

Alaska Groundfish Harvest Specifications

Supplementary Information Report

January 2011

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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 and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). 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 (Specifications EIS)¹ in January 2007 for the harvest strategy used to set the annual harvest specifications. The 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 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 Supplemental Information Report

This supplemental information report evaluates the need to prepare a Supplemental EIS (SEIS) for the 2011/2012 groundfish harvest specifications. This supplemental information report also provides information to preliminarily determine whether an SEIS may be necessary for the 2012/2013 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 2010 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.

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.

3 Changes to the Proposed Action

The 2011/2012 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 2011/2012 harvest specifications are consistent with the preferred alternative harvest strategy analyzed in the 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 Specifications EIS.

The proposed 2011/2012 harvest specifications for the GOA and BSAI were published in the *Federal Register* on December 8, 2010 (75 FR 76352 and 75 FR 76372, respectively). The Council took final action to recommend final harvest specifications at its December 2010 meeting. NMFS is scheduled to publish the *Federal Register* notice announcing the final harvest specifications in mid-February 2011.

NMFS did make 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 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, as required by the guidelines. 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 2010 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 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 2011/2012 harvest specifications are based on the information provided in the 2010 SAFE reports. The Plan Teams met in Seattle from November 15 to 19, 2010, 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 2010 SAFE reports. The 2010 SAFE reports describe in detail the new information available since the 2009 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. The status of the stocks continues to appear relatively favorable, and no groundfish stocks are overfished or approaching an overfished condition.

Based on this information, the Council recommended the 2011/2012 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 2011 compared to the 2010 ABCs. NMFS is scheduled to publish the final specifications in the *Federal Register* in mid-February 2011.

Table 1 Scientific and Statistical Committee (SSC) Bering Sea and Aleutian Islands and Gulf of Alaska ABC recommendations for 2011 area total ABCs and ABCs for selected stocks compared to the final 2010 ABCs (in metric tons).

Species	Final 2010 ABC	SSC 2011 ABC
BSAI total ABC	2,121,880	2,534,729
Bering Sea pollock	813,000	1,306,856
BSAI Pacific cod	174,000	235,000
Bering Sea sablefish	2,790	2,850
AI sablefish	2,200	1,900
BSAI yellowfin sole	219,000	239,000
BSAI rock sole	240,000	224,000
GOA total ABC	565,499	590,121
GOA pollock	84,745	96,215
GOA Pacific cod	79,100	86,800
GOA sablefish	10,370	11,290

The preferred harvest strategy analyzed in the Specifications EIS anticipated that information on changes in species abundance would be used each year in the setting of the annual harvest specifications. It is a flexible process designed to adjust to new information on stock abundance. The information used to set the 2011/2012 harvest specifications is not significant relative to the environmental impacts of the harvest strategy analyzed in the Specifications EIS: it raises no new environmental concerns significantly different from those previously analyzed in the 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 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 occurred in 2007, 2008, 2009, or 2010 and, if they did occur, whether they would change the analysis in the Specifications EIS of the impacts of the harvest strategy on the human environment. In addition, NMFS considered whether other actions not anticipated

in the Specifications EIS occurred that have a bearing on the harvest strategy or its impacts.

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

- Ecosystem-sensitive management
- Fishery rationalization
- Traditional management tools
- 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 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 2011/2012 harvest specifications, as detailed in the ecosystem considerations report for the 2010 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 Specifications EIS and does not change the findings in the 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.

5.1.1 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 non-

pelagic trawling. An EA determined that this action would not have significant environmental impacts.⁶

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 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.⁷

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.⁸

5.1.2 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 implementing the Arctic fishery management plan were effective December 3, 2009.

⁶ http://alaskafisheries.noaa.gov/analyses/amd89/earirfrfa_0508.pdf

⁷ http://alaskafisheries.noaa.gov/analyses/groundfish/dbar_vms_earirfrfa_1208.pdf

⁸ http://alaskafisheries.noaa.gov/sustainablefisheries/amds/94/srev_earirirfa_0410.pdf

5.1.3 Salmon bycatch

The Council has taken action to control salmon bycatch in the Bering Sea pollock fishery. First, the Council recommended Amendment 84 to establish the salmon bycatch inter-cooperative 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.⁹

The 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.¹⁰ 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).

As of November 8, 2010, Chinook salmon incidental catch in the GOA groundfish fisheries was 51,736 fish. This is the highest number of Chinook salmon incidentally taken in these fisheries since monitoring began in 1990, and it exceeds 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 will provide the Northwest Region with additional information in the annual report on salmon incidental catch in all of the Alaska groundfish fisheries by February 1, 2011. In December 2010, the Council adopted a motion to analyze alternative GOA Chinook salmon bycatch management measures. These alternatives include hard caps and bycatch management cooperatives for the pollock fishery.

⁹ http://alaskafisheries.noaa.gov/analyses/amd84/Am84_EARIRFRFAfr.pdf

¹⁰ NMFS (2009). Bering Sea Chinook Salmon Bycatch Management Final Environmental Impact Statement. December, 2009. <http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm>.

5.1.4 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, 2010.¹¹ 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 will 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.¹²

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). NMFS is continuing a status review of this DPS to determine if the petitioned action is warranted.

5.1.5 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-

¹¹ http://alaskafisheries.noaa.gov/protectedresources/stellers/esa/biop/final/biop1210_chapters.pdf

¹² http://alaskafisheries.noaa.gov/analyses/ssl/sslprotections_earir1210.pdf

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.¹³

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. As a result of 2003 consultation with the US Fish and Wildlife Service (USFWS) under the ESA, USFWS issued an incidental take statement of 4 birds during each 2-year period for the BSAI and GOA hook-and-line groundfish fisheries. The NMFS Alaska Region Office, NMFS North Pacific Groundfish Observer Program, and the USFWS are actively coordinating efforts and communicating with each other in response to these take incidents. NMFS is also working closely with the cod freezer longline fleet, where the birds were taken, to evaluate what additional actions can be taken by the fleet to avoid further takes.¹⁴

5.1.6 Additional ESA Actions

Since the 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 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 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.¹⁵

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 also presented substantial information indicating that the action might be warranted (73 FR 51615) and initiated an additional status review. On November 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.

¹³ http://alaskafisheries.noaa.gov/analyses/seabirds/4E_eairirifa_0109.pdf

¹⁴ <http://alaskafisheries.noaa.gov/index/infobulletins/bulletin.asp?BulletinID=7271>

¹⁵ <http://alaskafisheries.noaa.gov/newsreleases/2008/ribbonseals122308.htm>

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).¹⁶ 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). NMFS did not list the Atlantic bearded seal sub-species, *Erignathus barbatus barbatus*. BSAI groundfish fisheries may directly or indirectly affect the Beringia DPS of bearded seals. From 2002-2006, 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). Should NMFS list the Beringia DPS of bearded seals, ESA consultation on the effects of the fisheries may be necessary.

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). 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. At the time of the proposed listing, critical habitat for the Arctic ring seal was undeterminable and will be determined in a separate rulemaking (75 FR 77476). The Okhotsk ring 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 2002-2006, 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). Should NMFS list the Arctic ringed seal, ESA consultation on the effects of the groundfish fisheries may be necessary.

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.¹⁷ DOI is expected to complete a listing determination January 31, 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 and GOA groundfish fisheries. On October 22, 2009, DOI proposed critical habitat for the bear (74 FR 56058) and on November 24, 2010, approximately 187,157 square miles

¹⁶ <http://alaskafisheries.noaa.gov/newsreleases/2010/ringedandbeardedseals120310.htm>

¹⁷ http://alaska.fws.gov/fisheries/mmm/stock/final_pacific_walrus_sar.pdf

were designated as critical habitat (75 FR 76087). 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 groundfish 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 December 2, 2009 NMFS proposed to designate critical habitat for the Cook Inlet beluga whale in two areas comprising 3016 square miles of critical marine habitat (74 FR 63080).

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. The critical habitat rule became effective on November 9, 2009 (74 FR 51988). 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.¹⁸ 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 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 is unlikely to occur in depths 20 m or less and there is not likely to be competition for prey resources, there is likely no effect of groundfish fisheries on sea otter critical habitat.

Green Sturgeon In 2010, the NMFS Sustainable Fisheries informally consulted with the NMFS Southwest Region on the southern DPS of green Sturgeon. Of the entire Alaska

¹⁸ http://alaska.fws.gov/fisheries/mmm/seaotters/pdf/fact_sheet_oct2009.pdf

groundfish fishery, sturgeon are rarely taken incidentally in trawl fisheries in the Bering Sea. Because the incidental catch of any sturgeon is rare in the entire 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.

5.2 *Fishery rationalization*

Fishery rationalization measures include those that implement or modify catch share programs.

In 2007, NMFS published final rules to implement Amendment 80 (72 FR 52668; September 14, 2007) and Amendment 85 to the BSAI FMP (72 FR 50788; September 4, 2007). Amendments 80 and 85 are catch share programs that improved management for the species under those programs 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 non-pollock 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 prohibited species catch (PSC) limits as sideboard limits for Amendment 80 Program participants in the GOA.

Amendment 85 modified the current allocations and seasonal apportionments of BSAI 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 BSAI Pacific cod fishery.

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 was necessary to ensure 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 Specifications EIS. NMFS extended these allocations with the 2008/2009 proposed and final 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 discontinued. 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).

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.¹⁹

In 2009, NMFS 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.²⁰

- NMFS implemented regulations to provide harvesting cooperatives, crab processing quota share holders, and CDQ groups with the option to make inter-cooperative 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 90/78 amend the BSAI Amendment 80 Program and the Central GOA Rockfish Program to allow post-delivery transfers of cooperative quota to cover overages to mitigate potential overages, reduce en-

¹⁹ http://alaskafisheries.noaa.gov/analyses/amd82/amd92_82rreafirfa0509.pdf

²⁰ <http://alaskafisheries.noaa.gov/index/analyses/analyses.asp>

forcement 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.

- 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.

In 2010, NMFS issued an emergency rule to exempt Amendment 80 cooperatives and trawl catcher/processor vessels that are not specified in regulation as American Fisheries Act (AFA) vessels from the Groundfish Retention Standards (GRS) regulations, in the Bering Sea and Aleutian Islands management area, that calculated compliance with annual GRS rates and required an unattainable and unenforceable level of retention (75 FR 78172; December 15, 2010). This emergency rule will have 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. This action was categorically excluded from the need to prepare an environmental assessment pursuant to NEPA.

These fishery rationalization measures improve management of the fisheries but they do not alter the harvest specification process or change analysis in the 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).

5.3 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, however, none of these actions modify the harvest specifications process or change analysis in the Specifications EIS of impacts of the harvest strategy on the human environment.

For the 2008/2009 harvest specifications, NMFS implemented Amendment 79 to the GOA FMP, which required the Council to recommend an aggregate overfishing level and acceptable biological catch for the “other species” category in the Gulf of Alaska as part of the annual groundfish harvest specifications process (73 FR 49963; August 25, 2008). The “other species” category in the Gulf of Alaska consists of sharks, sculpins, squid, and

octopus. The EA accompanying this action found that there were no significant environmental impacts.²¹

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.²²

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 environmental assessment pursuant to NEPA.

In 2009, NMFS issued a final rule to revise the maximum retainable amounts (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.²³

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 International 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

²¹ <http://alaskafisheries.noaa.gov/analyses/groundfish/amend79EARIRIRFA0505.pdf>

²² http://alaskafisheries.noaa.gov/sustainablefisheries/amds/amd73_77/ea082008.pdf

²³ http://alaskafisheries.noaa.gov/analyses/mra/goa_arrowtooth_mra_frea0309.pdf

six lines. An EA was prepared for this action that found that there were no significant environmental impacts from this action.²⁴

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 will be required to be onboard charter vessels fishing for halibut beginning February 1, 2011. An EA was prepared for this action that found that there were no significant environmental impacts from this action.²⁵

In 2010, NMFS issued a final rule to amend regulations implementing the North Pacific Groundfish Observer Program to improve the operational efficiency of the Observer Program, 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. This action was categorically excluded from the need to prepare an environmental assessment pursuant to NEPA.

These measures improve management of the fisheries but they do not alter the harvest specification process or change analysis in the 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).

5.4 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. In February 2008 it 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. Polar bears do not interact with the BSAI and GOA groundfish fisheries, and the fisheries are unlikely to affect proposed designated critical habitat. 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 (20m or less) and lack of targeting on sea otter prey species, groundfish fisheries likely have no effect on sea otter critical habitat.

The International Pacific Halibut Commission (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 2009 assessment revised the 2008 estimate of 325 million pounds at the start of 2009 downwards to 291 million

²⁴ http://alaskafisheries.noaa.gov/analyses/halibut/area2c_charterhalibut_eairirfa0309.pdf

²⁵ http://alaskafisheries.noaa.gov/analyses/halibut/eairirfa_charter_vessel_moratorium110609.pdf

pounds.²⁶ The coastwide survey index of abundance declined by approximately 15 percent from 2009 to 2010. The 2010 stock assessment resulted in a preliminary coastwide estimate for the 2011 Fishery CEY of 41.89 million pounds, a decline of approximately 6 percent from the 2010 value of 44.40 million pounds. These preliminary catch limit recommendations, along with public and industry views on them, will be considered by IPHC Commissioners and their advisors at the IPHC Annual Meeting in Victoria BC, Canada, during January 25-28, 2011.²⁷

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

6 Determination

After reviewing the information above and presented in the SAFE reports, I have determined that (1) the 2011/2012 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 2011/2012 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 2011/2012 harvest specifications. Further, at this time, the available information does not indicate a need to prepare supplemental NEPA documentation for the 2012/2013 harvest specifications.

Regional Administrator

Date

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²⁶ <http://www.iphc.washington.edu/halcom/research/sa/papers/sa09.pdf>

²⁷ <http://www.iphc.washington.edu/news-releases/146-nr20101202.html>

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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 2010 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 2010 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 2010 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 2010 version may be found here: <http://www.afsc.noaa.gov/refm/stocks/assessments.htm>