs in Alaskan waters, the Council only considered the six locations identified

in the August 2010 proposal by AFSC. No additional sites would be grandfathered-in.

Results

Skate populations continue to be assessed and are considered healthy.



Skate Nursery Sites



Bering Sea Flatfish Harvest Specifications Flexibility

Council Action
June 2012Proposed Rule
June 13, 2014
79 FR 33889Final Rule
September 23, 2014
79 FR 56671Effective
October 23, 2014

Purpose and Need

Bering Sea flatfish fisheries are consistently under-harvested due to various economic, regulatory, and environmental constraints. Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the North Pacific Fishery Management Council's (Council's) FMP, there is a need to promote conservation while providing for the optimum yield (OY) for the BSAI groundfish fishery. The purpose of this action was to identify a flexible approach that creates additional harvest opportunities to maximize the harvest of the total allowable catches (TACs) for three target flatfish species, but still ensure that harvest remains within existing conservation thresholds: 1) to maintain catch below the acceptable biological catch (ABC) limit for each species and 2) to ensure that the 2 million metric ton maximum limit of the BSAI groundfish OY range would not be exceeded.

Analysis

A 57-page RIR was prepared for this amendment, which analyzed allocating the ABC surplus (i.e., the difference between acceptable biological catch (ABC) and total allowable catch (TAC)) for flathead sole, rock sole, and/or yellowfin sole, among the Amendment 80 cooperatives and Western Alaska Community Development Quota (CDQ) Program entities, using the same formulas that are used in the annual harvest specifications process. These entities would be able to exchange their quota share of one or two of the three species (i.e., flathead sole, rock sole, and yellowfin sole) for an equivalent amount of their allocation of the ABC surplus of the remaining species. The analysis includes three alternatives and three options. Alternative 3 was the Council's preferred alternative, and differed from Alternative 2 only in the fact that it allowed the Council a discretionary buffer in allocating the ABC reserve to Amendment 80 and CDQ Program vessels. Option 1 was also selected as preferred, which limited participating vessels to three exchanges per year (reducing the administrative burden on NMFS) and requested an annual report to the Council on flatfish exchanges. Options 2 and 3, which were not selected, restricted flexibility in the exchange of yellowfin sole, and were analyzed to consider mitigation of potential negative impacts of the approach on users of yellowfin sole in the Bering Sea Aleutian Islands trawl limited access sector.

The analysis concluded that the flatfish exchange concept had the potential to maximize flatfish TAC utilization, to the extent that additional constraint in targeting flatfish can be resolved through inseason flexibility in the choice of flatfish target.

Regulation Summary

The establishment of an ABC reserve, which is the difference between ABC and TAC, as reduced by any social, economic, and/or ecological considerations and set at the ABC surplus, allows Amendment 80 cooperatives and participants in the Western Alaska CDQ Program the ability to access the ABC reserve in exchange for harvest quota of one or two of the three flatfish species (flathead sole, rock sole, and yellowfin sole). The CDQ Program is allocated 10.7% of the flathead sole, rock sole, and yellowfin sole ABC reserves, but is subject to a discretionary buffer based on economic, social, and/or ecological considerations. Participating vessels are limited to three exchanges per year.

Results

The flatfish flexibility amendment was implemented in 2015, and in its first year, five CDQ groups and one Amendment 80 cooperative took advantage of the ability to make exchanges. No entity made more than two exchanges in the first year.



American Fisheries Act Vessel Replacement

Council Action
April 2013Proposed Rule
June 18, 2014
79 FR 34696Final Rule
September 12, 2014
79 FR 54590Effective
October 14, 2014

Purpose and Need

Enacted in 1998, The American Fisheries Act (AFA) had numerous provisions that affected groundfish and crab fisheries management in Alaska. The act stated that vessels participating in the AFA BSAI and GOA pollock fisheries could not be replaced or rebuilt, thereby preventing the permanent transfer of licenses to other vessels in the cooperative. In 2010, the AFA was amended in the Coast Guard Authorization Act of 2010 (Coast Guard Act). The Coast Guard Act addressed vessel replacement provisions of the AFA, specifically the rebuilding, replacement, and removal of vessels eligible to participate in the BSAI and GOA AFA pollock fishery. As a provision, the Coast Guard Act afforded the Council the opportunity to recommend measures as to not diminish the effectiveness of the BSAI and GOA FMPs. The primary concern of the Council was that the increased participation by AFA rebuilt and replacement vessels did not adversely affect the existing participants (non-AFA vessels) in the BSAI and GOA groundfish fisheries, or place excessive pressure on the fishery itself. Amendment 106 to the BSAI FMP was necessary to reconcile the FMP and the AFA amendments in the Coast Guard Act, and to prevent AFA vessels that were being replaced from increasing fishing effort beyond historical catch levels.

Analysis

A 66-page RIR analysis was prepared that analyzed two alternatives and four options under Alternative 2. The first alternative was no action and would prohibit the rebuilding or replacement of AFA vessels except in the case of total or constructive loss, which was not compliant with the Coast Guard Act. Alternative 2 was selected by the Council as the preferred alternative and brought the FMP into compliance with the Coast Guard Act. This alternative allowed rebuilt or replaced vessels to participate in the GOA groundfish fishery on the condition that they do not exceed a MLOA specified in the GOA LLP. Alternative 2 also addressed the question of sideboard exemptions with rebuilt or replaced vessels. The alternative analyzed stated that the sideboard exemption would be forfeited once a vessel was removed and could not be transferred to another vessel. Under Alternative 2 the replacement or rebuilt vessel would not be subject to length, size, or horsepower limitations while operating in the BSAI. If the replaced vessel was exempt from sideboard limitations, the replacement vessel would likewise be exempt. The same applied to replaced vessels subject to sideboard limitations.

Regulation Summary

Amendment 106 aligns the BSAI FMP with section 602 of the Coast Guard Act of the AFA. The amendment allows vessels participating in the AFA BSAI and GOA pollock fishery to replace or rebuild vessels in accordance with the Coast Guard Act. BSAI replacement or rebuilt vessels are not subject to length, size, or horsepower limitations while participating in the BSAI AFA groundfish fishery. Vessels may also participate in the AFA GOA groundfish fishery, but are subject to maximum length overall (MLOA) provisions described in the GOA Limited License Program (LLP). The Coast Guard Act also provides for vessel removal by enabling owners of AFA catcher vessels that participate in inshore cooperatives to remove a vessel from the Bering Sea pollock fishery and assigning its directed pollock fishing allowance to one or more vessels in the cooperative. Any vessel replaced or removed from any fishery is permanently ineligible unless reclassified as an AFA replacement vessel in the directed pollock fishery.

Results

In terms of what Amendment 106 was meant to accomplish, the amendment was successful in allowing companies to replace or rebuild AFA BSAI and GOA groundfish fishing vessels. However, due to the substantial cost for replacement of vessels and the small amount of time that has elapsed since implementation, the long-term effects of the amendment are unknown.



Walrus Islands Protected Transit Areas

Council Action
April 2014Proposed Rule
October 3, 2014
79 FR 59733Final Rule
January 5, 2015
80 FR 194Effective
February 4, 2015

Purpose and Need

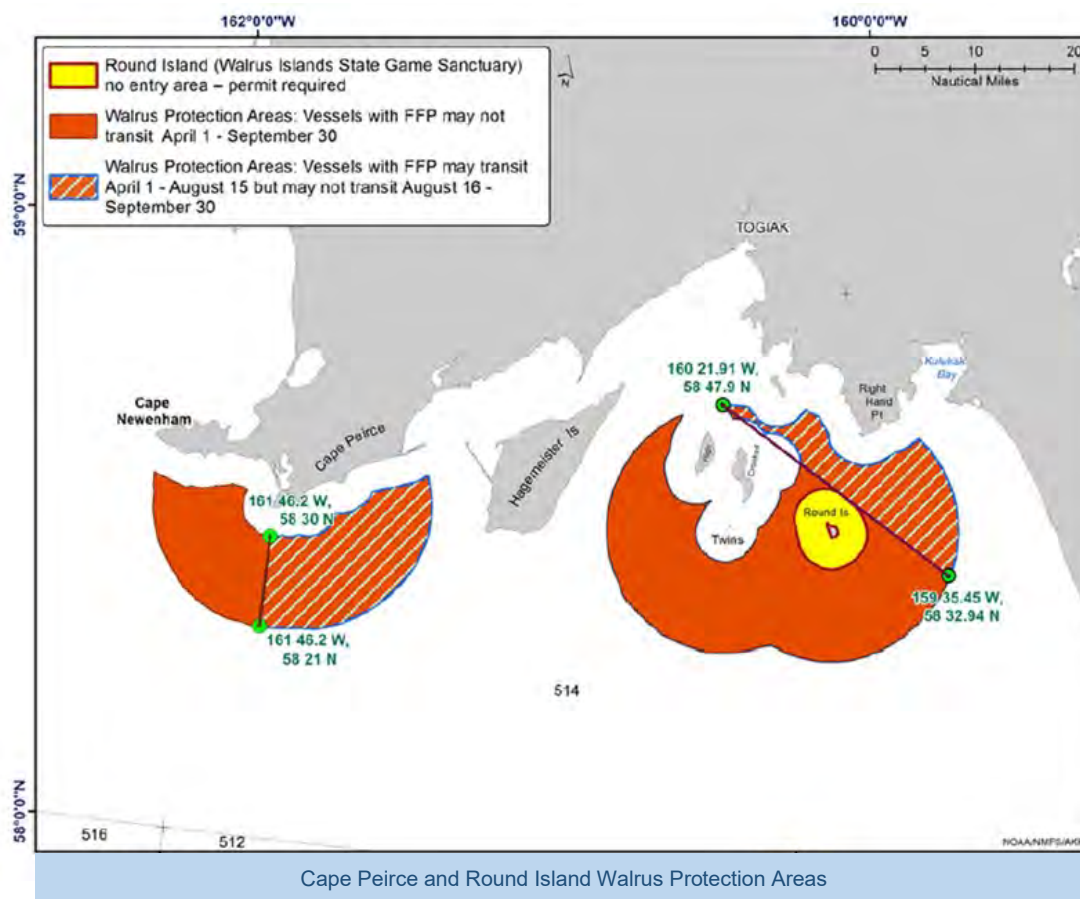
Prior to GOA FMP Amendment 83, vessels with FFPs tendering herring or salmon in the Togiak Bay fishery were able to surrender their FFP during the tendering season and transit the walrus protection area around Round Island. However, the unrelated GOA Amendment 83 stated that once an FFP was surrendered it could not be reacquired for three (3) years. As a result, federally-permitted tender vessels were unable to give up their FFPs and transit the walrus protection area without forfeiting their FFP for three years, forcing them to transit State waters to avoid Exclusive Economic Zone (EEZ) closures. Amendment 107 allowed vessels with a FFP to transit the walrus protection area closures at Round Island and Cape Peirce without surrendering their FFP.

Analysis

A 24-page EA and 16-page RIR analysis was prepared for this amendment. Three alternatives were considered: 1) No action – vessels with FFPs remain excluded from the walrus protection area; 2) Open portion of the Round Island walrus protection area to transit with three options for corridors of increasing distance (3, 4.5, and 6nm from Round Island); and 3) Open portion of the Cape Peirce walrus protection area to transit. One transit option was analyzed under alternative 3 that would allow more liberal access to

the herring fishing grounds at Cape Pierce through the EEZ. Alternatives 2 and 3 were not exclusive. The EA stated that while vessels had been recorded to disturb walrus on haulouts, no disturbance events had been observed for vessels passing more than 3nm from the island. The RIR determined that there would be little difference in transit time and fuel costs on

the alternatives analyzed associated with alternative 2, and that distances traveled and transit times are not likely to be significantly different when comparing travel through Federal and State waters. None of the proposed alternatives would directly impact the distribution of effort, the timing, or duration of the herring, salmon, or yellowfin sole fisheries.



Regulation Summary

BSAI Amendment 107 establishes designated transit areas near Round Island and Cape Peirce for vessels with FFPs. Vessels with FFPs are permitted to transit through an open area in the Round Island walrus protection area and Cape Peirce walrus protection area from April 1 to August 15 of each year. Vessels are prohibited from deploying fishing gear in the designated transit areas.

The **Round Island walrus protection area** transit is defined as:

- northeast of a line from 58° 47.90' N, 160° 21.91' W to 58° 32.94' N, 159° 35.45' W, while remaining a minimum of 3 nm from Round Island.

The **Cape Peirce walrus protection area** transit is defined as:

- east of a line from 58° 30.00' N, 161° 46.20' W to 58° 21.00' N, 161° 46.20' W.

Results

The effectiveness of Amendment 107 is unknown as of yet. The two factors that will help determine the success of the amendment are the results 2015 herring harvest and the 2015 walrus harvest. The final numbers for both are forthcoming.



Amendments Correcting Vessel Length Exemptions to the License Limitation Program

Council Action
December 2014

Notice of Availability
February 12, 2015
80 FR 7816

Final Rule
May 5, 2015
80 FR 25625

Effective
April 27, 2015

Purpose and Need

In 1998, the License Limitation Program (LLP) was established to set an upper limit on the number of vessels that could participate in the groundfish and crab fisheries off Alaska. The LLP limits the number, size, and specific operation of vessels fishing crab and groundfish in the BSAI and GOA based on historical participation. During the design and refinement of the LLP, the Vessel Moratorium Program (VMP) was implemented to provide industry stability and curtail interim increases in fishing capacity. The Council intended for the LLP to retain the size limitations established in the VMP. In 2015, the Council was made aware that the vessel length limits specified for the LLP in the FMP did not reflect those of the VMP. Specifically, the language in the VMP had exempted BSAI groundfish vessels “32 feet or less LOA,” GOA groundfish vessels “26 feet or less LOA,” and BSAI crab vessels “32 feet or less LOA.” The LLP language adopted by the Council described the exemptions as applying to vessels “less than 32 feet LOA,” “less than 26 feet LOA,” and “less than 32 feet LOA,” respectively. In effect, this error created an inconsistency in requirements for BSAI groundfish and crab vessels that were exactly 32 feet LOA and for GOA groundfish vessel that were 26 feet LOA. Joint FMP amendments were necessary to correct the language from “less than” to “less than or equal to” in order to reflect the intent of Council and make the FMPs consistent with federal regulation. This was

a joint amendment with GOA groundfish Amendment 100 and BSAI crab Amendment 46.

Analysis

A 4-page analysis was prepared identifying the inconsistency between FMP language and federal regulation, and original Council intent. The analysis identified the corrections that needed to be made.

Regulation Summary

These FMP amendments did not require a change in federal regulation which were consistent with the Council’s original intent. The joint amendments to the FMPs corrected the respective LLP small vessel exemption sizes to read “less than or equal to.”

Results

This action was necessary for operational status quo. FMP amendments associated with this action are not expected to impact any current stakeholders in the fishery. This correction was intended to make the FMPs consistent with Federal regulation, the original intent of the Council and historical operations of the LLP since implementation.



Pacific Cod Community Development Quota Fishery
DevelopmentCouncil Action
October 2013Proposed Rule
February 8, 2016
81 FR 6489Final Rule
May 4, 2016
81 FR 26738Effective
June 3, 2016

Purpose and Need

Amendment 109 created a regulatory structure for the harvest of groundfish CDQ that promoted Pacific cod harvest opportunities for the small vessels that fish on behalf of a CDQ group. Additionally, the action allowed CDQ and IFQ halibut harvesters, operating vessels less than or equal to 46 ft. LOA, the ability to retain Pacific cod and/or other groundfish CDQ species in excess of the MRA provided for in the halibut fishery. Although the focus of this action was on developing additional opportunities for small boat Pacific cod CDQ fisheries, it also allowed development of other groundfish CDQ fisheries, should markets for these species develop in the future.

The difference between the requirements for halibut CDQ fishing and groundfish CDQ fishing is that any groundfish caught in the halibut fishery was generally not retainable by small vessels for commercial use. Adjusting the regulations for these fisheries was meant to reduce Pacific cod discards and increase small vessel economic opportunities in the halibut CDQ fishery.

In light of recent declines in halibut quota, small vessels that fish on behalf of a CDQ group would benefit from the ability to retain Pacific cod incidental catch for commercial sale to supplement their income from halibut CDQ harvest. This action was consistent with Magnuson-Stevens Act policy objectives of supporting employment and growth in these fishery-dependent communities.

Analysis

An RIR/IRFA was prepared to analyze three action alternatives, each with options and sub-options. The Council believed that elements under the preferred alternative (PA) and options were consistent with the overall purpose of the CDQ program, as well as the Regulation of Harvest provision in the Magnuson-Stevens Act. The Council anticipated that the components of the PA would address objectives in National Standard 1, 5, 8, and 9 in particular. They also highlighted that provisions established by this action did not appear to be in conflict with or contrary to the purposes of the Halibut Act.

There were alternatives considered by the Council, but not moved forwards. Notably, the initial proposal submitted by CDQ representatives requested direct exemptions for vessels less than or equal to 46 ft. LOA from VMS requirements. The February 2014 discussion paper identified significant enforcement and monitoring concerns for these exemptions. Consequently, the Council passed a motion that did not include analysis of direct exemptions from VMS requirements. Instead this analysis was tasked with examining the baseline burden of current VMS options for small vessels, and contrasting this with monitoring alternatives, such as Global Positioning System (GPS) electronic monitoring (EM).

Regulation Summary

Amendment 109 amended regulations governing the Western Alaska CDQ Program to support increased participation in the groundfish CDQ fisheries (primarily Pacific cod) by catcher vessels less than or equal to 46 ft LOA using hook-and-line gear. Specifically, this amendment exempts operators of registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear from the requirement to obtain and carry a LLP license when groundfish CDQ fishing. It also reduced observer coverage requirements for catcher vessels less than or equal to 46 ft LOA when groundfish CDQ fishing, and implemented new in-season management and catch accounting requirements to properly account for the harvest of groundfish and halibut and the accrual of halibut PSC in these fisheries.

Results

It is too early to gauge the success of Amendment 109.



Chinook and Chum Salmon Bycatch Management Measures

Council Action
June 2014Proposed Rule
February 3, 2016
81 FR 5681Final Rule
ForthcomingEffective
Forthcoming

Purpose and Need

The Council has been actively addressing Chinook and chum salmon PSC measures since the mid-1990s. Previously triggered time and area closures (Salmon Savings Areas (SSA)) have been used to manage chum and Chinook in the Bering Sea. These closures were designed based on analyses of groundfish observer data collected from 1990 through 1995. However, the efficacy of these closures was called into question when the fleet began observing that salmon bycatch rates were higher outside of the closures when triggered than inside of the closures. The industry began voluntarily participating in an Intercooperative Agreement (ICA) for salmon bycatch in which a private contractual agreement between fleet participants established a rolling hot spot (RHS) program through which the fleet would agree to adhere to short-term (4-day to 7-day) closures in discrete areas of the Bering Sea when observed salmon bycatch was high. The RHS program was initially developed to reduce bycatch of Chinook and 'other' salmon (primarily chum) in order to avoid triggering the closures themselves; however, eventually it became clear that the SSAs were exacerbating salmon bycatch by inadvertently inducing the fleet to move into areas of higher rates. Numerous requests from the pollock industry led to Amendment 84, which exempted the fleet from the SSAs, provided they participate in the ICA. Detailed regulations specified all of the provisions in the RHS program from the contractual agreement. This exemption was

always intended to be an interim measure while the Council explored alternative salmon bycatch management measures.

Due to continued concerns with extremely low returns to western Alaska Chinook stocks, and the genetic information regarding high proportions of the salmon bycatch consisting of these stocks, the Council reviewed a discussion paper in October 2013 that provided updated Adult Equivalent (AEQ) analysis of the salmon bycatch estimates to aggregate rivers of origin, impact rates of the salmon bycatch to these aggregate river systems, as well as an analysis of fishery and salmon bycatch performance in the first three years of the management program. The Council also requested a proposal from the pollock industry of how chum salmon bycatch could be incorporated into the existing Chinook salmon IPAs.

Analysis

An EA/RIR/IRFA was presented to the Council at the December 2015 meeting that analyzed five action alternatives and a status quo alternative. The EA concluded that ecosystem management, rationalization, and traditional management tools were likely to improve the protection and management of target and prohibited species, including pollock, Chinook, and chum salmon, and are not likely to result in significant effects when combined with the direct and indirect effects of the action alternatives. The RIR determined that an incentive based approach to PSC management would result in "surpluses"

accruing to the pollock industry, which would, by-in-large, flow to foreign consumers (and producers that are foreign-owned), while the surplus losses through salmon PSC would accrue primarily to U.S. "consumers" (in the broadest sense) and businesses.

Regulation Summary

Amendment 110 created a comprehensive Chinook and chum salmon bycatch avoidance program and revised language in the "Chum Salmon" and "Chinook Salmon" entries in the "Prohibited Species Catch (PSC) Limits" section of the FMP. Specifically, the term inter-cooperative agreement was replaced with incentive plan agreement (IPA). Both Chinook and chum salmon are managed under IPAs. The regulation also clarified that Chinook salmon abundance would be considered low when abundance was less than or equal to the 250,000 Chinook salmon threshold, based on the State of Alaska's post-season inriver Chinook salmon run size index.

Results

It is too early to gauge the success of Amendment 110.



Halibut Prohibited Species Catch Limits

Council Action
June 2014Proposed Rule
November 16, 2015
80 FR 71650Final Rule
April 27, 2016
81 FR 24714Effective
May 27, 2016

Purpose and Need

Declines in the exploitable biomass of halibut since the late 1990s, and decreases in the Pacific halibut catch limits set by the IPHC for the BSAI commercial halibut fisheries (IPHC Area 4) have raised concerns about the levels of halibut PSC by the commercial groundfish trawl and hook-and-line (longline) sectors. The declines were most evident beginning in 2012 for the commercial halibut Analysis for Revising BSAI Halibut PSC Limits, January 2016 20 fishery in the northern and eastern Bering Sea (Area 4CDE). The Council acknowledged that BSAI halibut PSC levels had declined in some sectors since the current PSC limits were implemented, and that PSC does not reach the established sector limits in most years. The Council also recognized efforts by the groundfish industry to reduce total halibut PSC in the BSAI. However, these efforts had the unintended effect of concentrating groundfish fishing effort in Area 4CDE, and increasing the proportion of Area 4CDE halibut exploitable biomass taken as PSC since 2011.

In 2014, the levels of halibut PSC in Area 4CDE increased relative to 2013. Based on the stated IPHC harvest policy and the estimates of exploitable biomass and PSC, the 2015 commercial halibut fishery catch limit for halibut in Area 4CDE could have been reduced to a level that the halibut industry deemed insufficient to maintain an economically viable fishery in some communities.

The Council did not have authority to set catch limits for the commercial halibut fisheries, and halibut PSC in the groundfish fisheries is only one of the factors that affects harvest limits for the commercial halibut fisheries. Nonetheless, halibut PSC in the groundfish fisheries was a significant portion of total mortality in BSAI IPHC areas and had the potential to affect catch limits for the commercial halibut fisheries in Area 4 under the current IPHC harvest policy. While the impact of halibut PSC reductions on catch limits for commercial halibut fisheries is dependent on IPHC policy and management decisions, reductions to halibut PSC limits in the BSAI could provide additional harvest opportunities in the BSAI commercial halibut fishery.

Analysis

The EA/RIR/IRFA prepared for this action analyzed two action alternatives and six options. The EA concluded that the cumulative impacts of the proposed action are determined to be not significant. The RIR determined that, given the degree of centralization of ownership of the directly engaged BSAI groundfish fishery sectors in Seattle, and the centralization of the support services provided by Seattle-based firms, potential adverse impacts associated with the BSAI halibut PSC limit revisions overall would largely accrue to Seattle in particular and the Pacific Northwest in general.

Regulation Summary

Amendment 111 reduced PSC limits for Pacific halibut in the BSAI groundfish fisheries in four groundfish sectors and established the following halibut PSC limits:

1,745 mt for the Amendment 80 sector (a 25% reduction)

745 mt for the BSAI trawl limited access sector (a 15% reduction)

710 mt for the non-trawl sector (a 15% reduction)

315 mt for the Western Alaska CDQ Program (a 20% reduction)

This results in an overall BSAI halibut PSC limit of **3,515 mt**, a 21% reduction.

Results

It is too early to gauge the success of Amendment 111.



Placing Certain Small Catcher/Processors in Partial Observer Coverage

Council Action
December 2014

Proposed Rule
December 29, 2015
80 FR 81262

Final Rule
March 29, 2016
81 FR 17403

Effective
March 29, 2016

Purpose and Need

Under the restructured Observer Program (Amendment 86), all catcher/processors were in the full observer coverage category, unless they met certain requirements to be placed in the partial coverage category. The placement of catcher/processors in full coverage enabled NMFS to obtain independent estimates of catch, at-sea bycatch, and prohibited PSC for catcher/processors. In recognition of the relatively high cost of full coverage for small catcher/processors and the limited amount of catch, PSC, and bycatch by these vessels, the Council recommended two limited allowances for placing a catcher/processor in partial coverage. Both of these allowances were based on vessel activity from 2003 through 2009.

Since implementation of the restructured Observer Program, owners and operators of some catcher/processors with relatively small production requested that the Council and NMFS revise these allowances to include vessels that began processing after 2009. These operators believed that the costs they incurred for full observer coverage were disproportionate to the revenues they earned, and that these high costs precluded them from operating in some fisheries.

In December 2014, the Council adopted a motion to initiate analysis for revising the allowances for placing small catcher/processors in the partial coverage category. The Council motion contained a Purpose and Need statement that the allowance for

placing a catcher/processor in partial coverage should, at a minimum, be based on a measurement of ongoing production that shows that the catcher/processor processed a small amount of groundfish relative to the rest of the catcher/processor fleet. The Council motion also stated that the current regulations did not provide a way to move a catcher/processor placed in partial coverage into full coverage if production increased to a level deemed appropriate for full coverage

Analysis

The RIR/IRFA prepared for Amendment 112 analyzed one action alternative that consisted of five elements. These elements considered

- 1) the production threshold for placing a C/P in partial coverage,
- 2) the basis year for placing a C/P in partial coverage,
- 3) How NMFS should determine whether to place a C/P in partial coverage if the C/P has no production in the basis year identified as part of Element 2,
- 4) Whether the C/P would have to specify its desire to be placed in the partial coverage category, and
- 5) Whether the basic production criterion for placing a C/P in partial coverage should be modified based on additional factors.

Alternatives considered but not moved forward included:

- 1) eliminating all allowances to place a catcher/processor in partial coverage
- 2) another one-time election
- 3) an allowance based on crew size

Regulation Summary

Amendment 112 modified the criteria for NMFS to place small C/Ps in the partial observer coverage category. The owner of a non-trawl C/P can choose to be in the partial observer coverage category on an annual basis if the vessel processed less than 79,000 lb (35.8 mt) of groundfish on an average weekly basis in a particular prior year. This regulation provided a relatively limited exception to the general requirement that all C/Ps fall under the full coverage category, and maintains the full coverage requirement for all trawl C/Ps, and C/Ps participating in a catch share program that requires full observer coverage.

Results

It is too early to determine the effects of allowing small C/Ps to opt out of the full coverage category and be placed in the partial coverage category.



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