

Alaska Groundfish Harvest Specifications

Supplementary Information Report

January 2013

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1 Alaska Groundfish Harvest Specifications Environmental Impact Statement

The groundfish fisheries in federal waters off Alaska are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). In the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands (BSAI), groundfish harvests are managed subject to annual limits on the amounts of each species of fish, or of each group of species, that may be taken. The annual limits are referred to as “harvest specifications,” and the process of establishing them is referred to as the “harvest specifications process.” The U.S. Secretary of Commerce approves the harvest specifications based on the recommendations of the North Pacific Fishery Management Council (Council).

The National Marine Fisheries Service (NMFS) prepared the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Harvest Specifications EIS)¹ in January 2007 for the harvest strategy used to set the annual harvest specifications. The Harvest Specifications EIS examines alternative harvest strategies for the federally managed groundfish fisheries in the GOA and the BSAI management areas that comply with federal regulations, the FMPs, and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Harvest Specifications EIS provides decision-makers and the public with an evaluation of the environmental, social, and economic effects of alternative harvest strategies. The preferred alternative established a harvest strategy for the BSAI and GOA groundfish fisheries necessary for the management of the groundfish fisheries and the conservation of marine resources, as required by the Magnuson-Stevens Act and as described in the management policy, goals, and objectives in the FMPs.

The harvest strategy prescribes setting total allowable catches (TACs) for groundfish species and species groups through the Council’s harvest specifications process. Annually, the harvest strategy is applied to the best available scientific information to derive annual harvest specifications, which include TACs and prohibited species catch (PSC) limits. The Council’s Groundfish Plan Teams and Scientific and Statistical Committee use stock assessments to calculate biomass, overfishing levels, and acceptable biological catch (ABCs) limits for each species or species group for specified management areas. Overfishing levels and ABCs provide the foundation for the Council and NMFS to develop the TACs. Overfishing levels and ABC amounts reflect fishery science, applied in light of the requirements of the FMPs. The TACs recommended by the Council are either at or below the ABCs. The sum of the TACs for each area is constrained by the optimum yield established for that area.

¹ National Marine Fisheries Service, Department of Commerce (Jan. 2007), Alaska Groundfish Harvest Specifications Final Environmental Impact Statement.
<http://alaskafisheries.noaa.gov/analyses/specs/eis/final.pdf>

The harvest strategy provides for orderly and controlled commercial fishing for groundfish (including Community Development Quota [CDQ] fishing); promotes sustainable incomes to the fishing, fish processing, and support industries; supports sustainable fishing communities; and provides a steady supply of fish products to consumers. The harvest strategy balances groundfish harvest in the fishing year with ecosystem needs such as non-target fish stocks, marine mammals, seabirds, and habitat.

2 Purpose of this Supplementary Information Report

This supplementary information report evaluates the need to prepare a Supplemental EIS (SEIS) for the 2013/2014 groundfish harvest specifications. This supplementary information report also provides information to preliminarily determine whether an SEIS may be necessary for the 2014/2015 groundfish harvest specifications. An SEIS should be prepared if –

1. the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or
2. significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)).

This report analyzes the information contained in the Council’s 2012 Stock Assessment and Fishery Evaluation (SAFE) reports and information available to NMFS and the Council to determine whether an SEIS should be prepared. Appendices A and B contain the websites for the SAFE reports, which represent the best available scientific information for the harvest specifications. Appendix C contains the website for the ecosystem considerations report for the SAFE reports. Appendix D contains the website for the economic status report for the SAFE reports.

Not every change requires an SEIS; only those changes that cause effects which are significantly different from those already studied require supplementary consideration.² The Supreme Court explained that “an agency need not supplement an EIS every time new information comes to light after the EIS is finalized. To require otherwise would render agency decision-making intractable.”³ On the other hand, if a subsequent related federal action occurs, and new information indicates that that subsequent action will affect the quality of the human environment in a significant manner or to a significant extent not already considered, an SEIS must be prepared.⁴

The following three sections discuss each of the considerations for an SEIS: changes to the action, new information, and new circumstances. This SIR also looks at reasonably foreseeable future actions to gauge whether a future action, individually or cumulatively,

² See *Davis v. Latschar*, 202 F.3d 359, 369 (D.C. Cir. 2000).

³ See *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 373 (1989).

⁴ See *Marsh*, 490 U.S. at 374.

could cause a substantial change in the harvest specification process or represent significant new circumstances or new information that would require an SEIS in the future.

3 Changes to the Proposed Action

The 2013/2014 harvest specifications do not constitute a change in the proposed action. The proposed action was a harvest strategy that provides for the annual determination of the harvest specifications based on information developed through the harvest specifications process. The 2013/2014 harvest specifications are consistent with the preferred alternative harvest strategy analyzed in the Harvest Specifications EIS because they were set through the harvest specifications process, are within the optimum yield established for the BSAI or GOA, and do not exceed the ABC for any single species or species group. The harvest specification process and the environmental consequences of the selected harvest strategy are fully described in the Harvest Specifications EIS.

The proposed 2013/2014 harvest specifications for the GOA and BSAI were published in the *Federal Register* on December 5, 2012 (77 FR 72297) and December 6, 2012 (77 FR 72791), respectively. The Council took final action to recommend final harvest specifications at its December 2012 meeting. NMFS is scheduled to publish the *Federal Register* notice announcing the final harvest specifications in mid-February 2013.

NMFS has made some minor change to the harvest specifications process since 2007. None of these changes, individually or cumulatively, represent a substantial change in the proposed action relevant to environmental concerns. In brief, NMFS published a final rule to modify the 2008 harvest specifications under the provisions of Amendments 80 and 85 (72 FR 71802; December 19, 2007). This action ensured that allocations were in effect for Amendment 80 and 85 participants at the beginning of the 2008 fishing year. The modifications were done under the auspices of the Harvest Specifications EIS. NMFS extended these allocations with the 2008/2009 and subsequent harvest specifications.

Additionally, Amendments 80 and 85 incorporate statutory mandates of the Magnuson-Stevens Act, as amended by the Coast Guard and Maritime Transportation Act of 2006 and the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. These amendments to the Magnuson-Stevens Act required that Amendments 80 and 85 allocate to the CDQ Program 10.7 percent of the TAC of the species allocated under those programs. The Magnuson-Stevens Act requires that all catch of these species accrue against the CDQ allocations, including catch in both the directed fisheries for these species and any incidental catch or bycatch. Minor revisions were made to catch monitoring requirements for the CDQ fisheries to comply with the new Magnuson-Stevens Act requirement that the CDQ fisheries be managed no more restrictively than the cooperative fisheries for these same species.

The Magnuson-Stevens Act also requires that allocations to the CDQ Program be made only for species with directed fisheries in the BSAI. Under Amendment 80, allocations to the CDQ Program of TAC categories without directed fisheries in the BSAI were dis-

continued. These species include pollock in the Bogoslof District, Greenland turbot in the Aleutian Islands, Alaska plaice, other flatfish, rockfish, and other species. Catch in the CDQ fisheries of these species are managed under the regulations and according to the individual fishery's status for that TAC category. Retention of species closed to directed fishing is limited to maximum retainable amounts, unless the species is on prohibited species status requiring discard. Notices of closure to directed fishing and of retention requirements for these species apply to the CDQ and non-CDQ sectors. The catch of these species in the CDQ fisheries does not constrain the catch of other CDQ species unless catch by all sectors approached an overfishing level. These changes are discussed in detail in the 2007/2008 final harvest specifications for groundfish of the BSAI (72 FR 9451; March 2, 2007).

Amendments 73/77, which became effective on January 30, 2009, removed dark rockfish (*Sebastes ciliatus*) from both FMPs (73 FR 80307; December 31, 2008). This action allows the State of Alaska to implement more responsive, regionally based management of dark rockfish than is currently possible under the FMPs and improves conservation and management of dark rockfish. The EA accompanying this action found that there were no significant environmental impacts.

In 2010, NMFS made some minor changes with Amendments 95 and 96 to the BSAI FMP and Amendment 87 to the GOA FMP (75 FR 61639; October 6, 2010) that are reflected in the 2011/2012 and subsequent harvest specifications. Amendment 95 moves skates from the "other species" category to the "target species" category in the FMP. Amendments 96 and 87 revise the FMPs to meet the National Standard 1 guidelines for annual catch limits and accountability measures. These amendments move all remaining species groups from the "other species" category to the "target species" category, remove the "other species" and "non-specified species" categories from the FMPs, establish an "ecosystem component" category, and describe the current practices for groundfish fisheries management in the FMPs. The final rule removed references to the "other species" category for purposes of the harvest specifications and adds skate species to the reporting codes for the BSAI groundfish fisheries. An Environmental Assessment (EA) determined that this action would not have significant environmental impacts.⁵

4 New Information

The second part of the inquiry to determine whether an SEIS is required involves a two-step process. First, one must identify new information or circumstances. Second, one must analyze whether these are significant to the analysis of the proposed action and relevant to environmental concerns and bearing on the proposed action or its impacts. The primary sources of new information directly related to the action and its impacts are the 2012 BSAI and GOA SAFE reports, which include NMFS's annual Eastern Bering Sea trawl survey results along with other resource surveys, information on previous fishery performance, and subsequent stock assessments. NMFS's Guidelines for Fishery Management Plans require that a SAFE report be prepared and reviewed annually for each

⁵ http://alaskafisheries.noaa.gov/sustainablefisheries/amds/95-96-87/final_ea_amd96-87_0910.pdf

FMP. The FMPs require that a draft of the SAFE report be produced each year in time for the December Council meeting.

The SAFE reports provide information to the Council for determining annual harvest levels from each stock. The SAFE reports (1) summarize the best available scientific information concerning the past, present, and possible future condition of the stocks, marine ecosystems, and fisheries that are managed under federal regulation; (2) document significant trends or changes in the resource, marine ecosystems, and the fishery over time; and (3) assess the relative success of existing State of Alaska and federal fishery management programs.

The SAFE reports are published in three sections: “Stock Assessment,” which comprises the bulk of the document; “Economic Status of Groundfish Fisheries off Alaska;” and “Ecosystem Considerations.” The websites for these documents are provided in Appendices A, B, C, and D.

Annually, the Council’s BSAI Groundfish Plan Team compiles the stock assessment section of the SAFE report for the BSAI groundfish fisheries from chapters contributed by scientists at NMFS Alaska Fisheries Science Center (AFSC). The GOA groundfish Plan Team compiles the SAFE report for GOA groundfish fisheries from chapters contributed by scientists at AFSC and the Alaska Department of Fish and Game (ADF&G).

Each species or species group is represented in the SAFE report by a chapter containing the latest stock assessment. New or revised stock assessment models are generally previewed at the September Plan Team meeting and considered again by the Plan Team at its November meeting for recommending final overfishing level and ABC specifications for the following two fishing years. The SAFE reports include recommendations by the author(s) and Plan Teams for an overfishing level and ABC for each species or species group managed under the FMP.

The 2013/2014 harvest specifications are based on the information provided in the 2012 SAFE reports. The Plan Teams met in Seattle from November 13 to 16, 2012, to review the status of each species or species group that is managed under each FMP. The Plan Team review was based on presentations by ADF&G and AFSC scientists with opportunity for public comment and input. The information presented at the Plan Team meetings was then compiled into the 2012 SAFE reports. The 2012 SAFE reports describe in detail the new information available since the 2011 SAFE reports, including new survey data and new fishery performance information. This new information resulted in new estimations of overfishing levels and ABCs for a number of species or species group, as detailed in the SAFE reports.

The BSAI and GOA Plan Team recommendations were forwarded to the Council and its Scientific and Statistical Committee (SSC) and Advisory Panel (AP) for consideration and final action in December.

Based on this information, the Council recommended the 2013/2014 harvest specifications in December. The SSC reviewed the SAFE reports, the overfishing level, and the ABC recommendations and either confirmed the Plan Team recommendations or developed its own. The ABC recommendations, together with biological, social, and economic factors, were considered by the AP and the Council in determining TACs. The Council recommended TAC levels at or below ABC. Table 1 summarizes noteworthy SSC ABC recommendations for 2013 compared to the 2012 ABCs. NMFS is scheduled to publish the final harvest specifications in the *Federal Register* in mid-February 2013.

Table 1 Scientific and Statistical Committee (SSC) Bering Sea and Aleutian Islands and Gulf of Alaska ABC recommendations for 2013 area total ABCs and ABCs for selected stocks compared to the final 2012 ABCs (in metric tons).

Species	Final 2012 ABC	SSC 2013 ABC	Percent change
BSAI total ABC	2,511,303	2,639,317	+5
BSAI pollock	1,269,000	1,422,400	+12
BSAI Pacific cod	314,000	307,000	-2
Bering Sea sablefish	2,230	1,580	-29
AI sablefish	2,050	2,140	+4
BSAI yellowfin sole	203,000	206,000	+1
BSAI rock sole	208,000	214,000	+3
GOA total ABC	606,048	595,920	-2
GOA pollock	116,444	121,046	+4
GOA Pacific cod	87,600	80,800	-8
GOA sablefish	12,960	12,510	-4

The preferred harvest strategy analyzed in the Harvest Specifications EIS anticipated that information on changes in species abundance would be used each year in setting the annual harvest specifications. It is a flexible process designed to adjust to new information on stock abundance. However, according to this new information, there has been no change in any stock's status relative to the established status determination criteria. The status of the stocks continues to appear relatively favorable, and no groundfish stocks are overfished or approaching an overfished condition. Therefore, the information used to set the 2013/2014 harvest specifications is not significant relative to the environmental impacts of the harvest strategy analyzed in the Harvest Specifications EIS: it raises no new environmental concerns significantly different from those previously analyzed in the Harvest Specifications EIS. Thus, the new information available is not of a scale and scope that require an SEIS.

5 New Circumstances

Chapter 3 of the Harvest Specifications EIS identified reasonably foreseeable future actions that may affect the BSAI and GOA groundfish fisheries and the impacts of the fisheries on the environment. For this report, NMFS reviewed these actions to determine whether they have occurred since 2007 and, if they did occur, whether they would change the analysis in the Harvest Specifications EIS of the impacts of the harvest strategy on the

human environment. In addition, NMFS considered whether other actions not anticipated in the Harvest Specifications EIS occurred that have a bearing on the harvest strategy or its impacts.

The reasonably foreseeable future actions were grouped in the Harvest Specifications EIS into the following five categories:

- Catch share management
- Traditional management tools
- Ecosystem-sensitive management
- Actions by other federal, state, and international agencies
- Private actions

In this section, actions by other agencies and private actions have been grouped for discussion.

5.1 Catch Share Management

These following actions improve fisheries management but they do not alter the harvest specification process or change analysis in the Harvest Specifications EIS of impacts of the harvest strategy on the human environment. They therefore do not constitute “significant new circumstances” necessitating a supplemental EIS pursuant to 40 CFR 1502.9(c)(1)(ii).

5.1.1 Bering Sea

Amendment 80 Program: In 2007, NMFS published a final rule to implement Amendment 80 (72 FR 52668; September 14, 2007). Amendment 80 is catch share program that improved management for the species under the program and modified the method of TAC allocations. The Amendment 80 Program established a limited access privilege program for the non-American Fisheries Act (non-AFA) trawl catcher/processor sector by allocating TAC among several BSAI trawl groundfish fishing sectors, and it facilitates the formation of harvesting cooperatives in the non-AFA trawl catcher/processor sector. The Amendment 80 species are Atka mackerel, flathead sole, Pacific cod, rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch. In order to limit the ability of participants eligible for the Amendment 80 Program to expand their harvest efforts in the GOA, the program established groundfish and PSC limits as sideboard limits for Amendment 80 Program participants in the GOA.

In 2009, NMFS issued regulations implementing Amendment 90 which amended the Amendment 80 Program to allow post-delivery transfers of cooperative quota to cover overages to mitigate potential overages, reduce enforcement costs, and provide for more precise total allowable catch management (74 FR 42178; August 21, 2009). The EA accompanying this action found that there were no significant environmental impacts.

In 2010, NMFS issued an emergency rule to exempt Amendment 80 cooperatives and trawl catcher/processor vessels that are not specified in regulation as AFA vessels from the groundfish retention standards (GRS) regulations, in the Bering Sea and Aleutian Is-

lands management area, that calculated compliance with annual GRS rates and required an unattainable and unenforceable level of retention (75 FR 78172; December 15, 2010). The emergency rule was extended through December 17, 2011 (76 FR 31881, June 2, 2011). This action had no effect on the human environment because groundfish bycatch and retention is more effectively and efficiently controlled through Amendment 80 cooperative agreements and civil contracts than through the GRS. This action was categorically excluded from the need to prepare an EA pursuant to the National Environmental Policy Act (NEPA).

On November 4, 2011, NMFS published a final rule to implement Amendment 93 to the BSAI FMP (76 FR 68354). These regulations amend the Amendment 80 Program to modify the criteria for forming and participating in a harvesting cooperative. This action encourages greater participation in harvesting cooperatives, which enable members to more efficiently target species, avoid areas with undesirable bycatch, and improve the quality of products produced. The EA accompanying this action found that there were no significant environmental impacts.⁶

On October 1, 2012, NMFS published a final rule to implement Amendment 97 to the BSAI FMP (77 FR 59852). These regulations amend the Amendment 80 Program to allow the owners of trawl catcher/processor vessels authorized to participate in the Amendment 80 Program to replace these vessels with vessels that meet certain requirements. This rule establishes a limit on the overall length of replacement vessels, measures to prevent replaced vessels from participating in Federal groundfish fisheries off Alaska that are not Amendment 80 fisheries, and specific catch limits known as Amendment 80 sideboards for replacement vessels. This action promotes safety-at-sea by allowing Amendment 80 vessel owners to replace their vessels for any reason at any time and by requiring replacement vessels to meet certain U.S. Coast Guard vessel safety standards, and facilitates an increase in the processing capabilities of the fleet to improve the retention and utilization of groundfish catch by these vessels. The EA accompanying this action found that there were no significant environmental impacts.

Amendment 85 Program: In 2007, NMFS published a final rule to implement Amendment 85 to the BSAI FMP (72 FR 50788; September 4, 2007). Amendment 85 modified the allocations and seasonal apportionments of Pacific cod TAC among various harvest sectors. Amendment 85 reduces uncertainty about the availability of yearly harvests within sectors caused by reallocations and maintains stability among sectors in the Pacific cod fishery. The EA accompanying this action found that there were no significant environmental impacts.

Catch Share Program Improvements: Since 2007, NMFS has implemented a number of actions to improve the functioning of existing catch share programs. Each EA referenced under the following elements is available from the NMFS, Alaska Region web site.⁷

⁶ http://alaskafisheries.noaa.gov/sustainablefisheries/amds/93/rireafirfa_amd93.pdf

⁷ <http://alaskafisheries.noaa.gov/index/analyses/analyses.asp>

- NMFS implemented regulations to provide harvesting cooperatives, crab processing quota share holders, and CDQ groups with the option to make intercooperative transfers, crab individual processing quota transfers, and inter-group transfers through an automated, web-based process (74 FR 51515; October 7, 2009). The EA accompanying this action found that there were no significant environmental impacts.
- Regulations implementing Amendments 62/62 increase the number of times per year that a stationary floating processor (SFP) that is qualified under the American Fisheries Act (AFA) may move within State of Alaska waters in the Bering Sea subarea to process pollock (74 FR 34701; July 17, 2009). This action also requires AFA SFPs to process all GOA pollock and GOA Pacific cod where they processed these species in 2002. This action increases operational flexibility for AFA SFPs that process pollock while continuing to limit the competitive advantage of AFA SFPs in the GOA pollock and GOA Pacific cod fisheries. The EA accompanying this action found that there were no significant environmental impacts.

5.1.2 Gulf of Alaska

Pacific Cod Sector Allocations: On December 1, 2011, NMFS published a final rule to implement Amendment 83 to the GOA FMP for the 2012 Pacific cod fishery (76 FR 74670). The final rule allocates Western and Central GOA Pacific cod TAC limits among various gear and operational sectors to limit the amount of Pacific cod that each sector is authorized to harvest. Sector allocations reduced competition among sectors and support stability in the Pacific cod fishery. This rule also limits access to the federal Pacific cod TAC fisheries prosecuted in the parallel fishery, to promote community participation, and provide incentives for new entrants in the jig sector. The EA accompanying this action found that there were no significant environmental impacts.⁸

Rockfish Program: On December 27, 2011, NMFS published a final rule to implement the Central GOA Rockfish Program, Amendment 88 to the GOA FMP (76 FR 81248). The Rockfish Program replaced Pilot Program regulations that expired at the end of 2011. These regulations allocate exclusive harvest privileges to a specific group of license limitation program license holders who used trawl gear to target Pacific ocean perch, pelagic shelf rockfish, and northern rockfish during particular qualifying years. The Rockfish Program retains the conservation, management, safety, and economic gains realized under the Central Gulf of Alaska Rockfish Pilot Program and resolves identified issues in the management and viability of the rockfish fisheries. The EA accompanying this action found that there were no significant environmental impacts.⁹

⁸ <http://alaskafisheries.noaa.gov/sustainablefisheries/amds/83/earirfrfa0911.pdf>

⁹ <http://alaskafisheries.noaa.gov/sustainablefisheries/amds/88/rireairfa1011.pdf>

5.2 *Traditional management tools*

Traditional management tools are those designed to define target species, and to determine, authorize, manage, or enforce limits on the harvest of target species. Since 2007, NMFS has implemented a number of management actions for the BSAI or GOA groundfish fisheries. These measures improve management of the fisheries but they do not alter the harvest specification process or change analysis in the Harvest Specifications EIS of impacts of the harvest strategy on the human environment. Therefore, the new management tools implemented since 2007 do not constitute “significant new circumstances” necessitating a supplemental EIS pursuant to 40 CFR 1502.9(c)(1)(ii).

Trawl Gear Endorsements: Regulations implementing Amendments 92/82 remove trawl gear endorsements on licenses issued under the license limitation program in specific management areas if those licenses have not been used on vessels that met minimum recent landing requirements using trawl gear (74 FR 41080; August 14, 2009). This action provides exemptions to this requirement for licenses that are used in trawl fisheries subject to certain limited access privilege programs. This action issues new area endorsements for trawl catcher vessel licenses in the Aleutian Islands if minimum recent landing requirements in the Aleutian Islands were met. The EA accompanying this action found that there were no significant environmental impacts.

GOA Pollock Trip Limits: The GOA pollock trip limit final rule prohibits a catcher vessel from landing more than 300,000 lb (136 mt) of unprocessed pollock during a calendar day, and from landing a cumulative amount of unprocessed pollock from any GOA reporting area that exceeds 300,000 lb multiplied by the number of calendar days the pollock fishery is open to directed fishing in a season (74 FR 18156; April 21, 2009). This rule prevents catcher vessels from circumventing the intent of current trip limit regulations when making deliveries of pollock. Amending the current trip limit regulation to limit a vessel to 300,000 lb of pollock caught in a day will continue to disperse catches of pollock in a manner that is consistent with the intent of Steller sea lion protection measures in the GOA and results in no effects on Steller sea lions beyond those already analyzed in the 2001 Biological Opinion. This action was categorically excluded from the need to prepare an EA pursuant to NEPA.

Maximum Retainable Amounts (MRAs): In 2009, NMFS issued a final rule to revise the MRAs of groundfish using arrowtooth flounder as a basis species in the GOA (74 FR 13348; March 27, 2009). This action increased the MRAs from 0 percent to 20 percent for deep-water flatfish, rex sole, flathead sole, shallow-water flatfish, Atka mackerel, and skates; from 0 percent to 5 percent for aggregated rockfish; and from 0 percent to 1 percent for sablefish. As a result, this action reduced regulatory discards of otherwise marketable groundfish in the arrowtooth flounder fishery. The EA accompanying this action found that there were no significant environmental impacts.¹⁰

Charter Halibut: NMFS published a final rule on May 6, 2009, to implement regulations to limit the harvest of Pacific halibut by guided sport charter vessel anglers in Inter-

¹⁰ http://alaskafisheries.noaa.gov/analyses/mra/goa_arrowtooth_mra_frea0309.pdf

national Pacific Halibut Commission (IPHC) Regulatory Area 2C of Southeast Alaska to one halibut per day (74 FR 21194). This action reduced the halibut harvest in the guided sport charter vessel (guided) sector and manages the harvest of halibut in Area 2C consistent with an allocation strategy recommended by the Council for the guided fishery and the commercial fishery. This final rule implemented three restrictions for the guided fishery for halibut in Southeast Alaska: a one-fish daily bag limit, no harvest by the charter vessel guide and crew, and a line limit equal to the number of charter vessel anglers onboard, not to exceed six lines. An EA was prepared for this action that found that there were no significant environmental impacts from this action.¹¹

NMFS published final rule on January 5, 2010, that established a limited access system for charter vessels in the guided sport fishery for halibut in Southeast Alaska and the Gulf of Alaska (75 FR 554). Permits are required to be onboard charter vessels fishing for halibut as of February 1, 2011. An EA was prepared for this action that found that there were no significant environmental impacts from this action.¹²

North Pacific Observer Program (Observer Program): In 2010, NMFS issued a final rule to amend regulations implementing the Observer Program to improve the operational efficiency, as well as to improve the catch, bycatch, and biological data collected by observers for conservation and management of the North Pacific groundfish fisheries, including those data collected through scientific research activities (75 FR 69016, November 10, 2010). This action was categorically excluded from the need to prepare an EA pursuant to NEPA.

On November 21, 2012, NMFS published a final rule to restructure the Observer Program and implement Amendment 86 to the BSAI FMP and Amendment 76 to the GOA FMP (77 FR 70062). The final rule adds a funding and deployment system for observer coverage to the existing Observer Program and amends existing observer coverage requirements for vessels and processing plants. The new funding and deployment system allows NMFS to determine when and where to deploy observers according to management and conservation needs, with funds provided through a system of fees based on the ex-vessel value of groundfish and halibut in fisheries covered by the new system. This action resolves data quality and cost equity concerns with the Observer Program's existing funding and deployment structure. An EA was prepared for this action that found that there were no significant environmental impacts from this action.¹³

Pacific Cod Parallel Fishery: On November 29, 2011, NMFS published a final rule to limit access of federally permitted pot and hook-and-line catcher/processor vessels to the Pacific cod "parallel" fishery (76 FR 73513). The parallel fishery occurs in State of Alaska waters within 3 nautical miles of shore adjacent to the BSAI and is managed by the State of Alaska concurrent with the federal pot and hook-and-line fishery. This rule limits access by federally permitted pot or hook-and-line catcher/processor vessels in the Pacific cod parallel fishery in three ways: (1) it requires an owner of a federally permitted

¹¹ http://alaskafisheries.noaa.gov/analyses/halibut/area2c_charterhalibut_eairirfa0309.pdf

¹² http://alaskafisheries.noaa.gov/analyses/halibut/eairirfa_charter_vessel_moratorium110609.pdf

¹³ http://alaskafisheries.noaa.gov/analyses/observer/amd86_amd76_eairirfa0311.pdf

vessel to fish under the same federal fisheries permit (FFP) or license limitation program license endorsements in the parallel fishery as required in the federal waters; (2) it provides that the owner of a vessel who surrenders an FFP will not be reissued a new FFP within the 3-year term of the permit; and (3) it requires an operator of any federally permitted vessel used in the parallel fishery to comply with the same seasonal closures that apply in the federal fishery. The EA accompanying this action found that there were no significant environmental impacts.¹⁴

5.3 Ecosystem-sensitive management

Ecosystem-sensitive management includes those measures designed to manage the impacts of fishing for target species on other parts of the environment: non-target fish species, seabirds, marine mammals, and habitat.

Ongoing research has increased our understanding of the interactions among ecosystem components. The effects of these interactions on stock assessments are incorporated into the process for setting the overfishing levels and ABCs for the 2013/2014 harvest specifications, as detailed in the ecosystem considerations report for the 2012 SAFE reports (Appendix C).

Since 2007, the role of ecosystem considerations in fisheries management has increased. The Council completed the Arctic Fishery Management Plan. The Council has recommended and NMFS has implemented new seabird protection measures, new habitat protection measures, and new measures to minimize Chinook salmon bycatch. Additionally, NMFS and the Department of Interior have reviewed the status of a number of marine mammals. These actions are detailed in this section.

An increasing role for ecosystem considerations was analyzed in the Harvest Specifications EIS and does not change the findings in the Harvest Specifications EIS concerning the impacts of the harvest strategy on the human environment. No new information or developments relating to ecosystem considerations warrants a supplemental EIS.

5.3.1 Habitat

In 2008, NMFS implemented Amendment 89 to the BSAI FMP, which established habitat conservation measures that prohibit nonpelagic trawling in certain waters of the Bering Sea subarea and the Northern Bering Sea Research Area (73 FR 43362; July 25, 2008). The action provides protection to bottom habitat from the potential effects of nonpelagic trawling. An environmental assessment (EA) determined that this action would not have significant environmental impacts.¹⁵

In 2009, NMFS adopted final regulations removing the vessel monitoring system requirements applied to vessels fishing dinglebar gear. These requirements were initially implemented to assist enforcement in protecting closed habitat areas in the GOA. They

¹⁴ <http://alaskafisheries.noaa.gov/analyses/groundfish/parallelwatersearirfifa2011.pdf>

¹⁵ http://alaskafisheries.noaa.gov/analyses/amd89/earirfifa_0508.pdf

were removed to reduce the costs incurred by dinglebar fishermen in light of information indicating that these fishermen do not normally fish in the protected areas. An EA determined that this action would not have significant environmental impacts.¹⁶

In 2010, NMFS issued a final rule to implement Amendment 94 to the BSAI FMP (75 FR 61642; October 6, 2010). Amendment 94 (1) requires participants using nonpelagic trawl gear in the directed fishery for flatfish in the Bering Sea subarea to modify the trawl gear to raise portions of the gear off the ocean bottom, (2) changes the boundaries of the Northern Bering Sea Research Area to establish the Modified Gear Trawl Zone (MGTZ) and to expand the Saint Matthew Island Habitat Conservation Area, and (3) requires nonpelagic trawl gear to be modified to raise portions of the gear off the ocean bottom if used in any directed fishery for groundfish in the MGTZ. This action reduces potential adverse effects of nonpelagic trawl gear on bottom habitat, protects additional blue king crab habitat near St. Matthew Island, and allows for efficient flatfish harvest as the distribution of flatfish in the Bering Sea changes. An EA determined that this action would not have significant environmental impacts.¹⁷

On November 8, 2012, NMFS approved Amendment 98 to the BSAI FMP and Amendment 90 to the GOA FMP. These amendments update the existing EFH provisions based on a 5-year EFH review. The FMP amendments revise the following FMP components: (1) the EFH provisions for 24 groundfish species or complexes; (2) EFH conservation recommendations for non-fishing activities; (3) the timeline for considering HAPC proposals from 3 years to 5 years; (4) the EFH research objectives. The 5-year EFH review concluded that no change to the 2005 conclusions on the evaluation of fishing effects on EFH was warranted based on a review of information from 2005 through 2010. An EA determined that this action would not have significant environmental impacts.¹⁸

5.3.2 Ecosystem management

In 2009, the Council adopted, and NMFS approved, an Arctic fishery management plan that (1) closes the Arctic to commercial fishing until information improves so that fishing can be conducted sustainably and with due concern to other ecosystem components, (2) determines the fishery management authorities in the Arctic and provides the Council with a vehicle for addressing future management issues, and (3) implements an ecosystem based management policy that recognizes the unique issues in the Alaskan Arctic. No significant fisheries exist in the Arctic Management Area, either historically or currently. However, the warming of the Arctic and seasonal shrinkage of the sea ice may be associated with increased opportunities for fishing in this region. The Arctic fishery management plan prevents commercial fisheries from developing in the Arctic without the required management framework and scientific information on the fish stocks, their characteristics, and the implications of fishing for the stocks and related components of the ecosystem. A number of Arctic fish, marine mammals, and seabird species migrate into the area covered by the BSAI FMP, so any additional protection from unregulated fishing in the Arctic may be beneficial to these migratory species. The regulations im-

¹⁶ http://alaskafisheries.noaa.gov/analyses/groundfish/dbar_vms_eairirfa_1208.pdf

¹⁷ http://alaskafisheries.noaa.gov/sustainablefisheries/amds/94/srev_eairirfa_0410.pdf

¹⁸ http://alaskafisheries.noaa.gov/analyses/amds_98_90_40_15_1/FinalEFHOmniEA10012.pdf

plementing the Arctic fishery management plan were effective December 3, 2009 (74 FR 56734, November 3, 2009).

5.3.3 Salmon bycatch management

The Council has taken action to control salmon bycatch in the Bering Sea and Gulf of Alaska pollock fisheries. First, the Council recommended Amendment 84 to establish the salmon bycatch intercooperative agreement that allows vessels participating in the directed fisheries for pollock in the Bering Sea to use their internal cooperative structure to reduce salmon bycatch with a voluntary rolling hotspot system (VRHS). In recommending Amendment 84, the Council recognized that current regulatory management measures, including a bycatch cap that triggered closure of fixed salmon savings areas, have not been effective at reducing salmon bycatch. Amendment 84 provides an alternative approach to managing salmon bycatch, which has the potential to be more effective than current regulations. In 2007, NMFS implemented Amendment 84 (72 FR 61070; October 29, 2007). An EA determined that this action would not have significant environmental impacts.¹⁹

The Harvest Specifications EIS describes and analyzes the impacts of the pollock fishery's salmon bycatch with the VRHS measures in place, which were in effect at the time pursuant to an exempted fishing permit. Accordingly, the adoption of Amendment 84 does not represent significant new circumstances necessitating an SEIS.

In 2009, the Council recommended Amendment 91, the Chinook salmon bycatch management program, to minimize, to the extent practicable, Chinook salmon bycatch in the Bering Sea pollock fishery. The impacts of the proposed action and its alternatives were analyzed in the Bering Sea Chinook Salmon Bycatch Management Final Environmental Impact Statement.²⁰ This analysis provides new and recent information on the Bering Sea pollock fishery and the impacts of that fishery on Chinook salmon and the human environment. NMFS implemented this program for the start of the 2011 fishing year (75 FR 53026; August 30, 2010). In 2011, 25,499 Chinook salmon were incidentally caught in the BSAI groundfish fisheries. In 2012, 11,350 Chinook salmon were incidentally caught in the BSAI groundfish fisheries.

In 2010, Chinook salmon incidental catch in the GOA groundfish fisheries was 54,561 fish. This is the highest number of Chinook salmon incidentally taken in these fisheries since monitoring began in 1990, and it exceeded the 40,000 Chinook salmon incidental take statement for the GOA groundfish fisheries. The NMFS Alaska Region reinitiated Endangered Species Act (ESA) Section 7 consultation with the NMFS Northwest Region on November 17, 2010, based on the Chinook salmon incidental catch in the GOA groundfish fisheries. As required by the biological opinion, the Alaska Region provided the Northwest Region with additional information in the annual report on salmon incidental catch in all of the Alaska groundfish fisheries on March 3, 2011. In 2011, Chi-

¹⁹ http://alaskafisheries.noaa.gov/analyses/amd84/Am84_EARIRFRFAfr.pdf

²⁰ NMFS (2009). Bering Sea Chinook Salmon Bycatch Management Final Environmental Impact Statement. December, 2009. <http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm>.

nook salmon incidental catch in the GOA groundfish fisheries was 21,010 fish. In 2012, 22,580 Chinook salmon were incidentally caught in the GOA groundfish fisheries.

In June 2011, the Council adopted Amendment 93. NMFS implemented Amendment 93 in August 2012 (77 FR 42629, July 20, 2012). Amendment 93 and its implementing regulations establish separate PSC limits in the Central and Western GOA for Chinook salmon, which would cause NMFS to close the directed pollock fishery in the Central or Western regulatory areas of the Gulf of Alaska, if the applicable limit is reached. This action also would require retention of salmon by all vessels in the Central and Western GOA pollock fisheries until the catch is delivered to a processing facility where an observer is provided the opportunity to count the number of salmon and to collect scientific data or biological samples from the salmon. An EA determined that this action would not have significant environmental impacts.²¹

5.3.4 Steller Sea lions

A biological opinion documenting the program level Section 7 formal consultation on the effects of the Alaska groundfish fisheries on Steller sea lions, humpback whales, sperm whales, and fin whales was completed November 24, 2010.²² The biological opinion concluded that the fisheries were not likely to jeopardize the continued existence of the eastern distinct population segment (DPS) of Steller sea lions, the Western North Pacific and Central North Pacific populations of humpback whales, North Pacific sperm whales, or the Northeast Pacific population of fin whales. The biological opinion concluded that the fisheries were not likely to adversely modify designated critical habitat for the eastern DPS of Steller sea lions. The biological opinion concluded that the fisheries were likely to jeopardize the continued existence of the western DPS of Steller sea lions and were likely to adversely modify their designated critical habitat. The biological opinion contained a reasonable prudent alternative (RPA) designed to remove the likelihood the fisheries would jeopardize the western DPS of Steller sea lions or adversely modify their designated critical habitat.

This RPA was implemented for the 2011 fishing year (75 FR 77535; December 13, 2010). NMFS issued an interim final rule to implement Steller sea lion protection measures to insure that the BSAI management area groundfish fisheries are not likely to jeopardize the continued existence of the western DPS of Steller sea lions or adversely modify its designated critical habitat (75 FR 77535; December 13, 2010). These management measures disperse fishing effort over time and area to provide protection from potential competition for important Steller sea lion prey species in waters adjacent to rookeries and important haulouts. The intended effect of this interim final rule is to protect the endangered western DPS of Steller sea lions, as required under the ESA, and to conserve and manage the groundfish resources in accordance with the Magnuson-Stevens Act. An EA determined that this action would not have significant environmental impacts.²³ NMFS will be preparing an EIS for Steller sea lion protection measures in the Aleutian Islands based on a U. S. District Court order. In a decision issued by the court

²¹ <http://alaskafisheries.noaa.gov/sustainablefisheries/amds/93/amd93earirirfa0212.pdf>

²² http://alaskafisheries.noaa.gov/protectedresources/stellers/esa/biop/final/biop1210_chapters.pdf

²³ http://alaskafisheries.noaa.gov/analyses/ssl/sslprotections_earir1210.pdf

on January 18, 2012, the court found that NMFS followed MSA and ESA process in issuing the interim final rule and biological opinion, but the court found that NMFS did not properly apply NEPA process to this action, in particular failing to adequately provide opportunity for public comment on the EA.

On December 13, 2010, NMFS announced a 90-day finding on two petitions to delist the eastern DPS of Steller sea lions under the ESA. NMFS concluded that the petitions presented substantial scientific or commercial information indicating that the petitioned action may be warranted (75 FR 77602). On April 18, 2012, NMFS published a proposed rule to remove the eastern DPS of Steller sea lions from the List of Endangered and Threatened Wildlife and requested public comments through June 4, 2012 (77 FR 23209).

5.3.5 Seabirds

In 2009, NMFS implemented regulations to revise the seabird avoidance requirements for the hook-and-line groundfish and halibut fisheries in International Pacific Halibut Commission Area 4E (74 FR 13355; March 27, 2009). This action revised seabird avoidance measures based on the latest scientific information and reduced unnecessary regulatory burdens and associated costs by eliminating seabird avoidance requirements for hook-and-line vessels less than or equal to 55 ft (16.8 m) length overall in portions of Area 4E in the eastern Bering Sea. An EA determined that this action would not have significant environmental impacts.²⁴

New seabird bycatch estimates produced by the Alaska Fisheries Science Center for the period 2007 to 2010 indicate that the total estimated bycatch continues to be substantially lower than before the use of seabird avoidance measures.²⁵ Longline fisheries continue to have the highest bycatch among gear groups, and the new data suggests that northern fulmars were the most frequently caught seabird by longline fisheries in the Bering Sea from 2007 to 2010, which is similar to previous years.

As a result of NMFS's 2003 ESA consultation with the US Fish and Wildlife Service (USFWS), USFWS issued an incidental take statement of four short-tailed albatrosses during each two-year period for the BSAI and GOA hook-and-line groundfish fisheries. On September 17, 2010, NMFS reported the incidental take of two endangered short-tailed albatrosses in the hook-and-line groundfish fishery of the BSAI in August and September 2010. On October 25, 2011, NMFS reported another short-tailed albatross incidental take in the same fishery, but this was during a new two-year period.²⁶ The August 2010 and September 2011 incidental takes were located in close proximity.

The new seabird bycatch estimates from the Alaska Fisheries Science Center suggest an increased estimated incidental take of 15 short-tailed albatrosses based on the two observed takes in 2010. The NMFS Alaska Region Office, NMFS North Pacific Groundfish Observer Program, and the USFWS are actively coordinating efforts and communi-

²⁴ http://alaskafisheries.noaa.gov/analyses/seabirds/4E_eairirifa_0109.pdf

²⁵ Seabird bycatch estimates do not include the halibut longline fisheries.

²⁶ <http://alaskafisheries.noaa.gov/index/infobulletins/bulletin.asp?BulletinID=7271>

cating with each other in response to these take incidents. The total population of short-tailed albatrosses also continues to increase with the success of new breeding colonies, which could lead to increased interactions with Alaska fisheries. NMFS continues to work closely with the cod freezer longline fleet, in which the birds were taken, to evaluate what additional actions can be taken by the fleet to avoid further takes.

The USFWS published its 12-month finding in the *Federal Register* on October 7, 2011, that listing the black-footed albatross (*Phoebastria nigripes*) under the ESA was not warranted (76 FR 62504). The short-tailed albatross, Steller's eiders, and spectacled eiders remain on the threatened list, and Kittlitz's murrelet and the yellow-billed loon remain candidate species for conservation.

Memorandum of Understanding (MOU): In 2012, NMFS entered into an MOU with the USFWS to promote the conservation of migratory bird populations, as required by Executive Order 13186.²⁷ This MOU focuses on avoiding, or where impacts cannot be avoided, minimizing to the extent practicable adverse impacts on migratory birds and strengthening migratory bird conservation through enhanced collaboration between NMFS and FWS by identifying general responsibilities of both agencies and specific areas of cooperation. Given NMFS' focus on marine resources and ecosystems, this MOU places an emphasis on seabirds, but does not exclude other taxonomic groups of migratory birds. Under this MOU, NMFS is responsible for considering seabird conservation during the development of relevant fishery management actions.

5.3.6 Additional ESA Actions

Since the Harvest Specifications EIS, ESA activities regarding a number of listed species have occurred. These activities include the status review, designation of critical habitat, and the listing of certain animals. With each of these ESA activities, the impacts of the groundfish fisheries are considered and may result in ESA consultation where effects on ESA-listed species or designated critical habitat are identified. At this time, none of the new information or ESA activities would change the analysis in the Harvest Specifications EIS of the impacts of the harvest strategy on these listed species.

Ribbon Seals: In December 2007, NMFS received a petition to list ribbon seals as threatened or endangered species. On March 28, 2008, NMFS found that the petition presented substantial scientific or commercial information indicating that the petitioned action might be warranted. Therefore, NMFS initiated a status review of the ribbon seal to determine if listing under the ESA was warranted (73 FR 16617). After the review, NMFS concluded that listing was not warranted.²⁸ On December 13, 2011, NMFS initiated a new status review for the ribbon seal (76 FR 77467). NMFS intends to issue a finding on whether to list the ribbon seal as threatened or endangered on June 10, 2013.

Ringed, Bearded, and Spotted Seals: In May 2008, NMFS received a petition to list ringed, bearded, and spotted seals as threatened or endangered. On September 4, 2008, NMFS found that the petition presented substantial information indicating that the action

²⁷ http://alaskafisheries.noaa.gov/protectedresources/seabirds/mou/eo13186_nmfs_fws_mou2012.pdf

²⁸ <http://alaskafisheries.noaa.gov/newsreleases/2008/ribbonseals122308.htm>

might be warranted (73 FR 51615) and initiated an additional status review. On October 22, 2010, NMFS listed one of three populations of spotted seals as threatened (75 FR 65239). The other two spotted seal populations were determined to be not currently in danger of extinction or likely to become endangered in the foreseeable future. The listed population occurs in Chinese and Russian waters, but not in U.S. waters (75 FR 65239). Because the listed stock occurs outside of Alaska waters, no effects of the Alaska groundfish fisheries on this portion of the spotted seal stock occur, and no ESA consultation is necessary.

On December 10, 2010, NMFS announced that it proposed to list two populations of the Pacific bearded seal sub-species *Erignathus barbatus nauticus* as threatened under the ESA: the Beringia DPS and the Okhotsk DPS (75 FR 77496).²⁹ On December 13, 2011, NMFS extended the deadline for a final listing determination by six months, until June 10, 2012, due to substantial disagreement concerning the sufficiency or accuracy of the model predictions of future sea ice cover and related impacts to the Beringia DPS, and the magnitude and immediacy of the threats posed to this population by the projected habitat changes (76 FR 77465). No critical habitat was proposed to be designated as the Okhotsk DPS occurs outside of U.S. waters and critical habitat for the Beringia DPS was undeterminable (75 FR 77496). On December 28, 2012, NMFS issued final determination to list the Beringia and Okhotsk DPSs as threatened (77 FR 76740). NMFS did not list the Atlantic bearded seal sub-species, *Erignathus barbatus*. BSAI groundfish fisheries may directly or indirectly affect the Beringia DPS of bearded seals. From 2002 through 2006, the average annual bearded seal mortality level incidental to Alaska fisheries was 1.0. Indirect effects may include competition with bearded seals for prey or alteration of benthic habitat and prey (75 FR 77496). As a result of this final listing, NMFS will be initiating ESA consultation on the effects of the groundfish fisheries.

On December 10, 2010, NMFS also announced that it proposed to list four sub-species of ringed seals, including two sub-species in the Pacific: the Arctic and the Okhotsk (75 FR 77476). On December 13, 2011, NMFS extended the deadline for a final listing determination by six months, until June 10, 2012, due to a disagreement related to the model projections and analysis of future sea ice habitat (76 FR 77467). On December 28, 2012, NMFS issued final determination to list the Arctic and Okhotsk sub-species and will designate critical habitat for the Arctic ringed seals in a future rulemaking (77 FR 76706). The Arctic sub-species is found in the Arctic Basin including the Bering Sea, and the Okhotsk sub-species occurs in the Sea of Okhotsk and the Sea of Japan in the western north Pacific. The Okhotsk ringed seal does not occur in U.S. waters, thus critical habitat was not designated for this sub-species. Commercial fisheries may impact ringed seals through direct interactions (i.e., incidental take or bycatch) and indirectly through competition for prey resources and other impacts on prey populations. Based on data from 2002 through 2006, there has been an annual average of 0.46 mortalities of Arctic ringed seals incidental to commercial fishing operations in waters off Alaska (75 FR 77476). As a result of this final listing, NMFS will be initiating ESA consultation on the effects of the groundfish fisheries.

²⁹ <http://alaskafisheries.noaa.gov/newsreleases/2010/ringedandbeardedseals120310.htm>

Pacific walrus: In February 2008, the Department of the Interior (DOI) received a petition requesting it to list Pacific walrus under the ESA. On September 10, 2009, DOI published a 90-day finding that the petition presents substantial scientific or commercial information indicating that listing this species may be warranted (74 FR 46548). The stock assessment for Pacific walrus was revised on January 1, 2010, with a minimum population size estimate of 129,000 walruses within the surveyed area.³⁰ On February 10, 2011, DOI announced that listing the Pacific walrus as endangered or threatened is warranted; however, listing the Pacific walrus is precluded by higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants. Pacific walrus has been added to the USFWS candidate species list (76 FR 7634, February 10, 2011). Listing Pacific walrus would result in ESA Section 7 formal consultation for the BSAI groundfish fisheries as Pacific walrus are incidentally taken in this fishery, these fisheries have the potential to impact walrus bottom habitat important to foraging, and walruses are particularly sensitive to disturbance from human activities, including fishing vessel activities.

Polar bears: On May 15, 2008, DOI published a final rule listing polar bears as threatened under the ESA (73 FR 28212). Polar bears are not directly affected by BSAI or GOA groundfish fisheries. On October 29, 2009, DOI proposed critical habitat for the polar bear (74 FR 56058) and on December 7, 2010, approximately 187,157 square miles were designated as critical habitat (75 FR 76086). Portions of the sea ice designated as critical habitat are identified in the Bering Sea north of St. Matthew Island to the Chukchi Sea. Almost no groundfish fishing occurs in this area. This area is currently closed to nonpelagic trawling, which could have an impact on benthic prey species of ice seals (e.g., bearded seals) and Pacific walrus, which are prey species of polar bears. Because of the nonpelagic trawl closure, it is unlikely the groundfish fisheries would have any indirect effects on polar bears or their critical habitat.

Northern Right Whale: On March 6, 2008, the Northern Right Whale was listed under the ESA as endangered (73 FR 12024), and critical habitat was designated (73 FR 19000, April 8, 2008). This was necessary following the identification of separate Pacific and Atlantic stocks, and did not change the 2006 findings that the effects of the groundfish fisheries are not likely to adversely affect either the listed whales or their designated critical habitat.

Cook Inlet Beluga Whale: On October 22, 2008, NMFS made a final determination to list the Cook Inlet beluga whale DPS as endangered under the ESA (73 FR 62919). In 2009, NMFS Sustainable Fisheries consulted with NMFS Protected Resources on Amendment 91 to the BSAI FMP for Cook Inlet beluga whales. NMFS determined that due to the behavior of Cook Inlet beluga whales, the location and harvest amounts of potential prey species in the groundfish fisheries, and the minimizing of Chinook salmon bycatch under Amendment 91, Alaska groundfish fisheries may affect, but are not likely to adversely affect, Cook Inlet beluga whales either directly through vessel interactions or indirectly through prey competition. On April 11, 2011, NMFS identified more than one third of Cook Inlet as critical habitat (76 FR 20180). In January 2012, NMFS Sustainable Fisheries initiated consultation with NMFS Protected Resources on the effects of the

³⁰ http://alaska.fws.gov/fisheries/mmm/stock/final_pacific_walrus_sar.pdf

Alaska groundfish fisheries and Amendment 93 to the GOA FMP on Endangered Cook Inlet beluga whales and their critical habitat. NMFS Sustainable Fisheries determined that the Alaska groundfish fisheries and Amendment 93 are not likely to adversely affect Cook Inlet beluga whales or their critical habitat.

Sea Otters: On October 8, 2009, DOI published a final rule designating 15,164 square kilometers (5,855 square miles) as critical habitat for the southwest Alaska DPS of the northern sea otter (74 FR 51988). The critical habitat rule became effective on November 9, 2009. The critical habitat is designated in five units: the Western Aleutian Unit; the Eastern Aleutian Unit; the South Alaska Peninsula Unit; the Bristol Bay Unit; and the Kodiak, Kamishak, Alaska Peninsula Unit. Within these units, critical habitat occurs in nearshore marine waters ranging from the mean high tide line seaward for a distance of 100 meters, or to a water depth of 20 meters.³¹ While sea otter critical habitat predominately occurs within state waters, DOI has designated some critical habitat within federal waters where water depth is 20 meters or less. Groundfish fisheries do not target principal sea otter prey species making competition for prey resources within critical habitat unlikely. Fisheries may impact critical habitat prey resources through the potential effects of trawl gear on benthic habitat that supports prey resources. Because trawling in federal waters infrequently occurs in depths 20 meters or less and there is not likely to be competition for prey resources, groundfish fisheries are not likely to adversely affect sea otter critical habitat.

In 2006, NMFS and the USFWS consulted on the southwest Alaska DPS of the northern sea otter and the consultation concluded that the groundfish, crab, and scallop fisheries are not likely to adversely affect determination. In light of the recent critical habitat designation, NMFS is initiating consultation with the USFWS on the potential effects to critical habitat from the fisheries managed under the GOA and BSAI FMPs as well as the state parallel fisheries. Although there have not been any incidental takes since 2006, NMFS is also reinitiating consultation on the southwest Alaska DPS of the northern sea otter based on updated fisheries information.

Green Sturgeon: In 2010, the NMFS Sustainable Fisheries informally consulted with the NMFS Southwest Region on the southern DPS of green sturgeon. Because sturgeon are rarely taken incidentally in the Alaska groundfish fisheries, and the detection of the southern DPS green sturgeon is limited to a location where trawling is prohibited, the Alaska groundfish fisheries are unlikely to adversely affect the southern DPS of green sturgeon.

Southern Resident Killer Whales: In January 2012, NMFS Alaska Region initiated consultation with NMFS Northwest Region on the effects of the Alaska groundfish fisheries and proposed Amendment 93 to the GOA FMP on endangered Southern Resident killer whales. NMFS Alaska Region determined that the Alaska groundfish fisheries and Amendment 93 may affect, but are not likely to adversely affect, the Southern Resident killer whale distinct population segment.

³¹ http://alaska.fws.gov/fisheries/mmm/seaotters/pdf/fact_sheet_oct2009.pdf

5.4 Actions by other federal, state, and international agencies and private actions

As noted in the ecosystem section, in May 2008, DOI listed polar bears as a threatened species under the ESA and proposed critical habitat in October 2009. Polar bears do not interact with the BSAI and GOA groundfish fisheries, and the fisheries are unlikely to affect proposed designated critical habitat. In February 2008 DOI received a petition to list Pacific walrus under the ESA and in September 2009, it published a 90-day finding that the petition presented substantial information indicating that listing this species may be warranted. In November 2009, the DOI final rule designating critical habitat for the northern sea otter took effect. While small areas of this critical habitat fall within federal waters, due to the shallow depth of these waters (20 m or less) and lack of targeting on sea otter prey species, the groundfish fisheries likely have no effect on sea otter critical habitat.

The IPHC analyzes the status of the halibut stocks and sets the constant exploitation yield (CEY). The CEY is adjusted for removals that occur outside the commercial directed hook-and-line harvest (incidental catch in the groundfish fisheries, wastage in halibut fisheries, recreational harvest, subsistence use) to determine the commercial directed hook-and-line quota. The 2011 assessment revised the 2010 estimate of 295 million pounds downwards to 267 million pounds.³² The coastwide survey index of abundance declined by approximately 20 percent from 2010 to 2011. The 2011 stock assessment resulted in a preliminary coastwide estimate for the 2012 Fishery CEY of 33.88 million pounds, a decline of approximately 19 percent from the 2011 value of 42.02 million pounds. These preliminary catch limit recommendations, along with public and industry views on them, were considered by IPHC Commissioners and their advisors at the IPHC Annual Meeting in Anchorage, Alaska on January 24–27, 2012.³³

Each year, NOAA, on behalf of the IPHC, publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. On March 16, 2011, NOAA also announced modifications to the Catch Sharing Plan for Area 2A (waters off the U.S. West Coast) and implementing regulations for 2011, and announced approval of the Area 2A Catch Sharing Plan. These actions enhanced the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council and the North Pacific Council.

No other additional actions by other federal, state, and international agencies and private actions beyond those identified in the Harvest Specifications EIS have occurred since January 2007 that would change the analysis in the Harvest Specifications EIS of the impacts of the harvest strategy on the human environment.

³² http://www.iphc.washington.edu/publications/bluebooks/IPHC_Bluebook_2012.pdf

³³ <http://www.iphc.washington.edu/news-releases/229-nr20110920.html>

6 Future Actions

This section provides a summary description of the reasonably foreseeable future actions that may affect the harvest specifications process and the impacts of the groundfish fisheries on the resources components analyzed in this EIS. Actions are understood to be human actions (e.g., a proposed rule to designate northern right whale critical habitat in the Pacific Ocean), as distinguished from natural events (e.g., an ecological regime shift). Identification of actions likely to impact a resource component, or change the impacts of the harvest specifications process, allow decision-makers and the public to understand the potential for a future action, individually or cumulatively, to cause a substantial change in the harvest specification process or represent significant new circumstances or new information that would require an SEIS in the future.

Halibut PSC Limits: In 2012, the Council recommended Amendment 95 to the GOA FMP to change the process for setting halibut PSC limits and reduce halibut PSC limits in the GOA trawl and hook-and-line groundfish fisheries. If approved by the Secretary of Commerce, Amendment 95 would set the halibut PSC limits in Federal regulations. Amendment 95 would reduce the halibut PSC limit in the –

- groundfish trawl gear sector by 15 percent over 3 years: 1,848 t in 2014, 1,759 t in 2015, and 1,705 t in 2016.
- groundfish catcher vessel (CV) hook-and-line gear sector by 15 percent over 3 years: 161 t in 2014, 152 t in 2015, and 147 t in 2016.
- catcher/processor (C/P) hook-and-line gear sector by 7 percent in 2014. The new C/P hook-and-line halibut PSC limit may change annually, based on the GOA Pacific cod split formula. Using 2012 Pacific cod TACs in the Western and Central GOA as an example, the hook-and-line CP sector would fish under a 109 t PSC limit.
- demersal shelf rockfish fishery from 10 t to 9 t in 2014.

Addressing uncertainty in the stock assessment model process: The Magnuson-Stevens Act requires that NMFS use the best available science to help managers set limits on fish catch and prevent overfishing. The Government Accountability Office (GAO) recommended that the agency take steps to improve the quality of data used in stock assessments and improve its models to quantify the uncertainty of the results. An Advance Notice of Proposed Rulemaking (ANPR) on the National Standard 1 guidelines was published May 3, 2012. The public comment period was subsequently extended to October 15, 2012. This action provides the public with a formal opportunity to comment on the specific ideas mentioned in the ANPR, as well as any additional ideas and solutions that could improve provisions of the National Standard 1 Guidelines. Concurrently, several work groups (e.g., ABC Control Rules, Vulnerability Evaluations) have been created to produce reports on how to carry out the more technical components of the National Standard 1 guidelines³⁴.

³⁴ <http://www.nmfs.noaa.gov/msa2007/vulnerability.htm>

Steller Sea Lion protection measures in the AI: NMFS, in consultation with the Council, is preparing an EIS on Steller sea lion protection measures for the BSAI management area groundfish fisheries, in accordance with NEPA. The proposed action would restrict groundfish fishing in the BSAI to ensure the groundfish fisheries are not likely to result in jeopardy of continued existence or adverse modification or destruction of designated critical habitat (JAM) for the western DPS of Steller sea lions. NMFS worked with stakeholders to develop fisheries restrictions to be analyzed in the EIS that provide a reasonable range of alternatives in relation to the purpose and need for the action. The purpose of the action is to protect Steller sea lions and minimize the potential economic impact on the fishing industry to the extent practicable while meeting the requirements of the ESA. The analysis in the EIS will determine the impacts to the human environment resulting from this proposed action and the alternatives. In scoping for the EIS, NMFS accepted written comments through October 15, 2012, from the public to determine the issues of concern; the reasonable range of management alternatives; and the direct, indirect, and cumulative impacts. In October 2012, NMFS, in coordination with the Council, conducted a public meeting to inform the public of this proposed action and alternatives, presented issues and potential impacts, and provided an opportunity for public comment. NMFS intends to publish the Draft EIS in spring 2013.

Splitting Pacific cod overfishing limit and ABC into Bering Sea and Aleutian Island subareas: Pacific cod is currently managed as one stock in the BSAI, and there are nine separate industry sector allocations established to divide the ITAC, in addition to the CDQ allocation. At the December 2012 Council meeting, the SSC stated that it would recommend separate overfishing limits and ABCs for BS and AI Pacific cod for the 2014 and 2015 harvest specifications cycle based on the best available data at that time. Then the Council could recommend separate area TACs based on those assessments. The stock assessment for AI Pacific cod is scheduled for evaluation at the September 2013 BSAI Groundfish Plan Team meeting and October 2013 Council meeting, and the Council can expect recommendations from the Groundfish Plan Team and SSC regarding the 2014 and 2015 stock assessments and a plan of action for future BSAI Pacific cod stock assessments in October 2013.

If the Council splits the BSAI Pacific cod TAC into separate BS and AI TACs and does not revise 50 CFR 679.20, NMFS will interpret that the sector allocations currently in effect will continue to apply at the BSAI-wide level. This interpretation is consistent with the Council's intent about the sector allocations under Amendment 85 (72 FR 50788; September 04, 2007). The Council also recognized the dynamic nature of the AI Pacific cod fishery and the difficulty in predicting the likely outcomes of a TAC split, given that (1) all gear sectors have varied the proportion of total Pacific cod harvest in the AI over time; (2) SSL protection measures reduce a large portion of the fishable area in the AI; and (3) it is unknown how sectors will change their fishing patterns and redeploy in response to the SSL protection measures.

Annual Deployment Plan (ADP): Starting in 2013, NMFS will use an ADP to assign observers to collect information from North Pacific fishing operations. For 2013, the ADP is focused on reporting changes to the timing, location, and magnitude of observer-

derived information that are anticipated to occur as a result of NMFS deploying observers on vessels and in plants within the “restructured” portion of the fleet in 2013. The ADP is focused on science driven deployment to meet data needs. NMFS will adjust some aspects of observer deployment through the ADP, including the assignment of vessels to the selection pools or the allocation strategy used to deploy observers. The Council may provide NMFS input on the priority of particular data collection goals and NMFS will consider adjustments to how observers are deployed in the partial coverage category to achieve those goals. Adjustments to future deployment plans would be made after a scientific evaluation of data collected under the restructured observer program. NMFS will evaluate the impact of changes in observer deployment and identify areas where improvements are needed to collect the data necessary to conserve and manage the groundfish and halibut fisheries and maintain a scientifically rigorous data collection program.

Programmatic Supplemental Environmental Impact Statement (PSEIS): The Council developed its groundfish management policy in 2004, following a comprehensive review of the BSAI and GOA groundfish fisheries. The 2004 *Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement*³⁵ evaluated the cumulative changes in the management of the groundfish fisheries since the implementation of the BSAI and GOA FMPs around 1980, and considered a broad array of policy-level programmatic alternatives. On the basis of the analysis, the Council adopted a management approach statement, and 9 policy goal statements, with 45 accompanying objectives. Once a year, the Council conducts a review of the management policy objectives to assess how they are being implemented, and see whether changes are warranted. The Council is in a process of comprehensively evaluating the continuing vitality of its PSEIS in light of changing conditions. When the changes and the information is significantly different in degree or in kind from the impacts previously considered, the Council and the agency must prepare a supplement to the PSEIS.

7 Determination

After reviewing the information above and presented in the SAFE reports, I have determined that (1) the 2013/2014 harvest specifications, which were set according to the preferred harvest strategy, do not constitute a change in the action; and (2) the information presented does not indicate that there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Additionally, the 2013/2014 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental NEPA documentation is not necessary to implement the 2013/2014 harvest specifications. Further, at this time, the available information does not indicate a need to prepare supplemental NEPA documentation for the 2014/2015 harvest specifications.

Regional Administrator

Date

³⁵ <http://alaskafisheries.noaa.gov/sustainablefisheries/seis/intro.htm>

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Appendix A: BSAI Stock Assessment and Fishery Evaluation (SAFE) Reports

North Pacific Fishery Management Council, Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of the Bering Sea/Aleutian Islands Regions.

This document is included by reference. The 2012 versions for each species or species group may be found here: <http://www.afsc.noaa.gov/refm/stocks/assessments.htm>

Appendix B: GOA Stock Assessment and Fishery Evaluation (SAFE) Reports

North Pacific Fishery Management Council, Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of the Gulf of Alaska.

This document is included by reference. The 2012 versions for each species or species group may be found here: <http://www.afsc.noaa.gov/refm/stocks/assessments.htm>

Appendix C: Ecosystem Considerations

This document is included by reference. The 2012 version may be found here: <http://www.afsc.noaa.gov/refm/stocks/assessments.htm>

Appendix D: Economic Status Report

This document is included by reference. The 2012 version may be found here: <http://www.afsc.noaa.gov/refm/stocks/assessments.htm>