

# **Alaska Groundfish Harvest Specifications**

## **Supplementary Information Report**

**January 2022**

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1	<b>Contents</b>	
2	Alaska Groundfish Harvest Specifications Environmental Impact Statement	3
3	Purpose of this Supplementary Information Report	4
4	Changes to the Proposed Action	5
5	New Information	7
6	New Circumstances	10
6.1	Catch Share Management	10
6.1.1	Bering Sea	10
6.1.2	Gulf of Alaska	14
6.2	Traditional management tools	15
6.3	Ecosystem-sensitive management	22
6.3.1	Habitat	23
6.3.2	Arctic Fishery Management	25
6.3.3	Halibut bycatch management	25
6.3.4	Salmon bycatch management	27
6.3.5	Pribilof Island blue king crab bycatch management	29
6.3.6	Grenadier management	30
6.3.7	Steller Sea lions	30
6.3.8	Walrus Protection Areas	32
6.3.9	Seabirds	33
6.3.10	Additional ESA Actions	35
6.4	Actions by other Federal, state, and international agencies and private actions	39
6.4.1	Department of Interior	39
6.4.2	State managed groundfish fisheries	40
6.4.3	International Pacific Halibut Commission	43
6.4.4	Government Accountability Office	43
7	Future Actions	44
8	Determination	45
9	Preparers and Persons Consulted	46
Appendix A:	BSAI Stock Assessment and Fishery Evaluation (SAFE) Reports	48
Appendix B:	GOA Stock Assessment and Fishery Evaluation (SAFE) Reports	48
Appendix C:	Ecosystem Considerations	48
Appendix D:	Economic Status Report	48

## 2 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 and implements 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)<sup>1</sup> 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.

Annually, the Council’s harvest specifications process is to apply the harvest strategy to the best available scientific information to derive annual harvest specifications. The Council’s Groundfish Plan Teams and Scientific and Statistical Committee (SSC) use stock assessments to calculate biomass, overfishing levels, and acceptable biological catch (ABC) 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 total allowable catch (TAC) for each species or species group. 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 (the BSAI or GOA) is constrained by the optimum yield established for that area. The annual harvest specifications also set or apportion the prohibited species catch (PSC) limits.

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

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<sup>1</sup> National Marine Fisheries Service, Department of Commerce (Jan. 2007), Alaska Groundfish Harvest Specifications Final Environmental Impact Statement. <https://www.fisheries.noaa.gov/resource/document/alaska-groundfish-harvest-specifications-environmental-impact-statement-eis>.

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.

### 3 Purpose of this Supplementary Information Report

This supplementary information report evaluates the need to prepare a Supplemental EIS (SEIS) for the 2022 and 2023 groundfish harvest specifications. This supplementary information report also provides information to determine whether an SEIS may be necessary for the 2022 and 2023 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(d)(1)).

This report analyzes the information contained in the 2021 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 significantly different effects from those already studied require supplementary consideration.<sup>2</sup> The Supreme Court directs 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 decisionmaking intractable.”<sup>3</sup> On the other hand, if there remains a major Federal action to occur, and if new information indicates that the remaining 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.<sup>4</sup> Ultimately, an agency is required “to take a ‘hard look’ at the new information to assess whether supplementation might be necessary.”<sup>5</sup>

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

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

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

<sup>4</sup> See *Marsh*, 490 U.S. at 374.

<sup>5</sup> *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 72-73 (2004).

## 4 Changes to the Proposed Action

The 2022 and 2023 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 2022 and 2023 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 both the BSAI and the GOA, and do not set TAC to 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 2022 and 2023 harvest specifications for the BSAI and GOA were published in the *Federal Register* on December 3, 2021 (86 FR 68608) and December 6, 2021 (86 FR 68982), respectively. The Council took final action to recommend final harvest specifications at its December 2021 meeting. NMFS is scheduled to publish the *Federal Register* notice announcing the final harvest specifications in February-March 2022.

NMFS has made some changes 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 to the BSAI FMP (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 in accordance with the Harvest Specifications EIS. NMFS extended these allocations with the 2008 and 2009 harvest specifications and with subsequent harvest specifications.

Additionally, Amendments 80 and 85 incorporated 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 (AI), Alaska plaice, other flatfish, rockfish, and others. 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 approaches an overfishing level. These changes are discussed in detail in the 2007 and 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 allowed 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 Environmental Assessment (EA) accompanying this action found that there were no significant environmental impacts.<sup>6</sup>

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 and 2012 harvest specifications and with subsequent harvest specifications. Amendment 95 moved skates from the “other species” category to the “target species” category in the BSAI FMP. Amendments 96 and 87 revised the FMPs to meet the National Standard 1 guidelines for annual catch limits and accountability measures. These amendments moved all remaining species groups from the “other species” category to the “target species” category, removed the “other species” and “non-specified species” categories from the FMPs, established an “ecosystem component” category, and described 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 added skate species to the reporting codes for the BSAI groundfish fisheries. An EA determined that this action would not have significant environmental impacts.<sup>7</sup>

In October 2013, the Council’s SSC recommended separate Bering Sea subarea and AI subarea overfishing levels and ABCs for Pacific cod in the BSAI for the 2014 and 2015 harvest specifications cycle based on the best available data. Before, Pacific cod was managed as one stock in the BSAI with one overfishing level and ABC. The stock assessment for AI Pacific cod was evaluated at the September 2013 BSAI Groundfish Plan Team meeting and October 2013 Council meeting. This stock assessment provided extensive information on why separate subarea ABCs are appropriate for Pacific cod and the impacts of these ABCs on Pacific cod.

In December 2013, the Council recommended separate subarea Pacific cod TACs, as well as separate subarea overfishing levels and ABCs, based on those assessments. Since the Council recommended splitting the BSAI Pacific cod TAC into separate Bering Sea and AI TACs and did not recommend revising 50 CFR 679.20, NMFS interpreted 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 to the BSAI FMP (72

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<sup>6</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-frfa-amendment-73-fishery-management-plan-groundfish-bering-sea-and>

<sup>7</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-amendment-96-fmp-groundfish-bsai-and-amendment-87-fmp>.

FR 50788, September 4, 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) Steller sea lion 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 Steller sea lion protection measures. However, since the result of separate TACs is a reduction in the amount of AI Pacific cod available for harvest, then environmental effects are beneficial. The primary conservation effects concern Pacific cod fishery interactions with Steller sea lions. NMFS analyzed the impacts of separate TACs on the AI Pacific cod fishery and Steller sea lions in the final EIS Steller sea lion protection measures for groundfish fisheries in the Bering Sea and Aleutian Islands Management Area.<sup>8</sup>

At its November 2013 meeting, the Council's GOA Groundfish Plan Team recommended combining the Western and Central GOA "other rockfish" ABCs and TACs. The "other rockfish" category in those areas include "other rockfish" (19 species) and demersal shelf rockfish (7 species). The Plan Team recommended combining these ABCs and TACs based on the challenges associated with conducting a comprehensive assessment of all of the species in the "other rockfish" category in the Western and Central GOA. In December 2013, the Council and its SSC considered this change and recommended combining these ABCs and TACs as recommended by the Plan Team.

In 2015, NMFS implemented Amendment 105 to the BSAI FMP (79 FR 56671, September 23, 2014). This amendment establishes a process for Western Alaska CDQ groups and Amendment 80 cooperatives to exchange quota of three flatfish species (flathead sole, rock sole, and yellowfin sole) for an equal amount of another of these three flatfish species, while maintaining total catch below ABC limits. This action was necessary to mitigate the operational variability, environmental conditions, and economic factors that might have constrained the CDQ groups and Amendment 80 cooperatives from fully harvesting their allocations and to improve the likelihood of achieving and maintaining, on a continuing basis, the optimum yield in the BSAI groundfish fisheries to the extent the action provides opportunities for increased use of available TAC.

## 5 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 2021 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

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<sup>8</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-impact-statement-steller-sea-lion-protection-measures>.

prepared and reviewed annually for each 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 for 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 law; (2) document significant trends or changes in the resource, marine ecosystems, and the fisheries 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) and other agencies. The GOA Groundfish Plan Team compiles the SAFE report for GOA groundfish fisheries from chapters contributed by scientists at AFSC and the State of 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 2022 and 2023 harvest specifications are based on the information provided in the 2021 SAFE reports. The Plan Teams met virtually from November 15 to 19, 2021, 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 AFSC and ADF&G scientists with opportunity for public comment and input. The information presented at the Plan Team meetings was then compiled into the 2021 SAFE reports. The 2021 SAFE reports describe in detail the new information available since the 2020 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 SSC and Advisory Panel (AP) for consideration and final action in December.

Based on this information, the Council recommended the 2022 and 2023 harvest specifications in December 2021. First, the SSC reviewed the SAFE reports, the overfishing level, and the ABC recommendations and either confirmed the Plan Team recommendations or developed its own recommendations. Second, the ABC recommendations, together with biological, social, and economic factors, were considered by the AP and the Council in determining TACs. Third, the Council recommended TAC levels at or below ABC. Table 1 summarizes noteworthy SSC ABC

recommendations for selected stocks for 2022 compared to the 2021 ABCs. NMFS is scheduled to approve and implement the final harvest specifications in the *Federal Register* in February-March 2022.

**Table 1 Scientific and Statistical Committee (SSC) Bering Sea and Aleutian Islands and Gulf of Alaska ABC recommendations for 2022 area total ABCs and ABCs for selected stocks compared to the final 2021 ABCs (in metric tons).**

Species	Final 2021 ABC	SSC 2022 ABC	Percent change
<b>BSAI total ABC</b>	<b>2,747,727</b>	<b>2,383,653</b>	<b>-13</b>
Bering Sea pollock	1,626,000	1,111,000	-32
BSAI Pacific cod	144,405	173,983	+20
Bering Sea sablefish	3,396	5,264	+55
AI sablefish	4,717	6,463	+ 37
BSAI yellowfin sole	313,477	354,014	+13
BSAI rock sole	140,306	206,896	+47
<b>GOA total ABC</b>	<b>484,150</b>	<b>520,038</b>	<b>+7</b>
GOA pollock	115,870	144,444	+2
GOA Pacific cod	23,627	24,111	+2
GOA sablefish	21,475	22,794	+6

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. The use of new information from the SAFE reports allows the Council and NMFS to respond to environmental changes and stock changes in the BSAI and GOA and to adjust the harvest specifications as necessary, which is consistent with the preferred harvest strategy from the Harvest Specifications EIS and which is consistent with National Standard Two of the Magnuson-Stevens Act to use the best scientific information available. Overall, according to this new information, there has been no change in any stock’s status relative to the established status determination criteria.

No groundfish stocks are overfished or approaching an overfished condition. The status of the stocks in the BSAI and GOA generally continues to appear relatively favorable for continued commercial fisheries based on the most recent stock assessments. Therefore, the information used to set the 2022 and 2023 harvest specifications is not significant relative to the environmental impacts of the harvest strategy analyzed in the Harvest Specifications EIS. There is no new information raising environmental concerns significantly different from those previously analyzed in the Harvest Specifications EIS. Furthermore, there is no additional information bearing on the manner in which the Harvest Specifications EIS contemplated that the use of new information would inform the harvest specifications process. Thus, the new information available is not of a scale and scope that require an SEIS.

## 6 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 category, actions by other agencies and private actions that have occurred since 2007 have been grouped for discussion.

### 6.1 *Catch Share Management*

These following actions improve fisheries management, but they do not alter the harvest specification process or change the 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).

#### 6.1.1 Bering Sea

**Amendment 80 Program:** In 2007, NMFS published a final rule to implement Amendment 80 to the BSAI FMP (72 FR 52668, September 14, 2007). Amendment 80 is a 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 AI Pacific ocean perch. The program established sideboard limits for groundfish and PSC limits for Amendment 80 Program participants in the GOA to limit the ability of participants eligible for the Amendment 80 Program to expand their harvest efforts in the GOA. The EA accompanying this action found that there were no significant environmental impacts.<sup>9</sup>

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<sup>9</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-final-regulatory-flexibility-18>

In 2009, NMFS issued regulations implementing Amendment 90 to the BSAI FMP, which amended the Amendment 80 Program in the BSAI to allow post-delivery transfers of cooperative quota to cover overages to mitigate potential overages, reduce enforcement costs, and provide for more precise TAC management (74 FR 42178, August 21, 2009). This action was categorically excluded from the need to prepare an EA pursuant to the National Environmental Policy Act (NEPA).

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 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). The GRS program was implemented to increase the retention and utilization of groundfish; however, NMFS discovered that the regulatory methodology used to calculate compliance with the GRS required individual Amendment 80 vessels and Amendment 80 cooperatives to retain groundfish at rates well above the minimum retention rates recommended by the Council or implemented by NMFS. As a result, the GRS imposed significantly higher than predicted compliance costs on vessel owners and operators due to the increased level of retention needed to meet the minimum retention rates. Additionally, NMFS discovered that enforcement of the GRS was far more complex, challenging, and potentially costly than anticipated by NMFS. 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 NEPA.

On November 4, 2011, NMFS published a final rule to implement Amendment 93 to the BSAI FMP (76 FR 68354). These regulations amended 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 enables 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.<sup>10</sup>

On October 1, 2012, NMFS published a final rule to implement Amendment 97 to the BSAI FMP (77 FR 59852). These regulations amended 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 established 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. Also, this action facilitates an increase in the processing capabilities of the fleet to improve the retention and utilization of groundfish catch by these

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<sup>10</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-irfa-amendment-93-fishery-management-plan-groundfish-gulf-alaska-chinook>

vessels. The EA accompanying this action found that there were no significant environmental impacts.<sup>11</sup>

On February 25, 2013, NMFS published a regulatory amendment to modify the GRS program in the BSAI by removing certain regulatory requirements that mandate minimum levels of groundfish retention by the owners and operators of Amendment 80 vessels and Amendment 80 cooperatives participating in the BSAI groundfish fisheries (78 FR 12627). This action relieved Amendment 80 vessels and Amendment 80 cooperatives from undue compliance costs stemming from the minimum retention rates while continuing to promote the GRS program goals of increased groundfish retention and utilization. This action maintained current monitoring requirements for the Amendment 80 fleet and established a new requirement for Amendment 80 cooperatives to annually report groundfish retention performance as part of the report submitted to NMFS. The EA accompanying this action found that there were no significant environmental impacts.<sup>12</sup>

**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.<sup>13</sup>

**Aleutian Islands Pacific Cod Processing:** On November 23, 2016, NMFS published a final rule to implement Amendment 113 to the BSAI FMP to provide stability to AI shoreplant operations and the communities dependent on shoreside processing activity by creating an AI Pacific Cod Catcher Vessel Harvest Set-Aside Program (81 FR 84434). The EA accompanying this action found that there were no significant environmental impacts.<sup>14</sup>

On March 21, 2019, the final rule adopting Amendment 113 to the FMP, published at 81 FR 84434 (November 23, 2016), was vacated by the U.S. District Court for the District of Columbia, and the corresponding regulations implementing Amendment 113 are no longer in effect. Therefore, NMFS is no longer specifying amounts for the AI Pacific Cod Catcher Vessel Harvest Set-Aside Program. In December 2019, the Council reviewed a discussion paper that included potential regulatory approaches to provide a means to provide opportunities for trawl catcher vessels harvesting Pacific cod in the AI and delivering the Pacific cod to AI shoreplants. However, the Council chose not to start a new action focused exclusively on an AI Pacific cod set-aside.

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<sup>11</sup> <https://www.fisheries.noaa.gov/resource/document/final-rir-final-ea-irfa-amendment-97-fishery-management-plan-groundfish-bering>.

<sup>12</sup> <https://www.fisheries.noaa.gov/resource/document/final-regulatory-impact-review-final-environmental-assessment-initial-regulatory>.

<sup>13</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-frfa-amendment-85-fishery-management-plan-groundfish-bering-sea-aleutian>.

<sup>14</sup> <https://www.fisheries.noaa.gov/resource/document/regulatory-impact-review-environmental-assessment-amendment-113-fishery>.

### **Amendment 116: Yellowfin sole TLAS Fishery Limited Entry**

On October 4, 2018, NMFS issued a final rule to implement Amendment 116 to the BSAI FMP to limit access to the BSAI Trawl Limited Access Sector (TLAS) yellowfin sole directed fishery by vessels delivering catch to motherships (vessels that receive and process catch from other vessels) (83 FR 49994). Amendment 116 limits catcher vessel (CV) access to the fishery by establishing eligibility criteria based on historical participation in the fishery, issuing endorsements to License Limitation Program (LLP) licenses that meet eligibility criteria, and authorizing delivery of BSAI TLAS yellowfin sole to motherships only by those vessels with a BSAI TLAS yellowfin sole directed fishery endorsement designated on the LLP license assigned to that vessel.

The BSAI TLAS yellowfin sole directed fishery has existed in the current management structure since 2008. Beginning in 2014, the number of CVs delivering to motherships more than doubled compared to CV participation from 2008 through 2013. The Council and NMFS identified the need to provide benefits to historic participants and mitigate the risk that a “race for fish” could worsen in the BSAI TLAS yellowfin sole directed fishery. Mitigating a “race for fish” promotes stability in the fishery, lengthens the fishing season, and creates a safer, more predictable fishery. That stability also minimizes the potential for increased halibut prohibited species catch (PSC) rates, which could lead to closure of the fishery before the yellowfin sole TAC is fully harvested. Under the regulations to implement Amendment 116 a vessel that delivers catch of yellowfin sole in the BSAI TLAS fishery to a mothership is required to be assigned an LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement. An LLP license is eligible for that required endorsement if the LLP license is credited with at least one legal trip target landing in the BSAI TLAS yellowfin sole directed fishery made to a mothership in any one year from 2008 through 2015. The EA accompanying this action found that there were no significant environmental impacts.<sup>15</sup>

**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 Website.<sup>16</sup>

- NMFS implemented regulations to provide harvesting cooperatives, crab processing quota shareholders, 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). This action was categorically excluded from the need to prepare an EA pursuant to NEPA.
- Regulations implementing Amendments 62/62 increased 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

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<sup>15</sup> <https://www.fisheries.noaa.gov/resource/document/regulatory-impact-review-environmental-assessment-amendment-116-fishery>

<sup>16</sup> [https://www.fisheries.noaa.gov/resources/all-publications?title=&field\\_species\\_vocab\\_target\\_id=&sort\\_by=created](https://www.fisheries.noaa.gov/resources/all-publications?title=&field_species_vocab_target_id=&sort_by=created).

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 2014, NMFS approved and implemented Amendment 106 to the BSAI FMP to bring the BSAI FMP into conformity with the amendments to the AFA in the Coast Guard Authorization Act of 2010 (79 FR 54590, September 12, 2014). This action allows (1) the owner of an AFA vessel to rebuild or replace an AFA vessel without any limitation on the length, weight, or horsepower of the rebuilt or replacement vessel and (2) the owner of an AFA catcher vessel in an inshore cooperative to remove the vessel from the cooperative and assign the catch history to one or more vessels in the cooperative. This action improves vessel safety and operational efficiency in the AFA fleet. This action was categorically excluded from the need to prepare an EA pursuant to NEPA.
- In 2016, NMFS published a final rule to implement Amendment 109 to the BSAI FMP to allow small hook-and-line catcher vessel operators, generally fishing for halibut CDQ, an opportunity to diversify their operations with Pacific cod CDQ fishing (81 FR 26738, May 4, 2016). This amendment exempts vessels less than or equal to 46 feet LOA using hook-and-line gear from an LLP license while fishing any CDQ groundfish, and moves these vessels from full observer coverage to partial observer coverage. Rather than being required to purchase an LLP license, interested participants are placed on an online eligible vessel list by a CDQ manager, and vessels greater than 32 feet and less than or equal to 46 feet LOA are required to carry a certificate of eligibility (obtained without charge) onboard to signal their exemption. Vessels directed fishing for Pacific cod CDQ are still required to carry vessel monitoring systems. The EA accompanying this action found that there were no significant environmental impacts.<sup>17</sup>

### 6.1.2 Gulf of Alaska

**Pacific Cod Sector Allocations:** On December 1, 2011, NMFS published a final rule to implement Amendment 83 to the GOA FMP starting in the 2012 Pacific cod fishery (76 FR 74670). The final rule allocated 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 reduce competition among sectors and support stability in the Pacific cod fishery. This rule also limited access to the Federal Pacific cod TAC fisheries prosecuted in the parallel fishery (in State of Alaska waters), promoted community participation, and provided incentives for new entrants in the jig sector. The EA accompanying this action found that there were no significant environmental impacts.<sup>18</sup>

#### **Rockfish Program:**

On March 1, 2021, NMFS published a final rule to implement Amendment 111 to the GOA FMP and a regulatory amendment to reauthorize the Central GOA Rockfish Program (86 FR 11895). This final rule retained the conservation, management, safety, and economic gains realized under the Rockfish Program and makes minor revisions to improve administration of the Rockfish Program. This final rule was necessary to continue the conservation benefits, improve efficiency,

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<sup>17</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-amendment-109-fmp-groundfish>.

<sup>18</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-assessment-final-regulatory-impact-review-initial-regulatory>.

and provide economic benefits of the Rockfish Program that would otherwise expire on December 31, 2021. This final rule was intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the GOA FMP, and other applicable laws. The EA accompanying this action found that there were no significant environmental impacts.<sup>19</sup>

## 6.2 *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 the analysis in the Harvest Specifications EIS of impacts of the harvest strategy on the human environment. Therefore, the new management tools implemented in the BSAI and GOA 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 Amendment 92 to the BSAI FMP and Amendment 82 to the GOA FMP remove trawl gear endorsements on licenses issued under the LLP in specific management areas if those licenses had not been used on vessels that met minimum recent landing requirements using trawl gear (74 FR 41080, August 14, 2009). This action provided exemptions to this requirement for licenses that are used in trawl fisheries subject to certain limited access privilege programs. This action issued 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 lbs. 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. Establishing the current trip limit regulation to limit a vessel to 300,000 lbs. of pollock caught in a day continues 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 species; and from 0 percent to 1 percent for sablefish. As a result, this action reduced regulatory discards of otherwise marketable groundfish in the

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<sup>19</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-111-fishery>

arrowtooth flounder fishery. The EA accompanying this action found that there were no significant environmental impacts.<sup>20</sup>

In 2013, NMFS issued a regulation to increase the MRAs of groundfish using arrowtooth flounder and Kamchatka flounder as basis species in the BSAI (78 FR 29248, May 20, 2013). This action allows the use of BSAI arrowtooth flounder and Kamchatka flounder as basis species for the retention of species closed to directed fishing, and was necessary to improve retention of otherwise marketable groundfish in these BSAI fisheries. This action also included regulatory amendments related to harvest management of Kamchatka flounder to account for Kamchatka flounder in the same manner as arrowtooth flounder in the BSAI; to aid in the recordkeeping, reporting, and catch accounting of flatfish in the BSAI; and to provide NMFS the flexibility to allocate Kamchatka flounder (and other species in the future) to the CDQ Program in the annual harvest specifications. The EA accompanying this action found that there were no significant environmental impacts.<sup>21</sup>

**GOA skate MRAs:** On December 28, 2015, NMFS published a final rule to reduce the MRA of skates using groundfish and halibut as basis species in the GOA from 20 percent to 5 percent (80 FR 80695). The purpose of this action is to slow the harvest rate of skates and decrease the incentive for vessels to top off on skates by reducing the MRA to levels that more accurately reflect the intrinsic rate of incidental catch of skates in the GOA. The EA accompanying this action found that there were no significant environmental impacts.<sup>22</sup>

**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 BSAI 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 vessel to fish under the same Federal fisheries permit (FFP) or LLP 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 three 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.<sup>23</sup>

**Pacific Cod Parallel Fishery:** On December 3, 2020, NMFS published a final rule that was substantially similar to the 2011 action that limited the access of catcher/processor hook-and-line and pot gear vessels in the BSAI Pacific cod parallel fisheries (see above). In the December,

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<sup>20</sup> <https://repository.library.noaa.gov/view/noaa/18234>.

<sup>21</sup> <https://repository.library.noaa.gov/view/noaa/19165>.

<sup>22</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-10>.

<sup>23</sup> <https://www.fisheries.noaa.gov/resource/document/secretary-commerce-final-environmental-assessment-regulatory-impact-review-final>.

2020 action (85 FR 78038), NMFS expanded the Federal permit conditions for the BSAI Pacific cod parallel fisheries to include pot, longline, and trawl catcher vessels. The new rules regulate access to the Pacific cod parallel fisheries for catcher vessels in a similar fashion: (1) owners of federally permitted vessels are required to fish under the same Federal fisheries permit (FFP) or LLP license endorsements in the parallel fishery as required in the adjacent Federal waters; (2) vessel owners who surrender or amend an FFP will not be reissued a new FFP within the three year term of the permit; and (3) an operator of any federally permitted vessel used in the parallel fishery must comply with the same seasonal closures that apply in the adjacent Federal fishery. This action is necessary to enhance Federal conservation, management, and catch accounting measures previously adopted by the Council regarding license limitation, sector allocations, and catch reporting. This action was categorically excluded from the need to prepare an EA pursuant to NEPA.

**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 of the 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 (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 added a funding and deployment system for observer coverage to the existing Observer Program and amended 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 previous Observer Program's funding and deployment structure. The EA accompanying this action found that there were no significant environmental impacts action.<sup>24</sup>

**Observer Coverage for BSAI Trawl CVs:** On September 30, 2016, NMFS published a final rule to allow catcher vessels (CVs) to choose to be in the full observer coverage category for all of their trawl activity in the BSAI (81 FR 67113). Any CV owner may select full coverage for the following year by notifying NMFS of their choice prior to an October 15 deadline. Owners must reaffirm this choice each year. Those who do not meet the notification deadline will remain in the partial observer coverage category, and will be required to log trips during the following year. This action was categorically excluded from the need to prepare an EA pursuant to NEPA.

**Electronic Monitoring (EM):** On August 8, 2017, NMFS published a final rule to implement Amendment 114 to the BSAI FMP and Amendment 104 to the GOA FMP (82 FR 36991). These amendments integrate EM in the Observer Program effective September 7, 2017. This final rule establishes a process for owners or operators of vessels using nontrawl gear to request to participate in the EM selection pool and the requirements for vessel owners or operators while in

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<sup>24</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-irfa-proposed-amendment-86-fmp-groundfish-bsai-and-amendment-76-fmp>.

the EM selection pool. This action is necessary to improve the collection of data needed for the conservation, management, and scientific understanding of managed fisheries. The EA accompanying this action found that there were no significant environmental impacts.<sup>25</sup>

**Annual Deployment Plan (ADP):** Since 2013, NMFS has used an ADP to assign observers to collect information from North Pacific fishing operations. The ADP is focused on science-driven deployment to meet data needs. NMFS adjusts 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 provides NMFS input on the priority of particular data collection goals, and NMFS considers adjustments to how observers are deployed in the partial coverage category to achieve those goals. Adjustments to future deployment plans are made after a scientific evaluation of data collected under the restructured Observer Program. NMFS evaluates the impact of changes in observer deployment and identifies 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.

The draft 2019 ADP describes how NMFS intends to assign fishery observers and EM to vessels fishing in the North Pacific in 2019. Vessels who request, and are selected for EM, will be placed in the EM selection pool. The remaining vessels subject to observer coverage will be candidates for human observers. The Observer Declare and Deploy System (ODDS) will continue to be the software interface that all vessels use to log fishing trips and establish whether they have been selected for observer or EM coverage for a given trip. The ADP also discusses NMFS recommended observer deployment allocation strategy and other elements of the program. The draft 2019 ADP, and all prior ADPs, are available online.<sup>26</sup>

**Observer Fee Adjustment:** On July 10, 2020, NMFS issued a final rule to adjust the Observer Program fee (85 FR 41424). This action is intended to increase funds available to support observer and electronic monitoring systems deployment in the partial coverage category of the Observer Program and increase the likelihood of meeting desired monitoring objectives. Beginning on January 1, 2021, the observer fee will be assessed at 1.65 percent of the ex-vessel value of landings subject to the fee (50 CFR 679.55(f)). The EA accompanying this action found that there were no significant environmental impacts.<sup>27</sup>

**Authorize Use of Longline Pot Gear in the GOA Sablefish IFQ Fishery:** In December 2016, NMFS issued a final rule to implement Amendment 101 to the GOA FMP (81 FR 95435, December 28, 2016), which authorizes the use of longline pot gear in the GOA sablefish IFQ fishery. Prior to this action, the only authorized gear in this fishery was longline gear including hook-and-line, jig, troll, and handline gear. Sablefish caught on hook-and-line gear are subject to predation by whales. Authorizing the use of longline pot gear may reduce the adverse impacts of

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<sup>25</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-amendment-114-fmp-groundfish-bsai-and-amendment-104-fmp-groundfish-go-and>.

<sup>26</sup> [https://www.fisheries.noaa.gov/resources/all-publications?title=observer&region%5B1000001106%5D=1000001106&field\\_category\\_document\\_value%5Bother%5D=other&topic%5B1000000027%5D=1000000027&field\\_species\\_vocab\\_target\\_id=&sort\\_by=created](https://www.fisheries.noaa.gov/resources/all-publications?title=observer&region%5B1000001106%5D=1000001106&field_category_document_value%5Bother%5D=other&topic%5B1000000027%5D=1000000027&field_species_vocab_target_id=&sort_by=created)

<sup>27</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-regulatory-amendment>.

whale depredation of sablefish for those fishermen who choose to switch to using longline pot gear in the sablefish IFQ fishery. In addition, the rule was intended to reduce whale and seabird interactions with fishing gear in the GOA sablefish IFQ fishery. The EA accompanying this action found that there were no significant environmental impacts.<sup>28</sup>

#### **Amendments 117/106: Reclassify Squid as an Ecosystem Component Species**

On July 6, 2018, NMFS issued regulations to implement Amendment 117 to the BSAI FMP and Amendment 106 to the GOA FMP (83 FR 31460). These amendments reclassify squid in the FMPs as an “Ecosystem Component Species,” which is a category of non-target species that are not in need of conservation and management. Under Amendments 117 and 106, OFL, ABC, and TAC specifications are no longer required. Regulations implementing Amendments 117 and 106 prohibit directed fishing for squid, require recordkeeping and reporting to monitor and report catch of squid species annually, and establish a squid maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention, while allowing flexibility to prosecute groundfish fisheries. The EA accompanying this action found that there were no significant environmental impacts.<sup>29</sup>

#### **Amendments 121/110: Reclassify Sculpins as an Ecosystem Component Species**

On July 10, 2020, NMFS issued regulations to implement Amendment 121 to the BSAI FMP and Amendment 110 to the GOA FMP (85 FR 41427). These amendments reclassify sculpins in the FMPs as an “Ecosystem Component Species,” which is a category of non-target species that are not in need of conservation and management. Under Amendments 121 and 110, OFL, ABC, and TAC specifications are no longer required. Regulations implementing Amendments 121 and 110 prohibit directed fishing for sculpins, require recordkeeping and reporting to monitor and report catch of sculpin species annually, and establish a sculpins maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention, while allowing flexibility to prosecute groundfish fisheries. The EA accompanying this action found there were no significant environmental impacts.<sup>30</sup>

#### **Halibut Deck Sorting Monitoring Requirements for Trawl Catcher/Processors**

NMFS implemented regulations to establish halibut deck sorting monitoring requirements for trawl catcher/processors and motherships operating in non-pollock groundfish fisheries in the BSAI and GOA (84 FR 55044, October 15, 2019). These requirements allow vessels participating in catch share fisheries, as well as non-catch share fisheries, to sort and then discard overboard Pacific halibut on the deck of the vessels. This practice has been shown to reduce halibut PSC mortality. The final rule does not modify existing halibut PSC limits, but it does allow halibut to be discarded faster than allowed under current monitoring requirements, which could reduce halibut discard mortality. Reducing halibut discard mortality could maximize prosecution of the directed non-pollock groundfish fisheries that otherwise might be constrained by halibut PSC limits, and may also benefit vessels participating in the directed halibut fishery

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<sup>28</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-final-regulatory-impact-review-amendment-101-fmp>.

<sup>29</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-117-bsai-and>.

<sup>30</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-proposed-amendment-121-fishery-management-plan-groundfish-bering-sea-and>.

by returning more live halibut to the water. A correction to this rule regarding the effective date of collection-of-information requirements was published December 9, 2019 (84 FR 67183). The EA accompanying this action found that there were no significant environmental impacts.<sup>31</sup>

### **Authorize Retention of Pacific halibut in Pot Gear in the BSAI**

NMFS published a final rule (85 FR 840, January 8, 2020) to implement Amendment 118 to the BSAI FMP to authorize retention of legal-size IFQ or CDQ halibut in pot gear in the BSAI. The final rule requires retention of legal-sized halibut in pot gear used in the existing IFQ and CDQ sablefish pot gear fisheries and in the new IFQ and CDQ halibut pot gear fisheries if the operator has sufficient IFQ or CDQ for the retained halibut. The final rule includes a number of modifications to regulations including closing the Pribilof Island Habitat Conservation Zone to all groundfish and halibut fishing with pot gear and clarifies NMFS's inseason management authority to limit or close IFQ or CDQ fishing for halibut if an OFL is approached for a groundfish or shellfish species, consistent with regulations in place for groundfish. This action is necessary to improve efficiency and provide economic benefits for the IFQ and CDQ fleets, reduce the risk of exceeding an overfishing limit for any species, and minimize whale depredation and seabird interactions in the IFQ and CDQ fisheries (because the use of pot gear could result in less whale depredation and fewer interactions with seabirds, relative to the use of hook-and-line gear). The EA accompanying this action found that there were no significant environmental impacts.<sup>32</sup>

### **Limit Access to the BSAI non-CDQ Pacific Cod Trawl CV Fishery by Motherships**

NMFS published a final rule to implement Amendment 120 to the BSAI FMP and Amendment 108 to the GOA FMP on December 20, 2019 (84 FR 70064). This action limited access to the BSAI non-CDQ Pacific cod trawl CV fishery by motherships receiving and processing Pacific cod harvested and delivered by CVs directed fishing in that fishery to those catcher/processors designated on a groundfish LLP license with a BSAI Pacific cod trawl mothership endorsement. The final rule established the eligibility criteria and issuance process for this new endorsement. This action balances the need to limit the number of catcher/processors operating as motherships in the fishery with the need to provide continued access and benefits from the fishery for long-time participants with sustained activity, given the increasing number of participants in the fishery and shorter fishing seasons. This action is intended to promote stability in the fishery by reducing the risk of a race for fish, stabilizing the length of the fishing season, and creating a safer, more predictable fishery. This action was categorically excluded from the need to prepare an EA pursuant to NEPA.

### **Prohibit Directed Fishing for AFA Program and Crab Rationalization (CR) Program Sideboard Limits in Regulation**

On February 8, 2019, NMFS published a final rule (84 FR 2723) that modifies regulations for the AFA Program and CR Program participants subject to limits on the catch of specific species (sideboard limits) in the GOA and BSAI. Sideboard limits are intended to prevent participants who benefit from receiving exclusive harvesting and processing privileges in a particular fishery from shifting effort to other fisheries.

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<sup>31</sup> <https://repository.library.noaa.gov/view/noaa/22015>

<sup>32</sup> <https://www.fisheries.noaa.gov/action/amendment-118-fmp-groundfish-bering-sea-and-aleutian-islands-management-area>.

Specifically, this action established regulations to prohibit directed fishing for specific groundfish species or species groups subject to sideboard limits, rather than prohibiting directed fishing through the GOA and BSAI annual harvest specifications. The rule streamlined and simplified NMFS's management of applicable groundfish sideboard limits. Historically, NMFS calculated numerous AFA Program and CR Program sideboard limits as part of the annual GOA and BSAI groundfish harvest specifications process and published those limits in the Federal Register. Concurrently, NMFS prohibited directed fishing for the majority of the groundfish sideboard limits because most limits were too small to support directed fishing. Rather than continue this annual process, the final rule revised regulations to prohibit directed fishing in regulation for most AFA Program and CR Program groundfish sideboard limits. NMFS no longer calculates and publishes AFA Program and CR Program sideboard limit amounts for those groundfish species and species groups subject to the final rule. The final rule was effective March 11, 2019. This action was categorically excluded from the need to prepare an EA pursuant to NEPA.

#### **Amendment 109: Modify Seasonal Allocations of Pollock and Pacific Cod for Trawl Catcher Vessels in the Central and Western Gulf of Alaska**

On June 25, 2020, NMFS published a final rule to implement Amendment 109 to the GOA FMP and modify regulations governing pollock fishing in the Gulf of Alaska (85 FR 38093). This final rule reduces operational and management inefficiencies in the Central Gulf of Alaska and Western Gulf of Alaska trawl catcher vessel pollock and Pacific cod fisheries by reducing regulatory time gaps between the pollock seasons, and changing Gulf of Alaska Pacific cod seasonal apportionments to allow greater harvest opportunities earlier in the year. Specifically, Amendment 109 modified the existing annual pollock TAC allocation to two equal seasonal allocations (50 percent of TAC), and combined the pollock A and B seasons into a January 20 through May 31 A season and the pollock C and D seasons into a September 1 through November 1 B season. Additionally, Amendment 109 revised the Pacific cod TAC seasonal apportionments to the trawl catcher vessel CV sector by increasing the A season allocation and decreasing the B season allocation. On December 9, 2020, NMFS published a correction that clarified existing seasonal apportionments of Pacific cod for the jig sector (85 FR 79139). This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the GOA FMP, and other applicable laws. The EA accompanying this action found that there were no significant environmental impacts.<sup>33</sup>

#### **Amendments 119/107: Require Rockfish Retention by Catcher Vessels in the BSAI and GOA**

On February 20, 2020, NMFS published a final rule to implement Amendment 119 to the BSAI FMP and Amendment 107 to the GOA FMP and to modify regulations in the BSAI and GOA associated with the discard and retention of rockfish species (85 FR 9687). The final rule requires that the operator of a federally permitted catcher vessel using hook-and-line, pot, or jig gear in the BSAI and GOA retain and land all rockfish (*Sebastes* and *Sebastolobus* species) caught while fishing for groundfish or Pacific halibut. This action is necessary to improve

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<sup>33</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-109-fishery>.

identification of rockfish species catch by vessels using electronic monitoring, provide more precise estimates of rockfish catch, reduce waste and incentives to discard rockfish, reduce overall enforcement burden, and promote more consistent management between State and Federal fisheries. This action was categorically excluded from the need to prepare an EA pursuant to the NEPA.

### 6.3 *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: habitat, non-target fish species, seabirds, and marine mammals.

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 2022 and 2023 harvest specifications, as detailed in the Alaska Marine Ecosystem Status Reports for 2021.<sup>34</sup>

In December 2018 the North Pacific Council adopted a Bering Sea Fishery Ecosystem Plan (BS FEP). Fisheries Ecosystem Plans are a tool that can serve as a framework for continued incorporation of ecosystem goals and actions in regional management. The Bering Sea FEP is a living document that will be updated over time and used to guide policy options and associated opportunities, risks, and tradeoffs affecting FMP species and the broader Bering Sea ecosystem in a systematic manner. The adopted “Core” document for the Bering Sea FEP documents current procedures and best practices for ecosystem-based fishery management (EBFM); provides brief, targeted, and evolving descriptions of the interconnected physical, biological, and human/institutional Bering Sea ecosystem and through ecosystem thresholds and targets; and directs how that information can be used to guide fishery management options.

The Council underscored its commitment to EBFM with the adoption of an ecosystem approach policy statement in 2014. With the development of a Bering Sea FEP, the Council has progressed on the continuum of EBFM, allowing Alaska to lead internationally in fishery management, and provide a clear record of the Council’s ecosystem-based policy decision making, while still applying policies that are suited to Alaskan circumstances.

The Council has completed and NMFS has implemented the Fishery Management Plan for Fish Resources of the Arctic Management Area, which includes a thorough description of the Arctic marine ecosystem (74 FR 56734, November 3, 2009). The Council has recommended and NMFS has implemented new seabird protection measures, new habitat protection measures, and new measures to minimize halibut and 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. None of the new information or new circumstances

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<sup>34</sup> <https://www.fisheries.noaa.gov/alaska/ecosystems/ecosystem-status-reports-gulf-alaska-bering-sea-and-aleutian-islands#2021-alaska-marine-ecosystem-status-reports>

relating to ecosystem considerations, detailed below, warrants a supplemental EIS pursuant to 40 CFR 1502.9(c)(1)(ii).

### 6.3.1 Habitat

In 2008, NMFS implemented Amendment 89 to the BSAI FMP, which established habitat conservation measures that prohibit nonpelagic trawl gear 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. The EA accompanying this action found that there were no significant environmental impacts.<sup>35</sup>

In 2009, NMFS adopted final regulations removing the vessel monitoring system requirements applied to vessels fishing dinglebar gear (74 FR 3446, January 21, 2009). 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. The EA accompanying this action found that there were no significant environmental impacts.<sup>36</sup>

In 2010, NMFS issued a final rule to implement Amendment 94 to the BSAI FMP (75 FR 61642, October 6, 2010). Amendment 94 (1) required 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) changed 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) required 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 reduced potential adverse effects of nonpelagic trawl gear on bottom habitat, protected additional blue king crab habitat near St. Matthew Island, and allowed for efficient flatfish harvest as the distribution of flatfish in the Bering Sea changes. The EA accompanying this action found that there were no significant environmental impacts.<sup>37</sup>

On November 6, 2012, NMFS approved Amendment 98 to the BSAI FMP and Amendment 90 to the GOA FMP (77 FR 66564). These amendments updated the existing essential fish habitat (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 species groups; (2) EFH conservation recommendations for non-fishing activities; (3) the timeline for considering Habitat Areas of Particular Concern (HAPC) proposals from three years to five years; and (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

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<sup>35</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-final-regulatory-flexibility-14>.

<sup>36</sup> <https://www.fisheries.noaa.gov/resource/document/regulatory-amendment-exempt-gulf-alaska-dinglebar-fishermen-vessel-monitoring>.

<sup>37</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-frfa-amendment-94-bsai-groundfish-fmp-require-trawl-sweep-modification-bs>.

from 2005 through 2010. The EA accompanying this action found that there were no significant environmental impacts.<sup>38</sup>

On January 16, 2014, NMFS issued regulations to implement Amendment 89 to the GOA FMP and to revise current regulations governing the configuration of modified nonpelagic trawl gear (79 FR 2794). This rule established a protection area in Marmot Bay, northeast of Kodiak Island, and closed that area to fishing with trawl gear except for directed fishing for pollock with pelagic trawl gear. The closure reduces bycatch of Tanner crab (*Chionoecetes bairdi*) in GOA groundfish fisheries. This rule also requires that nonpelagic trawl gear used in the directed flatfish fisheries in the Central Regulatory Area of the GOA be modified to raise portions of the gear off the sea floor. The modifications to nonpelagic trawl gear used in these fisheries reduce the unobserved injury and mortality of Tanner crab, and reduce the potential adverse impacts of nonpelagic trawl gear on bottom habitat. This rule also made a minor technical revision to the modified nonpelagic trawl gear construction regulations to facilitate gear construction for those vessels required to use modified nonpelagic trawl gear in the GOA and Bering Sea groundfish fisheries. The EA accompanying this action found that there were no significant environmental impacts.<sup>39</sup>

On January 9, 2015, NMFS approved Amendment 104 to the BSAI FMP to designate six areas of skate egg concentration as Habitat Areas of Particular Concern (HAPC; 80 FR 1378, January 9, 2015). Designating the six areas of skate egg concentration as HAPC in the BSAI highlights the importance of this EFH for conservation. The EA accompanying this action found that there were no significant environmental impacts.<sup>40</sup>

In April 2017, the Council recommended updates to EFH components in the BSAI FMP and GOA FMP based on the best information available through the 2017 EFH 5-year Review by NMFS and the Council. The 2017 EFH 5-year review determined:<sup>41</sup>

- New information and methods exists to refine EFH descriptions and maps using species distribution models.
- Using a newly developed Fishing Effects model, changes in management with regard to fishing within EFH was not recommended at that time.
- The non-fishing impacts analysis, including advisory EFH Conservation Recommendations, be updated with the most current level of information, including sections on ocean acidification, climate change, and ecosystem processes.

The Council recommended Amendment 115 to the BSAI FMP and Amendment 105 to the GOA FMP. These Amendments revised the FMPs by updating the descriptions and identification of EFH, and updating information on adverse impacts to EFH based on the best scientific

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<sup>38</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-essential-fish-habitat-efh-omnibus-amendments-0>.

<sup>39</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-9>

<sup>40</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-amendment-104-fmp-groundfish-bering-sea-and-aleutian>.

<sup>41</sup> <https://www.fisheries.noaa.gov/resource/document/essential-fish-habitat-5-year-review-summary-report-2010-through-2015>

information available. Additional FMP revisions included Amendment 49 to the BSAI King and Tanner Crabs FMP, Amendment 13 to the Salmon Fisheries in the EEZ off Alaska FMP, and Amendment 2 to the FMP for Fish Resources of the Arctic Management Area. The Secretary of Commerce approved the EFH Omnibus Amendments in May, 2018 (83 FR 31340).

The next EFH 5-year Review is currently underway. In 2019, NMFS presented the 2022 EFH 5-year Review approach to the Council's Ecosystem Committee. In June 2020, NMFS presented a Discussion Paper to the SSC on advancing EFH descriptions and maps, using species distribution models and other new science tools. In September 2020, NMFS presented this Discussion Paper to a joint meeting of the Groundfish Plan Teams. Input from the SSC and Groundfish Plan Teams was applied to strengthen this work in development for the 2022 EFH 5-year Review, including new and revised species distribution model-based EFH descriptions and maps for BSAI and GOA Groundfish, and additionally, BSAI King and Tanner Crabs, and Fish Resources of the Arctic Management Area.

### **6.3.2 Arctic Fishery Management**

In 2009, the Council adopted, and NMFS approved, an Arctic fishery management plan that (1) closed the Arctic to commercial fishing until information improves so that fishing can be conducted sustainably and with due concern to other ecosystem components, (2) determined the fishery management authorities in the Arctic and provides the Council with a vehicle for addressing future management issues, and (3) implemented an ecosystem based management policy and a precautionary approach that recognizes the unique issues in the Alaskan Arctic. No significant commercial 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 (74 FR 56734, November 3, 2009). The EA accompanying this action found that there were no significant environmental impacts.<sup>42</sup>

### **6.3.3 Halibut bycatch management**

In 2012, the Council recommended Amendment 95 to the GOA FMP to change the process for setting halibut PSC limits and to reduce halibut PSC limits in the GOA trawl and hook-and-line groundfish fisheries. NMFS published a final rule for this action on February 20, 2014 (79 FR 9625). Amendment 95 sets the halibut PSC limits in Federal regulations and reduces the halibut PSC limit in the –

- groundfish trawl gear sector by 15 percent over 3 years: 1,848 metric tons (mt) in 2014, 1,759 mt in 2015, and 1,705 mt in 2016.

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<sup>42</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-final-regulatory-flexibility-4>.

- groundfish catcher vessel hook-and-line gear sector by 15 percent over 3 years: 161 mt in 2014, 152 mt in 2015, and 147 mt in 2016.
- catcher/processor hook-and-line gear sector by 7 percent in 2014. The new catcher/processor 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 catcher/processor sector would fish under a 109 mt PSC limit.
- demersal shelf rockfish fishery from 10 mt to 9 mt in 2014.

The EA accompanying this action found that there were no significant environmental impacts.<sup>43</sup>

In 2015, the Council recommended Amendment 111 to the BSAI FMP. The implementing final rule (81 FR 24714, April 27, 2016) reduced halibut PSC limits in the BSAI trawl and hook-and-line groundfish fisheries. This results in an overall BSAI halibut PSC limit of 3,515 mt.

Amendment 111 establishes the following halibut PSC limits:

- Amendment 80 sector (non-pollock trawl catcher/processors): 1,745 mt
- BSAI trawl limited access sector (all non-Amendment 80 trawl participants): 745 mt
- BSAI non-trawl sector (primarily hook-and-line catcher/processors): 710 mt
- Western Alaska Community Development Quota Program: 315 mt.

NMFS determined Amendment 111 is necessary to minimize halibut bycatch in the BSAI groundfish fisheries to the extent practicable and to achieve, on a continuing basis, optimum yield from the BSAI groundfish fisheries. The EA accompanying this action found that there were no significant environmental impacts.<sup>44</sup>

In December 2021, the Council took final action on the draft Environmental Impact Statement (DEIS) for the abundance-based management (ABM) of the Amendment 80 (A80) halibut prohibited species catch (PSC) limit. The Council considered the action iteratively for 6 years. The core concept of the action is linking PSC limits in the A80 commercial groundfish trawl fleet in the Bering Sea and Aleutian Islands (BSAI) to estimated halibut abundance. The current PSC limit is set as a fixed amount at 1,745 mt, which becomes an increasingly larger proportion of total halibut removals in the BSAI when halibut abundance declines. The Council and its advisory bodies, fishery stakeholders, and the public considered several approaches for an ABM program consistent with Council fishery management objectives and the Magnuson-Stevens Act. The Council heard extensive public testimony during the December 2021 meeting and previous meetings over both the importance of providing flexibility to the A80 fleet to prosecute their quotas as well as concerns from the directed halibut users that their directed fishery catch has declined as a result of a decline in halibut abundance while fixed PSC limits have further reduced the proportion of halibut available for harvest in the directed halibut fisheries.

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<sup>43</sup> <https://www.fisheries.noaa.gov/resource/document/final-ea-rir-irfa-reduce-gulf-alaska-halibut-prohibited-species-catch-limits>.

<sup>44</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-6>.

The preferred alternative selected by the Council would determine the A80 PSC limit annually based on the most recent survey values and the associated PSC limit value from the following table:

		EBS shelf trawl survey index (t)	
		Low < 150,000	High ≥ 150,000
IPHC setline survey index in Area 4ABCDE (WPUE)	High ≥ 11,000	1,745 mt (current limit)	1,745 mt (current limit)
	Medium 8,000 – 10,999	1,396 mt (20% below current)	1,571 mt (10% below current)
	Low 6,000-7,999	1,309 mt (25% below current)	1,396 mt (20% below current)
	Very Low < 6,000	1,134 mt (35% below current)	1,134 mt (35% below current)

If approved by the Secretary of Commerce, implementation of this action would occur in either 2023 (mid-year) or for the beginning of the 2024 fishing year. The DEIS, other documents, and public comments considered by the Council in recommending their preferred alternative are available under item C2 on the December 2021 Council meeting agenda.<sup>45</sup>

### 6.3.4 Salmon bycatch management

The Council has taken action to control salmon bycatch in the Bering Sea and GOA pollock fisheries. In 2007, NMFS implemented 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) (72 FR 61070, October 29, 2007). In recommending Amendment 84, the Council recognized that regulatory management measures, including a bycatch cap that triggered closure of fixed salmon savings areas, had not been effective at reducing salmon bycatch. The EA accompanying this action found that there were no significant environmental impacts.<sup>46</sup>

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 in 2007 pursuant to an exempted fishing permit. Accordingly, the adoption of Amendment 84 did 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 action and its alternatives were analyzed in the Bering Sea

<sup>45</sup> <https://meetings.npfmc.org/Meeting/Details/2713>

<sup>46</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-final-regulatory-flexibility-16>.

Chinook Salmon Bycatch Management Final Environmental Impact Statement.<sup>47</sup> This analysis provided 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 2020, 35,096 Chinook salmon were incidentally caught in the BSAI groundfish fisheries. The number of incidentally caught Chinook for 2011 through 2020 is available at Alaska Region website.<sup>48</sup>

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. Chinook salmon incidental catch in the GOA groundfish fisheries was 19,773 fish in 2011 and 19,992 Chinook salmon in 2012.

In 2012, NMFS implemented Amendment 93 to the GOA FMP (77 FR 42629, July 20, 2012). Amendment 93 and its implementing regulations established 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 GOA, if the applicable limit is reached. This action also requires 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.<sup>49</sup> Since 2013, the annual Chinook salmon incidental catch in the GOA pollock fisheries has been less than 25,005 salmon. In 2020, 9,865 Chinook were incidentally caught in the GOA pollock fishery.

In June 2013, the Council recommended Amendment 97 to the GOA FMP. In December 2013, the Council recommended adding to Amendment 97 a provision that would allow unused Chinook salmon PSC limit in the Rockfish Program CV sector to be reallocated to the non-Rockfish Program CV sector. In 2015, NMFS implemented Amendment 97 (79 FR 71350, December 2, 2014). Amendment 97 applies GOA Chinook salmon PSC limits to the groundfish trawl fisheries, except for pollock trawl fisheries in the Central and Western GOA. Amendment 97 apportions the PSC limits between trawl Rockfish Program CVs, non-Rockfish Program CVs, and catcher/processor sectors, with closure of directed fishing for any non-pollock groundfish trawl fishery if the PSC limit for a sector is reached. The EA accompanying this action found that there were no significant environmental impacts.<sup>50</sup>

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<sup>47</sup> NMFS (2009). Bering Sea Chinook Salmon Bycatch Management Final Environmental Impact Statement. December, 2009. <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-5>.

<sup>48</sup> [https://www.fisheries.noaa.gov/sites/default/files/akro/chinook\\_salmon\\_mortality2020.html](https://www.fisheries.noaa.gov/sites/default/files/akro/chinook_salmon_mortality2020.html).

<sup>49</sup> <https://repository.library.noaa.gov/view/noaa/4220>.

<sup>50</sup> <https://repository.library.noaa.gov/view/noaa/5012>.

In December 2015, the Council recommended Amendment 103. Amendment 103 and the final rule (September 12, 2016, 81 FR 62659) authorize NMFS to make inseason reapportionments of Chinook salmon PSC limits from established PSC limits for vessels directed fishing for pollock in the Central and Western GOA reporting areas, and the GOA non-pollock groundfish trawl sectors (e.g., the Rockfish Program CV sector, the non-Rockfish Program CV sector, and the trawl catcher/processor sector). The action allows NMFS to reapportion remaining amounts of unused Chinook salmon PSC limits from any of the GOA trawl sectors to any GOA trawl CV sector. Amendment 103 establishes a cap on the maximum amount of unused Chinook salmon PSC limit that may be reapportioned to each of the GOA trawl CV sectors. Amendment 103 provides NMFS with greater discretion to annually reapportion unused Chinook salmon PSC limits from the Rockfish Program CV sector to the non-Rockfish Program CV sector. Amendment 103 was categorically excluded from the requirement to prepare an environmental assessment in accordance with NAO 216-6. The management measures implemented by Amendment 103 fall within the scope of alternatives addressed in the environmental assessments prepared for Amendments 93 and 97 and implement only minor changes.

In April 2016, the Council recommended Amendment 110 to the BSAI FMP. Amendment 110 improves the management of Chinook and chum salmon bycatch in the Bering Sea pollock fishery by creating a comprehensive salmon bycatch avoidance program. Amendment 110 applies to owners and operators of catcher vessels, catcher/processors, motherships, inshore processors, and the six CDQ Program groups participating in the pollock fishery in the Bering Sea. The EA accompanying this action found that there were no significant environmental impacts.<sup>51</sup>

The final rule implementing Amendment 110 was published on June 10, 2016 (81 FR 37534). The management measures included in Amendment 110 and the final rule focus on retaining the incentives to avoid Chinook salmon bycatch at all levels of abundance as intended under Amendment 91 to the BSAI FMP. Amendment 110 and the final rule address five core issues to—

- incorporate chum salmon avoidance into the incentive plan agreements (IPAs) established under Amendment 91 and remove the non-Chinook salmon bycatch reduction intercooperative agreement previously established under Amendment 84 to the FMP;
- modify the IPAs to increase the incentives for fishermen to avoid Chinook salmon;
- change the seasonal apportionments of the pollock total allowable catch (TAC) to allow more pollock to be harvested earlier in the year;
- reduce the Chinook salmon prohibited species catch (PSC) limit and performance standard in years with low Chinook salmon abundance; and
- improve the monitoring of salmon bycatch in the pollock fishery.

### **6.3.5 Pribilof Island blue king crab bycatch management**

NMFS notified the Council on September 29, 2009, that the current rebuilding plan for Pribilof Island Blue King Crab (PIBKC) would not achieve adequate progress to rebuild the stock by 2014. In June 2012, the Council recommended Amendment 103 to the BSAI FMP to close the

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<sup>51</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-110-fmp>.

Pribilof Island Habitat Conservation Zone (PIHCZ) to directed fishing for Pacific cod with pot gear based on 1) the high rate of PIBKC bycatch in the PIHCZ relative to other areas outside of the PIHCZ; 2) the high concentration of PIBKC in the PIHCZ; 3) the occurrence of known PIBKC habitat within the PIHCZ; 4) the high rate of PIBKC bycatch in the Pacific cod pot fishery relative to other groundfish fisheries; and 5) the limited impact the Pacific cod pot closure in the PIHCZ would have on the Pacific cod pot fishery relative to other groundfish fishery closures. The Council also recommended Amendment 43 to the FMP for Bering Sea/Aleutian Islands King and Tanner Crabs. Amendment 43 revises the rebuilding plan for PIBKC. NMFS approved these amendments and implemented Amendment 103 with regulations (79 FR 71344, December 2, 2014). The EA accompanying this action found that there were no significant environmental impacts.<sup>52</sup>

NMFS published a final rule (85 FR 840, January 8, 2020) to implement Amendment 118 to the BSAI FMP to authorize retention of legal-size IFQ or CDQ halibut in pot gear in the BSAI. This action includes a number of modifications to regulations including closing the PIHCZ to all groundfish and halibut fishing with pot gear.

On November 9, 2020, NMFS published a notice of agency decision (85 FR 71272) approving Amendment 50 to the FMP for Bering Sea/Aleutian Islands King and Tanner Crabs. Amendment 50 adds a new rebuilding plan for St. Matthew Island blue king crab to FMP. The objective of the FMP amendment is to rebuild the St. Matthew Island blue king crab. In order to comply with the provisions of the Magnuson-Stevens Act, this action is necessary to implement a rebuilding plan prior to the start of the 2020/2021 fishing season.

### **6.3.6 Grenadier management**

On March 5, 2015, NMFS issued regulations to implement Amendment 100 to the BSAI FMP and Amendment 91 to the GOA FMP (80 FR 11897). Amendments 100/91 to the FMPs add grenadiers to the ecosystem component (EC) category in the FMPs. The Council and NMFS recognized that adding grenadiers to the FMPs in the EC category acknowledges their role in the ecosystem and limits the groundfish fisheries' potential impact on grenadiers. Adding grenadiers to the EC category allows for improved data collection and catch monitoring appropriate for grenadiers given their abundance, distribution, and catch. The final rule added regulations to improve reporting of grenadiers, limit retention of grenadiers, and prevent direct fishing for grenadiers by federally permitted groundfish fishermen. The final rule was necessary to limit and monitor the incidental catch of grenadiers in the groundfish fisheries. The EA accompanying this action found that there were no significant environmental impacts.<sup>53</sup>

### **6.3.7 Steller Sea lions**

A biological opinion documenting the program level ESA section 7 formal consultation on the effects of the Alaska groundfish fisheries on Steller sea lions, humpback whales, sperm whales,

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<sup>52</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-assessment-proposed-amendment-43-bering-sea-aleutian-islands>.

<sup>53</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-5>.

and fin whales was completed November 24, 2010.<sup>54</sup> 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 stocks of humpback whales, North Pacific sperm whales, or the Northeast Pacific stocks 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 and 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. NMFS issued an interim final rule to implement Steller sea lion protection measures to ensure that the BSAI management area groundfish fisheries were 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, corrected 75 FR 81921, December 29, 2010). These management measures dispersed 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 was to protect the 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.<sup>55</sup>

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 (77 FR 23209). NMFS completed a Status Review of the eastern DPS of Steller sea lion in March 2012.<sup>56</sup> Based on the information presented in the Status Review, the factors for delisting in section 4(a)(1) of the ESA, the recovery criteria in the 2008 Recovery Plan, the continuing efforts to protect the species, and information received during public comment and peer review, NMFS determined that this DPS has recovered and no longer meets the definition of an endangered or threatened species under the ESA. On November 4, 2013, NMFS issued a final rule to remove the eastern DPS of Steller sea lion from the List of Endangered and Threatened Wildlife (78 FR 66140), effective December 4, 2013. NMFS also implemented a post-delisting monitoring plan to ensure recovery continues.

In September 2014, NMFS initiated a process to consider potential revisions to the designation of critical habitat for the western DPS of Steller sea lions. NMFS held two public meetings to elicit pertinent scientific information (79 FR 53384, September 9, 2014). NMFS formed a

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<sup>54</sup> <https://www.fisheries.noaa.gov/resource/document/biological-opinion-authorization-alaska-groundfish-fisheries>.

<sup>55</sup> <https://www.fisheries.noaa.gov/resource/document/revisions-steller-sea-lion-protection-measures-bering-sea-and-aleutian-islands>.

<sup>56</sup> <https://www.fisheries.noaa.gov/resource/document/status-review-and-post-delisting-monitoring-plan-eastern-distinct-population>

Critical Habitat Review Team to assemble the best available scientific information. NMFS has not yet issued a proposed rule to revise the designation of critical habitat.

On November 25, 2014, NMFS published a final rule to implement Steller sea lion protection measures for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands (79 FR 70286). NMFS, in consultation with the Council, prepared an EIS on Steller sea lion protection measures, in accordance with NEPA.<sup>57</sup> The final rule authorized some additional groundfish fishing in the AI and incorporated measures to ensure the groundfish fisheries are not likely to jeopardize the continued existence of the western DPS of Steller sea lions or adversely modify designated critical habitat. The final rule implemented fishery closures and limitations on catch in specific areas to mitigate the potential adverse effects of fishing on Steller sea lion prey resources. NMFS considered the effects of the modified Steller sea lion protection measures in the AI groundfish fisheries in a biological opinion completed in April 2014.<sup>58</sup>

On December 8, 2017, NMFS announced the initiation of a five-year review of the endangered western DPS of Steller sea lions (82 FR 57955). The ESA requires that NMFS conduct a review of listed species to determine whether the species should be delisted or reclassified in status based on the best scientific and commercial data available. In February 2020, NMFS issued its five-year review of the endangered western DPS of Steller sea lions: NMFS reviewed the best scientific and commercial information and data available, including new information available since the listing of the DPS, to conclude that no change in status was warranted and that the western DPS should remain listed as endangered under the ESA.<sup>59</sup>

On December 23, 2019, NMFS prohibited directed fishing for Pacific cod in the GOA from January 1, 2020, through December 31, 2020 (84 FR 70438), consistent with regulations implemented for the conservation of western DPS Steller sea lions. In accordance with those regulations (§ 679.20(d)(4)), NMFS determined that the 2019 biological assessment of stock condition for Pacific cod in the GOA projected that the spawning biomass in the GOA would be below 20 percent of the projected unfished spawning biomass during 2020; pursuant to the regulations, the directed fishery for Pacific cod in the GOA remains closed until a subsequent biological assessment projects that the spawning biomass for Pacific cod in the GOA will exceed 20 percent of the projected unfished spawning biomass during a fishing year. Directed fishing for Pacific cod in the GOA will not be prohibited in 2021 because the 2020 stock assessment for Pacific cod projects that the spawning biomass for Pacific cod in the GOA will exceed 20 percent of the projected unfished spawning biomass during the fishing year.

### **6.3.8 Walrus Protection Areas**

In 2015, NMFS implemented Amendment 107 to the BSAI FMP to establish seasonal transit areas for vessels designated on Federal Fisheries Permits (FFPs) through Walrus Protection Areas in northern Bristol Bay, Alaska (80 FR 194, January 5, 2015). This action allows vessels

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<sup>57</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-impact-statement-steller-sea-lion-protection-measures>

<sup>58</sup> <https://www.fisheries.noaa.gov/resource/document/biological-opinion-authorization-alaska-groundfish-fisheries-under-proposed>

<sup>59</sup> <https://www.fisheries.noaa.gov/resource/document/western-distinct-population-segment-steller-sea-lion-5-year-review-summary-and>

designated on FFPs to transit through Walrus Protection Areas in the Exclusive Economic Zone (EEZ) near Round Island and Cape Peirce from April 1 through August 15, annually. This action restored access of federally permitted vessels to transit through Walrus Protection Areas that was limited by regulations implementing Amendment 83 to the GOA FMP and to maintain suitable protection for walrus on Round Island and Cape Peirce. This action maintains an existing prohibition on deploying fishing gear in Walrus Protection Areas by vessels designated on an FFP. An EA determined that this action would not have significant environmental impacts.<sup>60</sup>

### 6.3.9 Seabirds<sup>61</sup>

Several seabird species are caught incidental to the Alaska groundfish fisheries. Note the following seabird bycatch values are reported as “estimates” and not actual numbers of seabirds. For a detailed explanation of seabird bycatch estimation procedures, detailed seabird bycatch estimates, and seabird avoidance requirements, please refer to the latest NMFS Alaska Region annual seabird bycatch report (Krieger and Eich 2021).<sup>62</sup>

In 2020, an estimated total of 3,462 seabirds were caught in hook-and-line, trawl, and pot fisheries in the BSAI and GOA. In 2009, NMFS implemented regulations to revise 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 feet (16.8 m) length overall in portions of Area 4E in the eastern Bering Sea. The EA accompanying this action found that there were no significant environmental impacts.<sup>63</sup>

The total estimated seabird bycatch continues to be substantially lower than before the use of seabird avoidance measures. Hook-and-line fisheries continue to have the highest seabird bycatch among gear groups. Consistently, northern fulmars are the most frequently caught seabird. In 2020, an estimated 1,599 northern fulmars were taken incidental to the BSAI and GOA hook-and-line fisheries and were the most frequently caught seabird in 2020.

The three albatross species that forage off Alaska are black-footed (*Phoebastria nigripes*), short-tailed (*P. albatrus*), and Laysan (*P. immutabilis*). The majority of the albatross bycatch consisted of black-footed albatross in the BSAI and GOA sablefish hook-and-line fisheries. In 2020, 82 black-footed albatross and 23 Laysan albatross were taken incidental to hook-and-line fisheries in the BSAI and GOA.

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<sup>60</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-107-fmp>.

<sup>61</sup> The Harvest Specifications EIS analyzed impacts on a variety of species within the “seabird resource” (see Tables 9-1 to 9-6 in the Harvest Specifications EIS). This SIR examines only those species for which new circumstances or information may exist relevant to environmental concerns and bearing on the proposed action or its impacts that would trigger the requirement to prepare an SEIS.

<sup>62</sup> <https://repository.library.noaa.gov/view/noaa/32076>.

<sup>63</sup> <https://www.fisheries.noaa.gov/resource/document/final-draft-ea-rir-irfa-regulatory-amendment-revise-regulations-seabird-avoidance>

Section 7 Consultation with USFWS: Three ESA-listed seabirds occur off Alaska: 1) the endangered short-tailed albatross, 2) the threatened spectacled eider (*Somateria fischeri*), and 3) the threatened Alaska-breeding population of Steller's eider (*Polysticta stelleri*). Two other populations of Steller's eider occur in waters off Alaska but only the Alaska-breeding population is listed under the Endangered Species Act.

Occasionally, endangered short-tailed albatross are taken incidental to the Alaska groundfish fisheries. In 2020, two short-tailed albatross were observed to be killed in the Pacific cod demersal fishery of the BSAI. The first occurred in September of 2020, near Zhemchug Canyon in NMFS reporting area 521. The second occurred in October of 2020, south of St. Matthew Island in NMFS reporting area 521.

In October of 2019, 22 spectacled eider (*Somateria fischeri*) fatally collided with a fishing vessel in the hook-and-line groundfish fishery of the BSAI. This vessel strike was reported by the onboard observer to NMFS. Then, in March of 2020, a single Steller's eider (*Polysticta stelleri*) considered to be from the threatened Alaska-breeding population fatally collided with a fishing vessel in the trawl groundfish fishery of the BSAI. The vessel strike was recorded on the vessel's electronic monitoring system and the mortality was reported by the vessel captain to the U.S. Fish and Wildlife Service (USFWS). These were the first recorded take of spectacled eider and Steller's eider from the Alaska-breeding population by any fisheries operating in the BSAI or GOA.

As a result of these mortality events, NMFS reinitiated formal consultation under section 7 of the ESA with USFWS. On March 8th, 2021, the USFWS finalized a new Biological Opinion focusing on fishery interactions with ESA-listed seabirds. In their 2021 Biological Opinion, USFWS concluded that the GOA and BSAI groundfish fisheries are not likely to jeopardize the continued existence of the short-tailed albatross, spectacled eider, or the Alaska-breeding population of Steller's eider; nor are they likely to result in the destruction or adverse modification of critical habitat of the spectacled or Steller's eider. There is no designated critical habitat for the short-tailed albatross. The 2021 Biological Opinion includes an incidental take statement that exempts the take of up to six short-tailed albatross bi-annually (every 2 years); up to 25 spectacled eider every 4 years; and up to 3 Steller's eider from the Alaska-breeding population every 4 years in the BSAI and GOA FMP areas. These incidental take limits apply starting in 2021. To date, the groundfish fisheries have not exceeded this anticipated level of take.

The NMFS Alaska Region Office, AFSC Fishery Monitoring and Analysis Division, and the USFWS coordinate efforts and communicate with each other in response to each short-tailed albatross take incident. The total population of short-tailed albatrosses 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 Pacific cod hook-and-line fleet to explore methods that can be used by the fleet to avoid further takes of short-tailed albatross.

Under the ESA, the short-tailed albatross remains endangered, and the Steller's eiders and spectacled eiders (*Somateria fischeri*) remain threatened. The USFWS published its 12-month finding in the *Federal Register* on October 7, 2011, that listing the black-footed albatross under

the ESA was not warranted (76 FR 62504). In October 2013, after a review of the best available scientific and commercial information, the USFWS found that listing the Kittlitz's murrelet (*Brachyramphus brevirostris*) under the ESA was not warranted (78 FR 61764, October 3, 2013). The USFWS published its 12-month finding in the *Federal Register* on October 1, 2014, that listing the yellow-billed loon (*Gavia adamsii*) under the ESA was not warranted (79 FR 59195).

### 6.3.10 Additional ESA Actions

Since the Harvest Specifications EIS, NMFS has taken a number of actions under the ESA related to the listing status of species in Alaska. We have considered these actions, summarized below, and we conclude that at this time, none of the new information and new circumstances would change the analysis in the Harvest Specifications EIS of the impacts of the harvest strategy on listed species.<sup>64</sup>

Critical habitat identifies areas that contain physical or biological features essential to the conservation of a threatened or endangered species and that may require special management considerations or protection. Under the ESA, the only regulatory effect of critical habitat designation is the requirement under Section 7 that federal agencies ensure their actions are not likely to destroy or adversely modify critical habitat.

**Ribbon Seals:** In December 2007, NMFS received a petition to list ribbon seals as a 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, March 28, 2008). After the review, NMFS concluded that listing was not warranted (73 FR 79822, December 30, 2008).<sup>65</sup> On December 13, 2011, NMFS initiated a new status review for the ribbon seal (76 FR 77467) in response to additional information that had become available. On July 10, 2013, NMFS concluded that listing the ribbon seal as threatened or endangered under the ESA was not warranted (78 FR 41371).<sup>66</sup>

**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 of listing these species might be warranted (73 FR 51615) and initiated additional status reviews of each species. On October 22, 2010, NMFS listed the southern DPS 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 (74 FR 53683, October 20, 2009). The listed population occurs in Chinese and Russian waters, but not in U.S. waters (75 FR 65239,

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<sup>64</sup> The Harvest Specifications EIS analyzed impacts on numerous marine mammal stocks occurring in Alaskan waters (see Tables 8-1 to 8-5 in the Harvest Specifications EIS). This SIR examines only those stocks, including the ESA listed species covered herein, for which new circumstances or information may exist relevant to environmental concerns and bearing on the proposed action or its impacts that would trigger the requirement to prepare an SEIS.

<sup>65</sup> <https://www.fisheries.noaa.gov/resource/document/status-review-ribbon-seal-2008>.

<sup>66</sup> <https://www.fisheries.noaa.gov/resource/document/references-cited-ribbon-seal-endangered-species-act-determination>.

October 22, 2010). Because the listed DPS occurs outside of Alaska waters, no ESA consultation is necessary.

On December 28, 2012, NMFS issued a final determination to list the Beringia and Okhotsk DPSs of the bearded seal as threatened under the ESA, effective February 26, 2013 (77 FR 76740). The Okhotsk bearded seal does not occur in U.S. waters. In July 2014, the U.S. District Court vacated the ESA listing and in October 2016, the US Court of Appeals for the 9th Circuit reversed the July 2014 decision returning the Beringia DPS to a threatened status under the ESA. Critical habitat for the Beringia DPS was proposed in January 2021 (86 FR 1433).

On December 28, 2012, NMFS issued a final determination to list the Arctic, Okhotsk, and Baltic subspecies of the ringed seal as threatened and the Ladoga subspecies of the ringed seal as endangered under the ESA, effective February 26, 2013 (77 FR 76706). The Arctic subspecies is found in the Arctic Basin including the Bering Sea. The other subspecies do not occur in U.S. waters. NMFS proposed to designate critical habitat for the Arctic subspecies of the ringed seal on December 9, 2014 (79 FR 73010). NMFS has not yet issued a final rule to designate critical habitat, but has made subsequent revisions to the proposed critical habitat (see below).

The Arctic subspecies of ringed seals and the Beringia DPS of bearded seals occur in the location where the BSAI Federal fisheries are conducted. BSAI groundfish fisheries may affect ringed seals or bearded seals through direct interactions (i.e., incidental take or bycatch) and indirectly through competition for prey resources and other impacts on prey populations (77 FR 76706 and 77 FR 76740, December 28, 2012). In recent years, there have been incidental serious injuries and mortalities of bearded and ringed seals in the BSAI pollock trawl, BSAI flatfish trawl fisheries, and the BSAI Pacific cod trawl fisheries.<sup>67</sup> However, these interactions have been considered to be infrequent and do not rise to a level of biological concern for these populations. Based on data from 2014 to 2018, there has been a mean annual mortality of 4.8 ringed seals incidental to commercial fishing operations. Based on data from 2013 to 2016, there has been mean annual mortality of 1.8 bearded seals incidental to commercial fishing operations. Finally, based on data from 2014 to 2016, there has been a mean annual mortality of 1 for spotted seals incidentally to commercial fishing operations (i.e., BSAI flatfish trawl). These mortality rates are considered low. The BSAI pollock and flatfish trawl fisheries are in the Observer Program's full coverage category, with the exception of some catcher vessels in the BSAI trawl limited access yellowfin sole fishery, which are in the partial coverage category.

On December 2, 2014, NMFS issued a biological opinion on the effects of the Alaska groundfish fisheries on the Arctic subspecies of the ringed seal and the Beringia DPS of the bearded seal.<sup>68</sup> The biological opinion concluded that the effects of the fisheries were not likely to jeopardize the continued existence of the Arctic ringed seal or the Beringia DPS of the bearded seal.

On January 8, 2021, NMFS published in the Federal Register two proposed rules to designate critical habitat in the northern Bering, Chukchi, and Beaufort seas off the coast of Alaska for

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<sup>67</sup> Muto, M.M. et al, 2021. Alaska marine mammal stock assessments, 2020. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-AFSC-421, 398 p.

<sup>68</sup> <https://www.fisheries.noaa.gov/resource/document/biological-opinion-alaska-groundfish-fisheries-and-exempted-fishing-permit-test>.

Arctic ringed seals (86 FR 1452) and the Beringia distinct population segment of bearded seals (86 FR 1433), which are both listed as threatened under the Endangered Species Act. Designation of critical habitat is required for species listed under the ESA, and NOAA Fisheries is subject to a stipulated court-ordered schedule to make proposed critical habitat determinations by March 15, 2021, and final determinations by March 15, 2022.

**North Pacific Right Whale:** On March 6, 2008, the North Pacific Right Whale was listed under the ESA as endangered (73 FR 12024), and subsequently critical habitat was designated (73 FR 19000, April 8, 2008), which included the same two areas previously designated as critical habitat for the northern right whale in the North Pacific Ocean (71 FR 38277, July 6, 2006). The 2008 listing and critical habitat rules were necessary following the identification of separate Pacific and Atlantic stocks of the previously-listed Northern Right Whale, 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. NMFS published a final recovery plan for the North Pacific Right whale in June 2013.<sup>69</sup> On June 30, 2017, NMFS announced the initiation of a five-year review of the endangered North Pacific right whale (82 FR 29842). In December 2017, NMFS Protected Resources published the most-recent five-year review, stating that the North Pacific right whale remains endangered, with one population (the eastern population) critically endangered.<sup>70</sup>

**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 two areas within 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 Alaska groundfish fisheries and Amendment 93 to the GOA FMP on endangered Cook Inlet beluga whales and their critical habitat. NMFS Protected Resources determined that the Alaska groundfish fisheries and Amendment 93 are not likely to adversely affect Cook Inlet beluga whales or their critical habitat. NMFS published a final recovery plan for the Cook Inlet beluga whale DPS in December 2016.<sup>71</sup>

**Humpback Whales:** On September 8, 2016, NMFS revised the listing status of humpback whales under the ESA to divide the globally-listed species into 14 distinct population segments (DPSs) (81 FR 62260). Of the two DPSs that occur in Alaska, the Mexico DPS is listed as threatened, and Western North Pacific DPS is listed as endangered. Additional unlisted DPSs

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<sup>69</sup> <https://www.fisheries.noaa.gov/resource/document/final-recovery-plan-north-pacific-right-whale-eubalaena-japonica>.

<sup>70</sup> <https://www.fisheries.noaa.gov/resource/document/north-pacific-right-whale-eubalaena-japonica-five-year-review-2017>

<sup>71</sup> <https://www.fisheries.noaa.gov/resource/document/recovery-plan-cook-inlet-beluga-whale-delphinapterus-leucas>.

occur in Alaska as well. On April 21, 2021, NMFS designated critical habitat under the Endangered Species Act (86 FR 21082) for the three ESA-listed humpback whales that occur in US waters (Central America DPS, Mexico DPS, and Western North Pacific DPS). However, only Mexico DPS (threatened) and Western North Pacific DPS (endangered) occur in Alaska waters. The single essential feature of this designation is humpback whales' prey species.

**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 not likely 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. Vessels in the groundfish fisheries may catch salmon that originate from the Pacific Northwest and that may be prey for 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. On February 9, 2012, NMFS West Coast Region concurred with the determination of "may effect, not likely to adversely affect" for Southern Resident killer whales because all potential adverse effects to the Southern Resident killer whales would be insignificant. In addition, because all potential adverse effects to the Southern Resident killer whale critical habitat would be insignificant, NMFS West Coast Region made a determination that the Alaska groundfish fisheries and Amendment 93 may effect, but are not likely to adversely affect, Southern Resident killer whale critical habitat. In August 2021, Southern Resident killer whale critical habitat was updated (86 FR 41668) by designating 6 additional coastal areas as critical habitat along the U.S. West Coast. None of the newly designated areas are in Alaska waters, and the recent rulemaking to revise critical habitat did not alter the features essential to the conservation of the species, including the essential feature of prey species. A memo to the record, prepared by NMFS Sustainable Fisheries in November 2021, concluded that prior consultations that examined effects from the groundfish fisheries on Southern Resident killer whales and designated critical habitat, including the specific essential feature of prey, remained valid that effects of the groundfish fisheries are not likely to adversely affect either the listed whales or their designated critical habitat.

**Chinook salmon from the West Coast Region:** In 2013, NMFS Alaska Region requested initiation of ESA section 7 consultation for the GOA groundfish fisheries with the NMFS West Coast Region due to the recovery of two coded-wire tagged Chinook salmon from the Snake River fall-run evolutionary significant unit (ESU) in 2012. Since 1984, coded-wire tags have been used to assess recoveries of several ESA-listed Chinook salmon ESUs that have been incidentally caught in the GOA groundfish fisheries. Until 2012, Chinook salmon from the Lower Columbia River, Upper Willamette River, and Upper Columbia River Spring ESUs had been the only Chinook salmon ESUs recovered in the GOA groundfish fisheries. In 2014, informal consultation on recovery of this Snake River fall-run Chinook salmon was concluded after the West Coast Region determined that the November 30, 2000, biological opinion on the effects of the Alaska groundfish fisheries had previously considered the effects of the take of Snake River fall-run Chinook salmon in GOA groundfish fisheries. The 2000 biological opinion

concluded that the incidental take statement established a threshold of 40,000 Chinook salmon annually caught in the GOA groundfish fisheries, including those caught in the Snake River fall-run Chinook salmon, would not jeopardize the continued existence of listed salmon.

#### **6.4 Actions by other Federal, state, and international agencies and private actions**

Since January 2007, the following actions have occurred that may be relevant to the harvest specification process. 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.

##### **6.4.1 Department of Interior**

**Pacific walrus:** In February 2008, the Department of the Interior (DOI) received a petition requesting it to list Pacific walrus (*Odobenus rosmarus divergens*) under the ESA. On September 10, 2009, DOI published a 90-day finding that the petition presented 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. On February 10, 2011, DOI announced that listing the Pacific walrus as endangered or threatened was warranted; however, listing the Pacific walrus was precluded by higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants. In February 2011, the Pacific walrus was added to the USFWS candidate species list (76 FR 7634, February 10, 2011). On October 4, 2017, the U.S. Fish and Wildlife Service determined that the Pacific walrus does not warrant listing as threatened or endangered under the ESA. The determination followed a comprehensive review and analysis of the best available scientific information. Though the Pacific walrus will not receive protection under the ESA, it continues to be protected under the Marine Mammal Protection Act, which affords similar protections as those provided under the ESA.

**Polar bears:** In May 2008, DOI listed polar bears as a threatened species under the ESA (73 FR 28212, May 15, 2008). Polar bears do not interact with the BSAI and GOA groundfish fisheries, and the fisheries are unlikely to affect designated critical habitat. 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 current nonpelagic trawl closure, it is unlikely the groundfish fisheries would have any indirect effects on polar bears or their critical habitat.

**Sea Otters:** In 2006, NMFS and the USFWS consulted on the southwest Alaska DPS of the northern sea otter (*Enhydra lutris kenyoni*, referred to as sea otter), and the consultation concluded that the groundfish, crab, and scallop fisheries are not likely to adversely affect 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.<sup>72</sup> 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.

In response to the designation, NMFS reinitiated ESA section 7 consultation. The biological assessment evaluated the potential effect of the following FMPs on the southwest Alaska DPS of the northern sea otter and its critical habitat: BSAI Groundfish; GOA Groundfish; and BSAI Crab, Scallop, and Salmon, as well as the halibut fisheries in U.S. Convention waters off Alaska. The analysis concluded that the Alaska federally managed fisheries authorized by the FMPs and State of Alaska parallel groundfish fisheries and halibut fisheries in U.S. Convention waters off Alaska are not likely to adversely affect the southwest Alaska DPS of the northern sea otter or its designated critical habitat. On July 10, 2013, the USFWS concurred with NMFS's determination that authorization of the specified fisheries is not likely to adversely affect the southwest Alaska DPS of the northern sea otter or its critical habitat.<sup>73</sup>

On March 8, 2021, the USFWS concurred with NMFS's determination that the BSAI and GOA groundfish fisheries may affect, but are not likely to adversely affect, the federally threatened southwest Alaska distinct population segment of sea otter and its designated critical habitat.

#### **6.4.2 State managed groundfish fisheries**

The State of Alaska has the authority to manage state-waters or state parallel groundfish fisheries. The State manages fisheries in waters 0 nm to 3 nm from shore either concurrent with the Federal fisheries (called parallel fisheries), with generally the same species, season, gear, and area restrictions, or separate from Federal fisheries (called State-waters fisheries). The Council and Alaska Board of Fisheries (BOF) coordinate management of groundfish fisheries through the Joint Protocol Committee made up of members of the Council and the BOF. The Joint Protocol Committee provides recommendations to the Council and the BOF on actions of mutual interest to each organization. This dialogue provides the Council and the BOF with an opportunity to consider potential impacts of future actions on Federal and State management of groundfish fisheries.

Parallel fisheries occur in state waters but are opened at the same time as Federal fisheries in the EEZ. State parallel fisheries harvests are managed against the Federal TAC, and vessels may move between State and Federal waters during concurrent parallel and Federal fisheries.

The State usually opens State-waters fisheries after Federal fisheries conclude in adjacent waters. State-waters fisheries are managed under guideline harvest levels (GHLs), which are specified in State regulations at Alaska Administrative Code (AAC) 5 AAC 28.001 through 28.975. Harvests

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<sup>72</sup> <https://www.fws.gov/alaska/pages/endangered-species/northern-sea-otter>

<sup>73</sup> [https://www.fws.gov/alaska/fisheries/endangered/species/southwest\\_sea\\_otter.htm](https://www.fws.gov/alaska/fisheries/endangered/species/southwest_sea_otter.htm)

in the state-waters fisheries are monitored by the State, which closes fisheries to ensure GHLS are not exceeded. State regulations for the BSAI and GOA specify a GHLS as a percentage of the Federal ABC. The BSAI and GOA groundfish FMP states the TAC must be lower than or equal to the ABC. The TAC may be lower than the ABC if warranted on the basis of bycatch considerations, management uncertainty, or socioeconomic considerations; or if required in order to cause the sum of the TACs to fall within the 2 million optimum yield cap for the BSAI. Based on the annual SAFE report, the Council recommends to the Secretary of Commerce TACs and apportionments thereof for each target species. The Atka mackerel and Pacific cod TACs for the BSAI are fully allocated to the Federal fisheries under § 679.20(a)(8) and § 679.20(a)(7), respectively.

The ABC for the pollock stock in the combined Western, Central, and West Yakutat Regulatory Areas (W/C/WYK) of the GOA includes the amount for the GHLS established by the State for the Prince William Sound (PWS) pollock fishery. Annually, State of Alaska fisheries managers recommend setting the PWS GHLS at a certain percentage (2.5 percent in recent years) of the annual W/C/WYK ABC. Once the PWS GHLS amount is deducted from the total ABC, the remaining ABC amount is apportioned between four statistical areas (Areas 610, 620, 630, and 640) in the Western and Central GOA Regulatory Areas. The total ABCs and TACs for the four statistical areas, plus the state GHLS, do not exceed the combined W/C/WYK ABC. The methodology to establish the pollock GHLS continues to provide a high level of protection for the W/C/WYK pollock stock, and it does not affect the overfishing level. Pollock catch in the GHLS fishery is accounted for in the annual pollock assessments. Accordingly, the Council annually recommends decreasing the W/C/WYK pollock ABC to account for the State's PWS GHLS, which NMFS approves and implements in the current harvest specifications.

Subtracting the state-waters GHLS from the ABC ensures that the combined harvests from the State-waters and Federal fisheries are managed within the ABC derived from the Federal harvest specifications process for that species and area. The BOF may receive additional proposals from the public to increase harvests in state-waters groundfish fisheries. Increases in GHLS for the state-waters groundfish fisheries requires reducing Federal TACs to ensure total harvests of the groundfish stocks do not exceed ABCs.

**Pacific Cod Fishery Expansion:** In 2014, the Federal Pacific cod TACs for the GOA, the Bering Sea subarea, and the Aleutian Islands subarea were reduced by the amount needed for the State's GHLS Pacific cod fisheries. This ensured the Federal and state-waters groundfish harvests did not exceed the Federal ABCs. At that time, the state-waters Pacific cod fisheries in the BSAI were provided 6 percent of the Federal Pacific cod ABC for the BSAI based on Regulation Change 40 adopted by the BOF in October 2013.<sup>74</sup> The 6 percent of the Federal combined BSAI Pacific cod ABC was divided 3 percent to the state-waters Pacific cod fisheries in the portion of the State's Aleutian Islands district west of 170° W longitude and 3 percent to the Bering Sea subdistrict located between 167° W and 164° W longitude. The TACs for the AI and the Bering Sea subarea were then each set to account for the 3 percent of the BSAI Pacific cod ABC applied to the state-waters fisheries.

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<sup>74</sup> [http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2013-2014/pcod/rcs/rc040\\_Member\\_Johnstone\\_Amendment\\_to\\_RC35.pdf](http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2013-2014/pcod/rcs/rc040_Member_Johnstone_Amendment_to_RC35.pdf).

On November 30, 2015, the BOF established a GHL in state waters between 164 and 170 degrees west longitude in the Bering Sea subarea equal to 6.4 percent of the Pacific cod ABC for the Bering Sea, and the BOF for the State established a GHL in State waters in the AI equal to 27 percent of the Pacific cod ABC for the AI. For the AI, each year the GHL is achieved, the GHL will be increased to 4 percent the next year until the GHL reaches a maximum of 39 percent of the AI ABC. Also, the AI Pacific cod GHL shall not exceed 15 million pounds (6,804 mt).

On October 18, 2018, the BOF established different GHLs in State waters in the Bering Sea and in the Aleutian Islands. For the Bering Sea, the BOF established the GHL for vessels using pot gear in State waters in the Bering Sea subarea equal to 8 percent of the Pacific cod ABC in the BS. The BOF approved a one percent annual increase in the BS GHL for vessels using pot gear, up to 15 percent of the BS ABC, if 90 percent of the GHL is harvested by November 15 of the preceding year. If 90 percent is not harvested by November 15, the GHL for the next year will not change. If, however, 90 percent of the BS GHL is harvested by November 15, the GHL for the next year will increase by 1 percent. The BOF also established an additional GHL for vessels using jig gear in State waters in the BS equal to 45 mt of Pacific cod in the BS. For the Aleutian Islands, the BOF established a GHL in state waters in the Aleutian Islands subarea equal to 31 percent of the Pacific cod ABC in the Aleutian Islands. The AI GHL will increase annually by 4 percent of the AI ABC, if 90 percent of the GHL is harvested by November 15 of the preceding year, but may not exceed 39 percent of the AI ABC or 15 million pounds (6,804 mt). The Council and its Plan Team, SSC, and AP recommended that the sum of all state and Federal water Pacific cod removals from the Bering Sea and the Aleutian Islands not exceed the ABC recommendations for Pacific cod in each subarea. Accordingly, the Pacific cod TACs in the Bering Sea and the Aleutian Islands account for the State's GHLs for Pacific cod caught in State waters in the Bering Sea and Aleutian Islands. The Federal TACs for Pacific cod in both the Bering Sea and Aleutian Islands will be set annually to accommodate the State GHLs to ensure that Federal and State-waters groundfish harvests in the Bering Sea and Aleutian Islands do not exceed the Federal ABCs.

In the Gulf of Alaska, the Federal TACs for Pacific cod are set to accommodate the State GHL for Pacific cod in state waters in the Western and Central Regulatory Areas and in the Prince William Sound fishery. The Federal TACs are less than the ABCs for each regulatory area and account for the State GHL. In the Western Regulatory Area, the Federal TAC is set up to 70 percent to accommodate the State GHL, and in both the Eastern and Central Regulatory Areas, the Federal TAC is set up to 75 percent to accommodate the State GHLs. The sum of all state and Federal water Pacific cod removals from the GOA do not exceed the ABC recommendation for GOA Pacific cod.

Because most of the 0 nm to 3 nm waters are designated as critical habitat for Steller sea lions, potential changes in state fisheries are monitored closely with regards to changing distributions of prey species and effort. Any significant change in the state-waters or state parallel Pacific cod, Atka mackerel, or pollock fisheries likely would result in changes to the Federal fisheries to minimize the impacts of the State fisheries on the fish stocks and on Steller sea lions. This includes setting the Federal TAC to account for State GHLs in state waters to ensure that Federal and state-waters harvests of groundfish in the GOA, Bering Sea, and Aleutian Islands do not exceed the Federal ABCs for those groundfish species with State GHLs. Overall the impacts of

future state parallel and state-waters fisheries are not likely to be different than status quo because of the nexus between the state harvest levels and fisheries restrictions and the Federal harvest levels and fisheries restrictions, and the ability to adjust the Federal fisheries if needed to mitigate impacts of the state fisheries.

### **6.4.3 International Pacific Halibut Commission**

Each year, the International Pacific Halibut Commission (IPHC) assesses the status of the halibut stocks and sets the constant exploitation yield (CEY), which is the amount of halibut harvest that is determined to be sustainable in a year. The total CEY is calculated by multiplying a target harvest rate by the total exploitable biomass and represents the sum of all halibut removals. After deducting non-directed fishery removals (i.e., incidental catch in the groundfish fisheries, wastage in halibut fisheries, recreational harvest, and subsistence use), the remainder is allocated to the directed commercial and guided sport fisheries. In 2012, the IPHC adopted a new assessment model that is more consistent with the observed fishery and survey results than past assessments. Based on the results derived from the new model, estimates of recent recruitment are lower than previously thought and commercial catch limits have been reduced over the past several years. The CEY therefore takes into account the change in halibut abundance.

Commercial and guided sport total catch limits steadily declined from 2010 through 2014 and increased slightly in 2015. Total catch limits were 49.7 million pounds (lb) in 2010, 39.5 million lb in 2011, 31.9 million lb in 2012, 29.0 million lb in 2013, 23.7 million lb in 2014, 29.2 million lb in 2015, 21.5 million lb in 2016, 22.6 million lb in 2017, 20.5 million lb in 2018, 38.6 million lb in 2019, 17.1 million lb in 2020, 39.0 million lb in 2021, and 33.19 million lb in 2022. The IPHC Commissioners and their advisors convened at the IPHC Annual Meeting on January 24 through 28, 2022, to consider the most recent stock assessment, catch limit recommendations, and stakeholder input, and to set the catch limits for 2022.

Each year, on behalf of the IPHC, NOAA publishes annual management measures in the *Federal Register* for the commercial and recreational Pacific halibut fisheries promulgated as regulations by the IPHC and approved by the Secretary of State. These actions enhance the conservation of Pacific halibut and further the goals and objectives of the North Pacific Fishery Management Council.

Overall the impacts of halibut catch in all fisheries are not likely to be different than was analyzed in the Harvest Specifications EIS because of the IPHC's process for setting the CEY and existing fishery restrictions, including restrictions on halibut bycatch in the groundfish fisheries, remain the same or similar as was analyzed in the Harvest Specifications EIS.

### **6.4.4 Government Accountability Office**

**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 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 (77 FR 26238). This action provided 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 guidelines. The National Standards are ten standards for fishery conservation and management actions set forth in the Magnuson-Stevens Act (16 U.S.C. 1851). On January 20, 2015, NMFS published a proposed rule to revise National Standards 1, 3, and 7 (80 FR 2786). The final rule implementing the guidelines to these standards published on October 18, 2016 (81 FR 71858).<sup>75</sup>

## 7 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 the Alaska Groundfish Harvest Specifications 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.

**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* 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.<sup>76</sup> On the basis of the analysis, the Council adopted a management approach statement, and 9 policy goal statements, with 45 accompanying objectives. Periodically, the Council conducts a review of the management policy objectives to assess how they are being implemented, and to see whether changes are warranted.

Using a Supplemental Information Report (SIR), the Council and NMFS comprehensively evaluated 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 will prepare a supplement to the PSEIS. With the SIR analysis, the Council and NMFS have been able to determine whether the triggers for supplementing the PSEIS have been met. In April 2014, the Council evaluated the information in the draft SIR, and concluded that a supplemental EIS was not required; further, the Council did not choose to reinstate programmatic changes to the groundfish fisheries that would have

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<sup>75</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-10-18/pdf/2016-24500.pdf>

<sup>76</sup> <https://www.fisheries.noaa.gov/resource/document/alaska-groundfish-fisheries-programmatic-supplemental-environmental-impact>.

necessitated an SEIS at that time. NMFS finalized the SIR and reached a determination affirming that the 2004 PSEIS continues to provide NEPA compliance for the groundfish FMPs.<sup>77</sup>

### **Pacific cod trawl CV Limited Access Privilege Program (LAPP)**

In October 2021, the Council took final action for BSAI Pacific cod to recommend the establishment of a BSAI Pacific cod trawl catcher vessel (CV) limited access privilege program. The Council reviewed the draft RIR/EA for the proposed amendment to the FMP for groundfish of the BSAI and GOA. The program considers allocations of quota shares to groundfish LLP license holders based on the harvest of targeted BSAI Pacific cod. The action also considers allocating harvest shares to a processor permit based on processing history of BSAI Pacific cod. This would yield an exclusive harvest privilege allocation for use in BSAI trawl CV Pacific cod catch share program cooperatives. The Council identified as purposes of the action to improve the prosecution of the fishery by promoting safety and stability in the harvesting and processing sectors, increasing the value of the fishery, minimizing bycatch to the extent practicable, providing for the sustained participation of fishery dependent communities, and ensuring the sustainability and viability of the resource. The draft EA, other documents, and public comments considered by the Council in recommending their preferred alternative are available under item C4 on the October 2021 Council meeting agenda.<sup>78</sup>

## **8 Determination**

After reviewing the information above and presented in the SAFE reports, I have determined that (1) the 2022 and 2023 harvest specifications, which were set according to the preferred harvest strategy, do not constitute a substantial 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 2022 and 2023 harvest specifications will result in environmental, social, and economic impacts within the scope of those analyzed and disclosed in the EIS. Therefore, a supplemental EIS is not necessary to implement the 2022 and 2023 harvest specifications. Further, at this time, the available information does not indicate a need to prepare additional supplemental NEPA documentation for the 2022 and 2023 harvest specifications.

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Regional Administrator

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Date

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<sup>77</sup> <https://www.fisheries.noaa.gov/resource/document/alaska-groundfish-fisheries-programmatic-supplemental-environmental-impact>.

<sup>78</sup> <https://meetings.npfmc.org/Meeting/Details/2352>

## 9 Preparers and Persons Consulted

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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 2021 versions for each species or species group may be found here: [https://apps-afsc.fisheries.noaa.gov/Plan\\_Team/2021/assessments.htm](https://apps-afsc.fisheries.noaa.gov/Plan_Team/2021/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 2021 versions for each species or species group may be found here: [https://apps-afsc.fisheries.noaa.gov/Plan\\_Team/2021/assessments.htm](https://apps-afsc.fisheries.noaa.gov/Plan_Team/2021/assessments.htm)

## Appendix C: Ecosystem Status Reports

These documents are included by reference. The 2021 versions may be found here: [Aleutian Islands](#), [Bering Sea](#), and [Gulf of Alaska](#).

## Appendix D: Economic Status Report

This document is included by reference. The 2021 version may be found here: <https://www.fisheries.noaa.gov/alaska/ecosystems/economic-status-reports-gulf-alaska-and-bering-sea-aleutian-islands>