

# **Alaska Groundfish Harvest Specifications**

## **Supplementary Information Report**

**February 2024**

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# 1 Alaska Groundfish Harvest Specifications Environmental Impact Statement

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

The National Marine Fisheries Service (NMFS) prepared the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Harvest Specifications EIS)<sup>1</sup> 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 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 scientific information available to derive annual harvest specifications. The Council’s GOA and BSAI Groundfish Plan Teams and Scientific and Statistical Committee (SSC) use stock assessments to calculate biomass, overfishing levels (OFLs), and acceptable biological catch (ABC) limits for each species and species group for specified management areas. OFLs and ABCs provide the foundation for the Council and NMFS to develop the total allowable catch (TAC) for each species or species group. OFLs 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 (BSAI or GOA) is determined by the optimum yield established for that area, as defined at 50 CFR § 679.20(a)(1) and in the BSAI and GOA FMPs. The optimum yield principle is governed by National Standard 1 under the

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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>

Magnuson-Stevens Act, which states that, “conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.”<sup>2</sup> For the BSAI groundfish fishery, the optimum yield is for the sum of the TACs to be between 1.4 and 2 million metric tons (and the optimum yield is constraining on the TACs for the BSAI, the sum of which if set up to ABC would exceed 2 million metric tons). For the GOA groundfish fishery, the optimum yield is for the sum of the TACs to be between 116,000 and 800,000 metric tons. The annual harvest specifications also set or apportion the prohibited species catch (PSC) limits.

## 2 Purpose of this Supplementary Information Report

This supplementary information report evaluates the need to prepare a Supplemental EIS (SEIS) for the 2024 and 2025 groundfish harvest specifications. This supplementary information report provides information to determine whether an SEIS may be necessary for the 2024 and 2025 groundfish harvest specifications. An SEIS must be prepared if a major federal action remains to occur, and:–

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 2023 Stock Assessment and Fishery Evaluation (SAFE) reports which includes the Ecosystem Status Reports (ESR) and information available to NMFS and the Council to determine whether a SEIS should be prepared. Appendices A and B contain the websites for the SAFE reports, which represent the best scientific information available for the harvest specifications. Appendix C contains the website for the ESRs for the SAFE reports. Appendix D contains the website for the Economic Status Report for the SAFE reports.

Not every change requires a SEIS; only those changes that cause significantly different effects from those already studied require supplementary consideration.<sup>3</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 decision-making intractable.”<sup>4</sup> On the other hand, if there remains a major Federal action to occur, and if significant new information or circumstances 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, a SEIS must be prepared.<sup>5</sup> NEPA therefore does not require the agency to take a new look every time it implements a component or step of an action previously-analyzed under NEPA, “so long as the

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<sup>2</sup> 16 U.S.C. § 1851(a)(1); 50 CFR § 600.310(e)(3)

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

<sup>4</sup> See *Marsh v. Oregon Nat. Res. Council*, 490 U.S. 360, 373 (1989)

<sup>5</sup> See *Marsh*, 490 U.S. at 374; *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 557-58 (9th Cir. 2000)

impacts of that step were contemplated and analyzed by the earlier analysis.”<sup>6</sup> Ultimately, an agency is required “to take a ‘hard look’ at the new information to assess whether supplementation might be necessary.”<sup>7</sup>

This SIR was prepared in conformance with NOAA’s Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (Companion Manual for NOAA Administrative Order 216-6A), which provides: “A SIR is a concise document that describes the decision maker’s evaluation of new information, changed circumstances, or proposed changes to an action and assists the decision maker in determining and documenting whether a supplemental NEPA document is necessary.”<sup>8</sup>

The following three sections discuss each of the considerations for a 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 a SEIS in the future.

### 3 Changes to the Proposed Action

The proposed action analyzed in the 2007 Harvest Specifications EIS was a harvest strategy that provides for the annual determination of the harvest specifications based on information developed through the harvest specifications process. The EIS contemplated that the preferred harvest strategy would be used in subsequent years for the development and implementation of the annual groundfish harvest specifications for the GOA and BSAI. The 2024 and 2025 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 2024 and 2025 harvest specifications therefore do not constitute a change in the proposed action. The harvest specification process and the environmental consequences of the selected harvest strategy are fully described in the Harvest Specifications EIS.

The proposed 2024 and 2025 harvest specifications for the BSAI and GOA were published in the *Federal Register* on December 5, 2023 (88 FR 84278) and December 7, 2023 (88 FR 85184), respectively. The Council took final action to recommend final harvest specifications at its December 2023 meeting. NMFS is scheduled to publish the *Federal Register* notice announcing the final harvest specifications in March 2024.

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<sup>6</sup> *N. Alaska Env’t Ctr. v. U.S. Dep’t of the Interior*, 983 F.3d 1077, 1091 (9th Cir. 2020) (quoting *Mayo v. Reynolds*, 875 F.3d 11, 14-15 (D.C. Cir. 2017))

<sup>7</sup> *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 72-73 (2004); *Protect Our Communities Found. v. LaCounte*, 939 F.3d 1029, 1040 (9th Cir. 2019)

<sup>8</sup> *See Price Rd. Neighborhood Ass’n v. United States Dep’t of Transp.*, 113 F.3d 1505, 1510 (9th Cir. 1997) *see also Marsh*, 490 U.S. at 383-85 (upholding the Army Corps of Engineers’ use of SIR to analyze significance of new reports questioning the environmental impact of a dam project)

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 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 Community Development Quota (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.<sup>9</sup> 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.<sup>10</sup>

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), Kamchatka flounder, Alaska plaice, “other flatfish”, Bering Sea Pacific ocean perch, rockfish, and others (sharks, skates, and octopus). 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 non-CDQ 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>11</sup>

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<sup>9</sup> 16 U.S.C. § 1855(i)(1)(B)(ii).

<sup>10</sup> 16 U.S.C. § 1855(i)(1)(B)(iv).

<sup>11</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-frfa-amendment-73-fishery-management-plan-groundfish-bering-sea-and>

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>12</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 (79 FR 12108, March 4, 2014). 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 overfishing levels and ABCs are appropriate for Pacific cod and the impacts of the 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 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 for cod available for harvest, then environmental effects are beneficial. The primary conservation effects concern AI Pacific cod and Atka Mackerel fishery interactions with Steller sea lions. NMFS determined in the FMP biological opinion that changes to the Pacific cod and Atka mackerel fisheries in the AI were necessary to avoid the likelihood of jeopardy.<sup>13</sup> The final EIS analyzed Steller sea lion protection measures for AI groundfish fisheries to mitigate and minimize impact to Steller sea lions and the groundfish fisheries in the AI.<sup>14</sup>

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<sup>12</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-amendment-96-fmp-groundfish-bsai-and-amendment-87-fmp>

<sup>13</sup> <https://repository.library.noaa.gov/view/noaa/17196>

<sup>14</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-impact-statement-steller-sea-lion-protection-measures>

At its November 2013 meeting, the GOA Groundfish Plan Team recommended combining the Western and Central (W/C) GOA other rockfish ABCs and TACs. The other rockfish category in those areas include other rockfish (19 species) and demersal shelf rockfish (DSR) (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 W/C 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 2014, 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. Additionally, this action was intended 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.

At the September 2023 meeting, the GOA Groundfish Plan Team recommended moving DSR of the other rockfish category to a GOA-wide assessment.<sup>15</sup> The SSC and the Council agreed with this recommendation. For the 2024 Plan Team cycle and 2025 specifications, the changes will result in the other rockfish category with one Gulf-wide OFL and ABC, with three sub-area apportionments of ABCs for W/C, West Yakutat (WYK), and Southeast Outside (SEO). This would also result with two stock complexes for DSR with separate OFLs and ABCs for the Western/Central/West Yakutat (W/C/WYK) and SEO. In December 2023, the Council requested a spatial management discussion paper on the stock structure status for shortraker rockfish, roughey and blackspotted rockfish, and thornyhead rockfish.<sup>16</sup> This paper will be reviewed by the Plan Team, SSC, and Council in 2024.

## 4 New Information

The second part of the inquiry to determine whether an SEIS is required involves a two-step inquiry. First, the agency identifies new information or circumstances. Second, the agency analyzes 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. Significant new information triggers supplementation of an EIS when the information presents a seriously different picture of the likely environmental harms of the remaining action to occur, beyond what was considered in that EIS.

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<sup>15</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=dd60bd2e-974d-4797-89ad-3eebd90136ef.pdf&fileName=C3%20GOA%20DSR%20Other%20Rockfish%20Spatial%20Management.pdf>

<sup>16</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=51b04086-c974-4b94-a325-4198833822ce.pdf&fileName=C4%20Motion%20-%20Spatial%20Management%20Policy.pdf>



The primary sources of new information directly related to the action and its impacts are the 2023 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, ESRs, Economic Status Report, and subsequent stock assessments. NMFS's Guidelines for FMPs require that a SAFE report be prepared and reviewed to be updated or supplemented when new information is available.<sup>17</sup> The FMPs require production of a SAFE report draft 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 scientific information available 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 four sections. This includes the stock assessment introduction, stock assessment chapters, the ESRs, and Economic Status Report. The websites for these documents are provided in Appendices A, B, C, and D. Some stock assessments also include an Ecosystem and Socioeconomic Profile (ESP). The ESP was developed as a framework for organizing ecosystem and socioeconomic information about an individual stock. The ESP informs environmental and ecosystem considerations, population dynamics, and fisheries performance.

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

Each groundfish 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 2024 and 2025 harvest specifications are informed by the 2023 SAFE reports. The Plan Teams met in person from September 19 to 22, 2023 and November 13 to 17, 2023, to review the status of each species or species group that is managed under each FMP, as well as the information presented in any ESPs, the ESRs, and the Economic Status Report. 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 compiled into the 2023 SAFE reports. The 2023 SAFE reports describe in detail the new information available since the 2022 SAFE reports, including new survey data, new fishery performance information,

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<sup>17</sup> 50 CFR § 600.315(d).

economic data, and updated ESRs. This new information resulted in new estimations of OFLs 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 and presented 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 2024 and 2025 harvest specifications in December 2023. First, the SSC reviewed the SAFE reports (stock assessments, Economic Status Report, and ESRs) and the OFL and ABC Plan Team recommendations. The SSC either aligned with the Plan Team recommendations or developed its own recommendations for OFL and ABC. Second, the AP and the Council in determining TACs considered the ABC recommendations, together with biological, social, and economic factors. Third, the Council recommended TAC levels at or below ABC levels for each species or species group. NMFS will implement the final harvest specifications in the *Federal Register* in March 2024.

The preferred harvest strategy analyzed in the Harvest Specifications EIS anticipated that information on changes in species abundance and condition, environmental and ecosystem factors, and socio-economic conditions are used each year in setting the annual harvest specifications. It is a flexible process designed to adjust to new information. While in any given year there may be new information available, the Harvest Specification EIS contemplates that new information would be incorporated into the harvest specifications process such that the harvest specifications would each year represent the best scientific information available. This year there is no additional or new information that falls outside the scope of the Harvest Specifications EIS's process for the consideration of new information (i.e., the new information is not of a scale or scope that it could not be incorporated and integrated into the SAFE reports and the harvest specifications based on those reports through the harvest specifications process and implementation of the harvest strategy analyzed in the Harvest Specifications EIS).

The use of new information from the SAFE reports including the ESRs allows the SSC and Council to respond to environmental changes and stock changes in the BSAI and GOA and to adjust the harvest specifications as necessary. This is consistent with the preferred harvest strategy from the Harvest Specifications EIS and 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. Within the SAFE report introduction is an overview of stock status projected for 2024. Figure 1 and Figure 2 are reproduced in this SIR for explanatory purposes.

Figure 1. Summary of Bering Sea stock status next year (spawning biomass relative to  $B_{msy}$ ; horizontal axis) and current year catch relative to fishing at  $F_{msy}$  (vertical axis) where  $F_{OFL}$  is taken to equal  $F_{msy}$ .

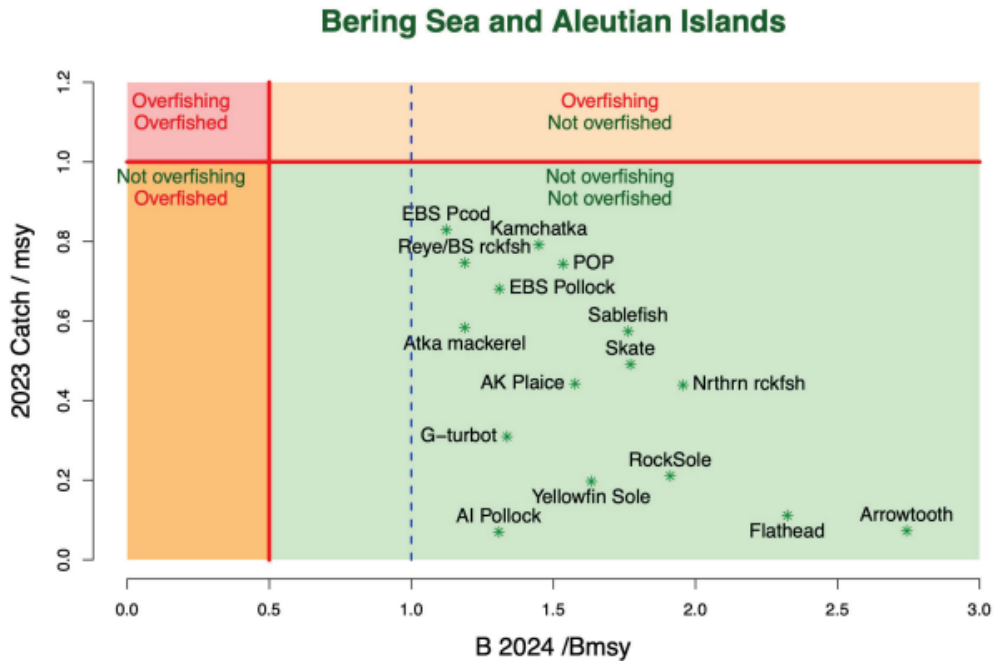
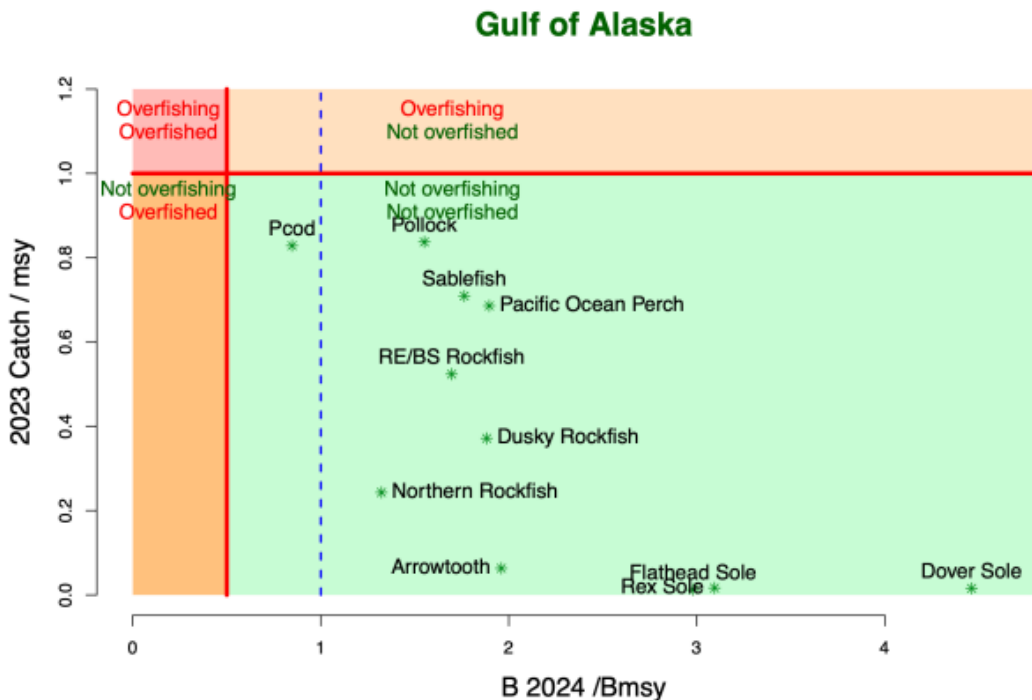


Figure 2. Summary of Gulf of Alaska stock status next year (spawning biomass relative to  $B_{MSY}$ ; horizontal axis) and current year catch relative to fishing at  $F_{MSY}$  (vertical axis). Note that sablefish is for Alaska-wide values including the BSAI catches.



The status of the groundfish stocks in the BSAI and GOA generally continues to appear relatively favorable for continued commercial fisheries based on the most recent stock assessments and as reflected in the introductions to the SAFE reports for the GOA and BSAI.

The ESRs also present a sustainability analysis of fish stocks for consumptive and non-consumptive uses based on commercial and recreational fisheries; these analyses indicate the majority of Alaska groundfish (and crab) stocks continue to be sustainably managed. Information on environmental and ecosystem factors and additional socio-economic conditions presented in the SAFE reports falls within the scope analyzed in the Final EIS as the Final EIS analyzed the effects of the preferred harvest strategy on non-target species, forage fish, prohibited species (including salmon, Pacific halibut, and crab), marine mammals, seabirds, habitat, ecosystem, socio-economic impacts, and environmental justice considerations.

Therefore, the information presented on species abundance and condition, environmental and ecosystem factors, and socio-economic conditions and used to set the 2024 and 2025 harvest specifications does not represent a significant change relative to the environmental impacts of the harvest strategy analyzed in the Harvest Specifications EIS.

## 5 New Circumstances

The next part of the inquiry to determine whether an SEIS is required again involves a two-step inquiry. As noted above, the agency identifies new circumstances, and the agency analyzes 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. Significant new circumstances triggers supplementation of an EIS when they present a seriously different picture of the likely environmental harms of the remaining action to occur, beyond what was considered in that EIS. 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. We use these actions to inform our examination of whether significant new circumstances exist that indicate that the remaining action to occur will affect the quality of the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS. In addition, NMFS considers in this SIR whether other actions that have occurred since 2007, and were not anticipated in the Harvest Specifications EIS, have a bearing on the harvest strategy or its impacts.

The actions are grouped in the Harvest Specifications EIS into the following four categories:

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

Overall, the information detailed in this section, which relies on the 2023 SAFE reports, other analyses prepared to support NMFS management actions, updated catch and bycatch data, and other best available scientific information, does not present a seriously different picture of the likely environmental harms of the remaining action to occur—the implementation of the 2024 and 2025 groundfish harvest specifications—beyond what was considered in the Harvest Specifications EIS. The specifications will not affect the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS.

## 5.1 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(d)(1)(ii).*

### 5.1.1 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 Amendment 80 Program also reduced the amount of halibut and crab PSC limits that may be taken while Amendment 80 participants are fishing. 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>18</sup>

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 further review 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

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<sup>18</sup> <https://media.fisheries.noaa.gov/dam-migration/sec-rev-amd80-earirirfa-0907pdf.pdf>

cooperative agreements and civil contracts than through the GRS. This action was categorically excluded from further NEPA review.

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>19</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 vessels. The EA accompanying this action found that there were no significant environmental impacts.<sup>20</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>21</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

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<sup>19</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-irfa-amendment-93-fishery-management-plan-groundfish-gulf-alaska-chinook>

<sup>20</sup> <https://www.fisheries.noaa.gov/resource/document/final-rir-final-ea-irfa-amendment-97-fishery-management-plan-groundfish-bering>

<sup>21</sup> <https://www.fisheries.noaa.gov/resource/document/final-regulatory-impact-review-final-environmental-assessment-initial-regulatory>

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>22</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. 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 NMFS stopped specifying amounts for the AI Pacific Cod Catcher Vessel Harvest Set-Aside Program under the vacated regulations. In October 2021, the Council took final action to recommend Amendment 122 to the BSAI FMP, and in August 2023, NMFS implemented, a limited access privilege program called the Pacific cod Trawl Cooperative (PCTC) Program. NMFS removed the regulations at 50 CFR § 679.20(a)(7)(viii) (establishing the Aleutian Islands Pacific cod CV harvest set-aside program) through implementation of the PCTC Program (more information on the PCTC program is provided below).

**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 historical 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

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<sup>22</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-frfa-amendment-85-fishery-management-plan-groundfish-bering-sea-aleutian>.

through 2015. The EA accompanying this action found that there were no significant environmental impacts.<sup>23</sup>

**Amendment 122: Pacific Cod Trawl Cooperative Program:** On August 8, 2023, NMFS issued a final rule implementing Amendment 122 to the BSAI FMP (88 FR 53704), establishing the Pacific Cod Trawl Cooperative Program (PCTC Program) to allocate BSAI Pacific cod quota share to qualifying groundfish License Limitation Program (LLP) license holders and qualifying processors with a history of Pacific cod legal landings in 2009 to 2019, with the additional years of 2004 through 2009 for LLP licenses with transferable AI endorsements.

QS holders are required to join a cooperative, and the aggregate QS of cooperative members and associated processors yields an exclusive harvest privilege for PCTC Program cooperatives, which NMFS will issue as cooperative quota (CQ) each year. Halibut and crab prohibited species catch limits are also allocated annually based on the percentage of total BSAI Pacific cod CQ allocated to their cooperative. The PCTC Program reduces the halibut and crab prohibited species catch (PSC) limits for participating trawl CVs during the A and B seasons.

Pacific cod trawl harvest is apportioned by seasons: January 20-April 1 (A season), April 1-June 10 (B season), and June 10-November 1 (C season). The PCTC Program allocates only A and B season trawl CV sector apportionments to cooperatives as CQ. The C season apportionment remains a limited access fishery open to all trawl CVs with LLP license endorsements to harvest Pacific cod in the BS and/or AI with trawl gear.

The PCTC Program modifies existing GOA sideboard limits and associated GOA halibut PSC limits for non-exempt AFA vessels and LLP license holders and closes directed fishing where sideboard limits are too small to support a directed fishery. This prevents holders of QS from expanding their fishing effort in GOA fisheries while still allowing cooperative members to catch up to the historical percentage of species they harvested in non-rationalized GOA groundfish fisheries. The EA accompanying this action found no significant environmental impacts.<sup>24</sup>

**Monitoring Requirement for Pot Catcher Processors (CPs):** On November 9, 2023, NMFS issued a final rule to revise monitoring requirement for pot gear CPs in the BSAI (88 FR 77228). The intent of this rule is to improve observer data collection errors that have impacted catch estimates. The rule requires participants in this fishery to carry a Level 2 observer, to comply with pre-cruise meeting notifications, and to meet certification and testing standards by choosing any, all, or none of the following voluntary monitoring options: providing certified observer sampling stations, installing motion-compensated and NMFS-approved platform and flow scales, and carrying additional observers on the vessel. This action also consolidates existing regulations for longline CPs and halibut decksorting under a single subpart. NMFS determined this action is categorically excluded from further NEPA review.

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<sup>23</sup> <https://www.fisheries.noaa.gov/resource/document/regulatory-impact-review-environmental-assessment-amendment-116-fishery>

<sup>24</sup> <https://media.fisheries.noaa.gov/2023-08/Final-Am-122-BSAI-PCTC-Program-EA-RIR.pdf>



### 5.1.2 Gulf of Alaska

**Pacific Cod Sector Allocations:** On December 1, 2011, NMFS published a final rule to implement Amendment 83 to the GOA FMP, effective 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>25</sup>

**Rockfish Program:** On December 27, 2011, NMFS published a final rule to implement the Central GOA Rockfish Program, Amendment 88 to the GOA FMP (76 FR 81248). The Rockfish Program replaced Pilot Program regulations that expired at the end of 2011. These regulations allocated exclusive harvest privileges to a specific group of LLP license holders who used trawl gear to target Pacific ocean perch, pelagic shelf (dusky) rockfish, and northern rockfish during particular qualifying years. The Rockfish Program retains the conservation, management, safety, and economic gains realized under the Central GOA Rockfish Pilot Program and resolves identified issues in the management and viability of the rockfish fisheries. The EA accompanying this action found that there were no significant environmental impacts.<sup>26</sup>

**Amendment 111: Reauthorize the Central CGOA Rockfish Program:** On March 1, 2021, NMFS issued 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 rule made minor revisions to improve administration of the Rockfish Program. Specifically, the rule removed from regulation the Western GOA rockfish sideboard limits for Rockfish Program CPs. That rule also revised and clarified the establishment of the West Yakutat District rockfish sideboard ratios in regulation. The rockfish sideboard ratio for each rockfish fishery in the West Yakutat District is an established percentage of the TAC for CPs in the directed fishery for dusky rockfish and Pacific ocean perch (50 CFR § 679.82(e)(4)). These percentages are confidential. The program's reauthorization was necessary to continue the conservation benefits, improve efficiency, and provide economic benefits of the Rockfish Program that would have expired on December 31, 2021. The EA accompanying this action found there were no significant environmental impacts.<sup>27</sup>

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<sup>25</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-assessment-final-regulatory-impact-review-initial-regulatory>

<sup>26</sup> <https://www.fisheries.noaa.gov/resource/document/secretarial-review-regulatory-impact-review-final-environmental-assessment-and>

<sup>27</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-111-fishery>

### 5.1.3 Catch Share Program Improvements

Since 2007, NMFS has implemented a number of actions to improve the functioning of existing catch share programs in the BSAI and GOA. Each EA or CE referenced under the following elements is available from the NMFS, Alaska Region Website.<sup>28</sup>

- 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 17137, July 17, 2009). This action also requires AFA SFPs to process all GOA pollock and GOA Pacific cod where they processed these species in 2002. This action increases operational flexibility for AFA SFPs that process pollock while continuing to limit the competitive advantage of AFA SFPs in the GOA pollock and GOA Pacific cod fisheries. The EA accompanying this action found that there were no significant environmental impacts.<sup>29</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-CDQ group transfers through an automated, web-based process (74 FR 51515, October 7, 2009). This action was categorically excluded from further NEPA review.
- 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 further NEPA review.
- 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>30</sup>

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<sup>28</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)

<sup>29</sup> <https://repository.library.noaa.gov/view/noaa/19129>

<sup>30</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-amendment-109-fmp-groundfish>

- In 2021, NMFS implemented regulations to modify recordkeeping and reporting requirements to remove pot gear tag requirements in the sablefish IFQ fishery in the GOA. The purpose of the action was to reduce administrative burden on the regulated fishing industry. There were no accompanying amendments to the GOA FMP. The action was categorically excluded from further NEPA review.
- In 2023, NMFS published a final rule to implement Amendment 124 to the BSAI FMP and Amendment 112 to the GOA FMP to revise IFQ and CDQ Program regulations in the BSAI and GOA (88 FR 12259, February 27, 2023). This rule amended regulations for pot gear configurations, pot gear tending and retrieval requirements, pot limits, and associated recordkeeping and reporting requirements. This rule authorized jig gear as a legal gear type for the harvesting of sablefish IFQ and CDQ and temporarily removed the Adak Community Quota Entity (CQE) residency requirement for a period of five years. The EA accompanying this action found there were no significant environmental impacts.<sup>31</sup>
- In 2023, NMFS published a final rule to implement Amendment 123 to the BSAI FMP to amend regulations governing limits on Pacific halibut prohibited species catch (PSC) and link Amendment 80 halibut PSC limits to halibut abundance (88 FR 82740, November 24, 2023). This final rule is expected to minimize halibut mortality and may result in additional harvest opportunities in the commercial, subsistence, and recreational halibut fisheries. NMFS prepared an EIS that analyzed a range of alternatives for proposed management measures to correlate or link the Amendment 80 commercial groundfish trawl fleet's (Amendment 80 sector) Pacific halibut PSC limit in the BSAI groundfish fisheries to halibut abundance. The EIS and record of decision accompanying this action found that the preferred alternative implemented through Amendment 123 provides reasonable and practical means to avoid, minimize, or compensate for environmental harm from this action.

## 5.2 **Traditional management tools**

*Traditional management tools are those designed to define target species, and to determine, authorize, manage, or enforce limits on the harvest of target species. Since 2007, NMFS has implemented a number of management actions for the BSAI or GOA groundfish fisheries. These measures improve management of the fisheries, but they do not alter the harvest specification process or change 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(d)(1)(ii).*

**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

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<sup>31</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-124-bsai-fmp>

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 arrowtooth flounder fishery. The EA accompanying this action found that there were no significant environmental impacts.<sup>32</sup>

**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.<sup>33</sup> This action was categorically excluded from further NEPA review.

**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.

**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 further NEPA review.

**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

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<sup>32</sup> <https://repository.library.noaa.gov/view/noaa/18234>

<sup>33</sup> <https://www.fisheries.noaa.gov/resource/document/biological-opinion-authorization-bering-sea-aleutian-islands-groundfish-1>

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>34</sup>

**Restructured Observer Program:** 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>35</sup>

**Modification to MRAs:** 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>36</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>37</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

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<sup>34</sup> <https://www.fisheries.noaa.gov/resource/document/secretary-commerce-final-environmental-assessment-regulatory-impact-review-final>

<sup>35</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-irfa-proposed-amendment-86-fmp-groundfish-bsai-and-amendment-76-fmp>

<sup>36</sup> <https://repository.library.noaa.gov/view/noaa/19165>

<sup>37</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-10>

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 further NEPA review.

**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 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>38</sup>

**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 non-trawl gear to request to participate in the EM selection pool and the requirements for vessel owners or operators while in 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>39</sup>

**Annual Deployment Plan (ADP):** Since 2013, NMFS has used an ADP to assign observers and camera systems (e.g., EM) to collect information from North Pacific fishing operations. The ADP is focused on science-driven deployment to meet data needs. NMFS is able to adjust some aspects of observer and EM 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 and EM are deployed in the partial coverage category to achieve those goals. Adjustments to future deployments are informed by annual reports, which evaluate how well the previous year's deployment of observers and EM performed relative to expectations. Through the ADP and annual report process, NMFS evaluates the impact of changes in observer and EM 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 2024 ADP describes how NMFS intends to assign fishery observers and EM to vessels fishing in the North Pacific during the 2024 calendar year. Vessels who request and are approved for EM will be placed in the EM selection pool if there is sufficient funding to support them. Vessels measuring less than 40 ft. in length overall and vessels fishing with jig gear (including

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<sup>38</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-final-regulatory-impact-review-amendment-101-fmp>

<sup>39</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-amendment-114-fmp-groundfish-bsai-and-amendment-104-fmp-groundfish-go-and>

handline, jig, troll, and dinglebar troll gear) are currently not subject to EM or observer coverage. The remaining vessels are monitored by 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. All ADPs are available online.<sup>40</sup>

Under the current Observer Program, all vessels in the AFA pollock and Amendment 80 fisheries are in full observer coverage with one observer or electronic monitoring on catcher vessels or two or more observers on catcher/processor vessels that are present at all times. NMFS has determined that full observer coverage are needed in programs where catch is allocated to specific entities with quotas and PSC limits, which must be discarded at-sea. Economic incentives exist for the industry to under-report PSC discarded at-sea, especially in catch share programs where limits are placed on the amount of catch that may be retained and discarded. Observers prioritize recording takes of marine mammals, collecting snouts and deep tissue samples from all freshly dead pinnipeds (except walrus), and collecting deep tissue samples from all dead cetaceans that are in good condition. Observers also prioritize takes of ESA-listed species (i.e., Short-tailed Albatross, Spectacled Eiders, and Steller's Eiders), collect specimens from ESA-listed species, and rehabilitate injured ESA-listed species if possible.

**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>41</sup>

**Leasing Halibut IFQ in Areas 4B, 4C, and 4D:** In 2018, NMFS implemented a final rule that modified regulations for the IFQ and CDQ Program (83 FR 52760). The rule created a voluntary option for an IFQ holder to temporarily transfer halibut IFQ to a CDQ group in years of extremely low halibut abundance and made other minor revisions to clarify IFQ vessel use cap regulations. This rule applies to CDQ groups in certain areas when the commercial catch limit is less than 1.5 million pounds. There were no accompanying amendments to the BSAI FMP. The action was categorically excluded from further NEPA review.

**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

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<sup>40</sup> [https://www.fisheries.noaa.gov/tags/north-pacific-observer-program?title=annual%20deployment&field\\_species\\_vocab\\_target\\_id=&sort\\_by=created](https://www.fisheries.noaa.gov/tags/north-pacific-observer-program?title=annual%20deployment&field_species_vocab_target_id=&sort_by=created)

<sup>41</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-117-bsai-and>

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.

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 further NEPA review.

**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 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>42</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

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<sup>42</sup> <https://repository.library.noaa.gov/view/noaa/22015>



safer, more predictable fishery. This action was categorically excluded from further NEPA review.

**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>43</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 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 further NEPA review.

**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

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<sup>43</sup> <https://www.fisheries.noaa.gov/resource/document/final-ca-rir-proposed-amendment-118-fishery-management-plan-groundfish-bering-sea>

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 Act, the GOA FMP, and other applicable laws. The EA accompanying this action found that there were no significant environmental impacts.<sup>44</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>45</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. As of January 1, 2021, the observer fee is set to 1.65 percent of the ex-vessel value of landings (§ 679.55(f)). The EA accompanying this action found that there were no significant environmental impacts.<sup>46</sup>

**Updated Regulations for the 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 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

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<sup>44</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-109-fishery>

<sup>45</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-proposed-amendment-121-fishery-management-plan-groundfish-bering-sea-and>

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

license limitation, sector allocations, and catch reporting. This action was categorically excluded from further NEPA review.

**Removal of the processing restrictions on incidentally caught squid and sculpin species:** In May of 2021, NMFS issued a final rule to remove the regulatory restriction that limits processing of squids and sculpins to fishmeal only (86 FR 24746; May 10, 2021). This final rule is necessary to allow the processing and sale of squids and sculpins as products other than fishmeal and thereby to help prevent waste of the incidental catch of these ecosystem component species.

**Amendment 52 and Regulatory Changes: Revision to economic data reporting requirements:** On February 6, 2023, NMFS published the final rule to implement Amendment 52 to the FMP for the Commercial King and Tanner Crab Fisheries of the BSAI (Crab FMP) to revise economic data reporting requirements and to make other regulatory changes on economic data reporting requirements for groundfish and crab fisheries off Alaska (88 FR 7586). This rule removes third-party data verification audits and blind formatting requirements for the BSAI crab fisheries Economic Data Report (EDR), as well as for the Bering Sea American Fisheries Act (AFA) pollock fishery, Chinook Salmon EDR, BSAI Amendment 80 fisheries EDR, and eliminates the EDR requirements for the GOA trawl fisheries. It also increases the usability and accessibility of the EDR data for Council and NMFS analysts and minimizes costs. This action was categorically excluded from further NEPA review.

### ***5.3 Ecosystem-sensitive management***

Ecosystem-sensitive management includes those measures designed to manage the impacts of fishing for target species on other parts of the environment: habitat, non-target fish species, marine mammals, and seabirds. Since 2007, the role of ecosystem considerations in fisheries management evolved. For example, the Council has completed and NMFS has implemented the Fishery Management Plan for Fish Resources of the Arctic Management Area (Arctic FMP), which includes a thorough description of the Arctic marine ecosystem (74 FR 56734, November 3, 2009). The Council recommended and NMFS implemented seabird protection measures, habitat protection measures, and measures to minimize halibut and Chinook salmon bycatch. Additionally, NMFS and the Department of Interior regularly review the status of a number of marine mammals. These actions are detailed in this section.

While the role of ecosystem considerations in fisheries management has evolved and improved since 2007, the increasing use of ecosystem and environmental factors in the annual harvest specification process was contemplated and analyzed in the Harvest Specifications EIS and is consistent with the preferred harvest strategy. The preferred harvest strategy analyzed in the Harvest Specifications EIS anticipated that changes in information and circumstances would be used each year in setting the annual harvest specification. This is because the process is flexible to implement the harvest strategy based on new information and circumstances on stock abundance and condition, ecosystem and environmental factors, and socio-economic conditions. Similarly, the FMPs contemplate ongoing consideration of relevant factors through the development of SAFE reports including ESRs (see BSAI FMP Section 3.2.2.2; GOA FMP Section 3.2.2.2). The use of new information from stock assessments and the ESRs allows the Council and NMFS to respond to changes in stocks and ecosystem and environmental conditions

in the BSAI and GOA. There is flexibility to adjust the harvest specifications for stocks as necessary based on the most recent, best available information (although the process remains consistent year to year). This approach is consistent with the preferred harvest strategy from the Harvest Specifications EIS, the FMPs, and National Standard 2 of the Magnuson-Stevens Act to use the best scientific information available.

Ongoing research has increased NMFS's understanding of the interactions among ecosystem components, including how they are impacted by changing environmental conditions related to climate change. The ESR (Appendix C), published each December, informs stock assessment models and annual harvest recommendations. The purpose of the ESRs is to provide the Council, scientific community, and the public, as well as NMFS, with annual information about ecosystem status and trends. Relevant environmental and ecosystem factors are integrated into stock assessments in several ways. Some stock assessment models incorporate those factors into the models. Stock assessments also include a qualitative description of ecosystem considerations. Finally, the stock assessments include risk tables that are meant to help inform the specification of ABC (by accounting for additional scientific uncertainty that is not captured in the modeling, which is consistent with the FMPs and regulations that ABC accounts for scientific uncertainty in the estimate of OFL and "any other scientific uncertainty").<sup>47</sup> The risk table includes four considerations: assessment-related, population dynamics, environmental/ecosystem, and fishery performance. The risk table has the potential to result in a reduction from the maximum ABC (as specified by the stock assessment model or a lower value). The information in the ESRs are integrated into the stock assessments through the qualitative sections on ecosystem considerations and through the risk tables. The ESRs are presented before the individual stock assessments and are considered during the annual groundfish and crab Plan Team meetings and Council meetings.

The target audience for the ESRs is the SSC to provide context for setting the OFL and ABC. This report includes physical oceanography, biological data, and socioecological dimensions, primarily collected from AFSC surveys with collaboration from a range of government and non-government partners, including physical environmental conditions and climate change; biological indicators; condition of groundfish; habitat; non-target and prohibited species, including salmon, herring, and forage fish; seabirds; marine mammals; community indicators; and sustainability.

Some stock assessments also include an ESP, which is a framework for organizing ecosystem and socioeconomic information about an individual stock. The ESP informs environmental and ecosystem considerations, population dynamics, and fisheries performance about that stock and is also integrated into the stock assessment in the risk table.

As a result, new information and circumstances on the BSAI and GOA ecosystems are adequately incorporated in the groundfish harvest specifications process such that the setting of OFL and ABC for species and species groups accounts for the best scientific information available. In the TAC setting process, the Council reviews the Plan Team and SSC reports. With this information and TAC recommendations from the Council's Advisory Panel, the Council recommends TACs to NMFS. NMFS reviews those recommendations, the Plan Team and SSC

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<sup>47</sup> 50 CFR § 600.310(f)(1)(ii), (f)(3).

reports, and the SAFE reports. TACs are set equal to or less than the ABCs for each species or species group. The TAC setting process is therefore informed by ecosystem information and circumstances based on the best scientific information available.

An increasing role for ecosystem considerations in the annual specifications setting process was analyzed in the Harvest Specifications EIS, which supports the findings in the Harvest Specifications EIS concerning the impacts of the harvest strategy on the human environment. In the EIS, NMFS analyzed the effects of the harvest strategy on target species, non-specified species, forage fish species, prohibited species (including Pacific halibut, crab, and salmon), marine mammals, seabirds, essential fish habitat, ecosystem, social and economic considerations, and environmental justice considerations. The inclusion of ecosystem considerations into the harvest specifications process is therefore within the scope of the preferred alternative analyzed in the Harvest Specifications, and the circumstances presented on environmental and ecosystem considerations and socio-economic conditions and used to set the 2024 and 2025 harvest specifications does not represent a significant change relative to the environmental impacts of the harvest strategy analyzed in the Harvest Specifications EIS.

### **5.3.1 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>48</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>49</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

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<sup>48</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-final-regulatory-flexibility-14>

<sup>49</sup> <https://www.fisheries.noaa.gov/resource/document/regulatory-amendment-exempt-gulf-alaska-dinglebar-fishermen-vessel-monitoring>

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>50</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 revised 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 from 2005 through 2010. The 2005 analysis concluded that fishing effects on EFH were minimal because there was no indication that fishing activities at a sustained rate and effort would alter the capacity of EFH to support species. The EA accompanying this action found that there were no significant environmental impacts.<sup>51</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>52</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>53</sup>

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<sup>50</sup> <https://www.fisheries.noaa.gov/resource/document/ea-rir-frfa-amendment-94-bsai-groundfish-fmp-require-trawl-sweep-modification-bs>

<sup>51</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-essential-fish-habitat-efh-omnibus-amendments-0>

<sup>52</sup> <https://repository.library.noaa.gov/view/noaa/6310>

<sup>53</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-amendment-104-fmp-groundfish-bering-sea-and-aleutian>

In April 2017, the Council recommended updates to EFH components in the BSAI FMP and GOA FMP based on the best scientific information available through the 2017 EFH 5-year Review by NMFS and the Council. The 2017 EFH 5-year Review determined:<sup>54</sup>

- New information and methods exists to refine EFH descriptions and maps using species distribution models (SDMs).
- 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, should 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 information available. Additional FMP revisions included Amendment 49 to the BSAI King and Tanner Crabs FMP (Crab FMP), Amendment 13 to the Salmon Fisheries in the EEZ off Alaska FMP (Salmon FMP), and Amendment 2 to the FMP for Fish Resources of the Arctic FMP. The Secretary of Commerce approved the EFH Omnibus Amendments in May 2018 (83 FR 31340).

In April 2019, NMFS and the Council launched the 2023 EFH 5-year Review to update to the science supporting several EFH components of the FMPs, including a new SDM ensemble approach for mapping and describing EFH and updates to the fishing effects model and analysis.

In December 2023, the Council recommended final action to amend the FMPs to incorporate the following updated EFH information based on the new and best available science information identified in the 2023 EFH 5-year Review:

- EFH component 1 (descriptions and identification). Amend 4 FMPs to update EFH descriptions and maps, including up to EFH Level 3 information on habitat-related vital rates. Add or revise the EFH text descriptions and add or replace the maps for—
  - 41 species or complexes in the BSAI FMP,
  - 46 species or complexes in the GOA FMP,
  - all five species in the Crab FMP, and
  - all three species in the Arctic FMP.

For the Salmon FMP, replace the distribution maps for all five species with the EFH maps.

- EFH component 2 (fishing effects). Update the fishing effects information in the BSAI Groundfish, GOA Groundfish, and Crab FMPs to reflect updates to the fishing effects model, analysis, and evaluation from the 2023 EFH 5-year Review. Updates to the model included additional years of fishing effort data, changes to the gear contact adjustments, incorporation of longer recovery times for certain habitat features, and some model code corrections.<sup>55</sup> The fishing effects model output was applied to the core EFH area of BSAI groundfish, GOA groundfish, and BSAI crab species to calculate and estimate of percent

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<sup>54</sup> <https://www.fisheries.noaa.gov/resource/document/essential-fish-habitat-5-year-review-summary-report-2010-through-2015>

<sup>55</sup> Zaleski, M., T. S. Smeltz, S. Rheinsmith, J. L. Pirtle, and G. A. Harrington. 2024. 2022 Evaluation of the Fishing Effects on Essential Fish Habitat. U.S. Dep. Commer., NOAA Tech. Memo. NMFSF/AKR-29, 205 p.

area disturbed. Stock assessment authors evaluated the species-specific results and no author found effects more than minimal and not temporary.

- EFH component 4 (non-fishing effects). Revise the EFH appendices in the BSAI Groundfish, GOA Groundfish, Crab, and Arctic FMPs where conservation recommendations for non-fishing activities are described.
- EFH component 7 (prey of EFH species). Revise text or habitat description table information for two species of BSAI sharks, BSAI pollock, GOA Pacific cod, and BSAI red king crab in the BSAI Groundfish, GOA Groundfish, and Crab FMPs.
- EFH component 9 (research and information needs). Revise the EFH appendices with updated research and information needs in the BSAI Groundfish, GOA Groundfish, Crab, and Arctic FMPs.

NMFS and the Council are completing the EFH Omnibus Amendments package for Secretarial review in 2024. There is ongoing research to continue to assess impacts from fishing on habitat, and the EFH review process is an iterative process, completed every five years, that can incorporate updated research on fishing effects on habitat.

### **5.3.2 Arctic Fishery Management**

In 2009, the Council adopted, and NMFS approved, an Arctic FMP 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 and (2) 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 FMP 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 FMP 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>56</sup>

### **5.3.3 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 and in subsequent years.

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<sup>56</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. The new catcher vessel hook-and-line halibut PSC limit may change annually, based on the GOA Pacific cod split formula. For 2023 and 2024, NMFS apportioned a halibut PSC limit of 150 mt to the hook-and-line CV sector (March 2, 2023, 88 FR 13238).
- 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. For 2023 and 2024, NMFS apportioned a halibut PSC limit of 107 mt to the hook-and-line CP sector (March 2, 2023, 88 FR 13238).
- Demersal shelf rockfish fishery from 10 mt to 9 mt in 2014 and in subsequent years.

The EA accompanying this action found that there were no significant environmental impacts.<sup>57</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>58</sup>

In December 2021, the Council recommended Amendment 123 to the BSAI FMP. The final rule (88 FR 82740, November 24, 2023) amends the regulations governing limits on Pacific halibut (*Hippoglossus stenolepis*) PSC to link the halibut PSC limit for the Amendment 80 commercial groundfish trawl fleet in the BSAI groundfish fisheries to halibut abundance. This action specifies halibut PSC limits for the Amendment 80 sector based on fishery-independent indices of halibut abundance derived from scientific survey data. The two survey indices recommended by the Council and implemented in this final rule are the International Pacific Halibut Commission (IPHC) setline survey index in Area 4ABCDE and the NMFS Alaska Fisheries Science Center (AFSC) Eastern Bering Sea (EBS) shelf trawl survey index. Each year, the IPHC will calculate an index of halibut biomass in Area 4ABCDE, which it will provide to NMFS. NMFS will categorize the resulting index into one of four abundance index ranges: very low, low, medium, or high. Similarly, the AFSC will use the most recent results from the EBS shelf trawl survey to calculate an index of halibut biomass and NMFS will categorize the resulting index into one of two ranges: low or high. The value at the intercept of those separate indices in table 58 to 50 CFR part 679 will be the Amendment 80 sector's halibut PSC limit for the

<sup>57</sup> <https://www.fisheries.noaa.gov/resource/document/final-ea-rir-irfa-reduce-gulf-alaska-halibut-prohibited-species-catch-limits>.

<sup>58</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-6>.

following calendar year. The Amendment 80 sector's halibut PSC limit will be updated each year based on the survey indices and announced in the groundfish harvest specifications. NMFS prepared an EIS that analyzed a range of alternatives for proposed management measures to correlate or link the Amendment 80 commercial groundfish trawl fleet's (Amendment 80 sector) Pacific halibut PSC limit in the BSAI groundfish fisheries to halibut abundance. The EIS and record of decision accompanying this action found that the preferred alternative implemented through Amendment 123 provides reasonable and practical means to avoid, minimize, or compensate for environmental harm from this action.<sup>59</sup>

These actions taken since 2007 are meant to manage halibut bycatch in the BSAI and GOA groundfish fisheries. Information on halibut bycatch in the GOA and BSAI groundfish fisheries is available on the NMFS webpage for catch and landings reports<sup>60</sup> and indicates for 2023 that no sector exceeded a halibut bycatch limit.<sup>61</sup> The updated analyses on the various halibut bycatch actions, as well as the information and circumstances in the 2023 SAFE reports indicate the annual implementation of the groundfish harvest specifications will not affect the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS. The EIS analyzed impacts of the harvest strategy on halibut and halibut bycatch, including impacts to mortality, spatial and temporal impacts to genetic structure of the population and reproductive success, prey for halibut, and habitat for halibut.

### **5.3.4 Salmon bycatch management**

There are management measures in place to reduce salmon bycatch in the BSAI and GOA fisheries. The groundfish harvest specifications process includes updated information on bycatch species like salmon, ecosystem factors, and climate change.

#### *Salmon bycatch management in the BSAI*

In 2007, NMFS implemented Amendment 84 to establish the salmon bycatch inter-cooperative agreement that allows vessels participating in the directed fisheries for pollock in the Bering Sea to use their internal cooperative structure to reduce salmon bycatch with a voluntary rolling hotspot system (VRHS) (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>62</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.

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<sup>59</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-impact-statement-bering-sea-and-aleutian-islands-bsai-halibut>

<https://www.fisheries.noaa.gov/s3/2023-03/amd-123-halibut-abm-rod.pdf>

<sup>60</sup> <https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports-alaska>

<sup>61</sup> 2023 BSAI: [https://www.fisheries.noaa.gov/sites/default/files/akro/car120\\_psc\\_bsai\\_with\\_cdq2023.html](https://www.fisheries.noaa.gov/sites/default/files/akro/car120_psc_bsai_with_cdq2023.html); 2023 GOA: [https://www.fisheries.noaa.gov/sites/default/files/akro/car150\\_goa\\_halibut\\_mortality2023.html](https://www.fisheries.noaa.gov/sites/default/files/akro/car150_goa_halibut_mortality2023.html)

<sup>62</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-final-regulatory-flexibility-16>

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 Chinook Salmon Bycatch Management Final Environmental Impact Statement.<sup>63</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). Annual reports on the number of incidentally caught Chinook in the BSAI are available at Alaska Region website on the catch and landings page.<sup>60</sup> In 2023, 14,616 Chinook salmon were incidentally caught in the BSAI groundfish fisheries with 11,855 Chinook salmon out of the total incidentally caught in the BSAI pollock directed fisheries.<sup>60</sup>

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>64</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 salmon 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 inter-cooperative 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.

NMFS and the Council have taken comprehensive action through Amendments 91 and 110 to the BSAI FMP and implementing regulations to reduce salmon bycatch in the pollock trawl fishery because of the potential for negative impacts on salmon stocks. Existing measures have reduced salmon bycatch in the pollock fishery in comparison to the fishery without the measures. Regulations that set limits on how many Chinook salmon can be taken in a year are found at §

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<sup>63</sup> NMFS (2009). Bering Sea Chinook Salmon Bycatch Management Final Environmental Impact Statement. December, 2009. <https://www.fisheries.noaa.gov/resource/document/bering-sea-chinook-salmon-bycatch-management-final-environmental-impact-statement>

<sup>64</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-110-fmp>

679.21. NMFS annually allocates portions of either 33,318, 45,000, 47,591, or 60,000 Chinook salmon PSC limits among the AFA sectors, depending on past bycatch performance, on whether Chinook salmon bycatch IPAs are formed and approved by NMFS, and on whether NMFS determines it is a low Chinook salmon abundance year. NMFS will determine that it is a low Chinook salmon abundance year when abundance of Chinook salmon in western Alaska is less than or equal to 250,000 Chinook salmon. The State of Alaska provides to NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping. As a result, the process of setting the annual Chinook PSC limits accounts for the current status of Chinook salmon based on the State's 3-System Index. For 2023, the adult Chinook salmon run sizes from the Unalakleet, Upper Yukon, and Kuskokwim rivers was less than the threshold level of 250,000.<sup>65</sup> For 2024, NMFS determined it was a low abundance year and set the limits in accordance with 50 CFR 679.21(f) with a performance standard of 33,318 and an overall PSC limit of 45,000. These limits are found in the final groundfish harvest specifications for the BSAI.

In December 2021, the Association of Village Council Presidents, the Kuskokwim River Inter-Tribal Fish Commission, the Yukon River Inter-Tribal Fish Commission, the Aleut Community of St. Paul Island, and the Bering Sea Elders Group requested the Department of Commerce initiate emergency action to eliminate Chinook salmon bycatch in the Bering Sea pollock fishery and to implement a hard cap on chum salmon bycatch. NMFS denied the request for emergency action and determined that the request did not meet the three criteria necessary to implement an emergency rule<sup>66</sup>.

At their December 2022 meeting, the Council initiated action to modify chum salmon bycatch management measures in the Bering Sea pollock fishery. In April 2023, the Council received a report from its Salmon Bycatch Committee on recommendations for regulatory and non-regulatory chum salmon bycatch management measures. The Council initiated an analysis to consider establishing additional non-Chinook bycatch management measures. In October 2023, the Council considered a draft for preliminary review<sup>67</sup> and revised the alternatives for initial review.<sup>68</sup> The initial review of the Council's selected alternatives is scheduled for April 2024. NMFS has published a notice of intent to prepare an EIS on the Council's proposed management measures to minimize chum (non-Chinook) salmon bycatch in the Bering Sea pollock fishery (88 FR 44096, July 11, 2003).

In January 17, 2024, the Association of Village Council Presidents, Kuskokwim River Inter-Tribal Fish Commission, Tanana Chiefs Conference, Yukon River Drainage Fisheries Association, and Yukon River Inter-Tribal Fish Commission requested that the Department of Commerce take emergency action pursuant to the Magnuson-Stevens Act, 16 U.S.C. § 1855(c)(1), and institute a cap of zero on any further Chinook salmon bycatch in the BSAI

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<sup>65</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=d2d66943-4228-4b82-9f98-dc6dcf04b44d.pdf&fileName=B5%20Chinook%20index%202023%20letter%20to%20NMFS.pdf>

<sup>66</sup> <https://www.fisheries.noaa.gov/feature-story/noaa-fisheries-denies-request-emergency-action-bering-sea-salmon-bycatch>

<sup>67</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=5b15695d-d544-4385-87cb-b5cdf54909.pdf&fileName=C4%20Chum%20Salmon%20Bycatch%20Analysis.pdf>

<sup>68</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=399d2901-eed2-49f3-b416-006a3b025113.pdf&fileName=C4%20Council%20Motion%20Chum%20Salmon%20Bycatch.pdf>

pollock trawl fishery and that the emergency regulation stay in effect for 180 days. This request for emergency action is still under review as of February 2024.

To determine the composition of chum salmon originating from Western Alaska (Coastal Western Alaska and Upper/Middle Yukon river systems), NMFS has been genetically sampling non-Chinook bycatch since 2011. Based on this genetic sampling, NMFS estimates that the pollock fleet caught the following number of Western Alaska chum salmon in the B season between 2018 and 2022: 55,246 (2018); 55,994 (2019); 31,214 (2020); 51,511 (2021); and 55,724 (2022). During this five-year period, the estimated average annual B season chum bycatch from Western Alaska is 49,937. The mean proportion of the overall non-Chinook bycatch in the B season were 18.8% (2018); 16.2% (2019); 9.1% (2020); 9.4% (2021); and 23.0% (2022).<sup>69</sup> The most recent 2022 genetic data indicates that only 21 percent of chum bycatch in the A and B seasons is of western Alaska origin, while the largest component is from Asian hatchery stocks.<sup>70</sup>

The stock assessment for Bering Sea pollock includes information in its ecosystem considerations section on salmon bycatch. Bycatch is described in terms of CPUE (i.e., total duration of all tows) and split by the A and B seasons for the pollock fishery. For, non-Chinook salmon (nearly all made up of chum salmon), bycatch has fluctuated on an annual basis in the B season and is consistently much lower in the A season. More than 99% of non-Chinook bycatch occurs during the B season. For Chinook salmon, bycatch has fluctuated on an annual basis in the A season and is consistently lower in the B season. However, since 2007, annual Chinook bycatch remains lower on average.<sup>71</sup> For non-Chinook and Chinook salmon bycatch in the Bering Sea pollock fishery between 2011-2023, bycatch averaged 268,792 fish and 18,325 fish, respectively.<sup>72</sup> As reported at the June 2022 Council meeting, between 2011 and 2021, the bycatch impact on Chinook salmon runs to the coastal western Alaska region was estimated to be below 2 percent.<sup>73</sup>

The 2023 ESRs provide additional information on the status of salmon in the Bering Sea ecosystem and Aleutian Islands ecosystem, including updated information on the abundance of salmon, fish condition, the run size of Bristol Bay sockeye salmon, the Yukon and Kuskokwim chum runs and subsistence harvest, abundance and role of eastern Kamchatka pink salmon in the Aleutian Islands, and trends in directed commercial catch of salmon. The information and circumstances presented in the 2023 SAFE reports indicate the annual implementation of the groundfish harvest specifications will not affect the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS. The Harvest Specifications EIS analyzed impacts of the harvest strategy on salmon, salmon bycatch, directed salmon fisheries, and subsistence harvests, including in the context of salmon run failures and

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<sup>69</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=5b15695d-d544-4385-87cb-b5cdf54909.pdf&fileName=C4%20Chum%20Salmon%20Bycatch%20Analysis.pdf> (Table 3-15)

<sup>70</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=7d5076b0-1a7f-4faa-92ba-d67a0fb28c22.pdf&fileName=C2a%20BS%20Chum%20Salmon%20Genetics%20Report%202022.pdf>

<sup>71</sup> [https://apps-afsc.fisheries.noaa.gov/Plan\\_Team/2023/EBSPollock.pdf](https://apps-afsc.fisheries.noaa.gov/Plan_Team/2023/EBSPollock.pdf)

<sup>72</sup> [https://www.fisheries.noaa.gov/sites/default/files/akro/chum\\_salmon\\_mortality2024.html](https://www.fisheries.noaa.gov/sites/default/files/akro/chum_salmon_mortality2024.html);  
[https://www.fisheries.noaa.gov/sites/default/files/akro/chinook\\_salmon\\_mortality2024.html](https://www.fisheries.noaa.gov/sites/default/files/akro/chinook_salmon_mortality2024.html)

<sup>73</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=c16a58bc-e94e-4fd3-a23f-08909946bf20.pdf&fileName=D1c%20Chinook%20Salmon%20AEQ.pdf>

impacts on salmon harvests that had occurred and were considered in the EIS. The Harvest Specifications EIS also analyzed impacts to mortality, spatial and temporal impacts to genetic structure of the population and reproductive success, prey for salmon, and habitat for salmon.

### *Salmon Bycatch Management in the GOA*

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. Information on the consultation is provided in the final EA/RIR for Amendment 93.<sup>74</sup> As required by the terms and conditions of the supplements published in 2007 and 2009 and the 2000 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. The Alaska Region continues to publish this annual report, with Chinook salmon incidental catch in the GOA groundfish fisheries reported as 17,193 fish in 2021, 14,549 fish in 2022, and 18,124 in 2023. Take in the GOA groundfish fishery has not been exceeded in recent years for ESA-listed salmon species.

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>75</sup> Since 2013, the annual Chinook salmon incidental catch in the GOA pollock fisheries has been less than 25,005 salmon. In 2023, 15,423 Chinook were incidentally caught in the GOA pollock fishery.<sup>76</sup> Annual reports on the number of incidentally caught Chinook in the GOA are available at Alaska Region website on the catch and landings page.<sup>77</sup>

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,

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<sup>74</sup> <https://repository.library.noaa.gov/view/noaa/22951>

<sup>75</sup> <https://repository.library.noaa.gov/view/noaa/4220>

<sup>76</sup> [https://www.fisheries.noaa.gov/sites/default/files/akro/car142\\_goa\\_salmon2023.html](https://www.fisheries.noaa.gov/sites/default/files/akro/car142_goa_salmon2023.html)

<sup>77</sup> <https://www.fisheries.noaa.gov/sites/default/files/akro/goasalmonmort2024.html>

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>78</sup>

In December 2015, the Council recommended Amendment 103 to the GOA FMP. Amendment 103 and the final rule (September 12, 2016, 81 FR 62659) authorizes NMFS to reapportion Chinook salmon PSC limits from established PSC limits. These limits are 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 further NEPA review. 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.

The 2023 ESR provides additional information on the status of salmon in the GOA ecosystem, including updated information on marine conditions for pink salmon growth and survival, juvenile salmon abundance in Icy Strait, juvenile salmon size and condition trends in Icy Strait, trends in salmon survival in Auke Creek, and trends in directed commercial catch of salmon. The information and circumstances presented in the 2023 SAFE reports indicate the annual implementation of the groundfish harvest specifications will not affect the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS, which analyzed impacts of the harvest strategy on salmon and salmon bycatch, including impacts to mortality, spatial and temporal impacts to genetic structure of the population and reproductive success, prey for salmon, and habitat for salmon.

ESA Consultations on GOA and BSAI Groundfish Fisheries: The effects of groundfish fisheries on ESA-listed salmon were analyzed in the December 2, 2009, and January 11, 2007 supplements to the November 30, 2000, biological opinion regarding authorization of the BSAI and GOA groundfish fisheries (NMFS 2000), and the supplemental opinion issued on January 9, 2012 (NMFS 2012). Those consultations concluded that groundfish fisheries may adversely affect, but are not likely to jeopardize the continued existence of ESA-listed salmon species. In order to continue to monitor the effects of groundfish fisheries on ESA-listed salmon, a condition of those consultations was for a yearly incidental catch report<sup>79</sup> to be submitted by the Alaska Regional Office to the West Coast Regional Office. Take has not been exceeded in recent years for ESA-listed salmon species.

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<sup>78</sup> <https://repository.library.noaa.gov/view/noaa/5012>

<sup>79</sup> <https://www.fisheries.noaa.gov/resource/document/annual-report-alaska-groundfish-fisheries-chinook-salmon-coded-wire-tag-and>

### 5.3.5 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 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>80</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 was necessary to implement a rebuilding plan prior to the start of the 2020/2021 fishing season.

In October 2021, the SAFE for Eastern Bering Sea (EBS) snow crab provided assessment results on the stock<sup>81</sup>. The EBS snow crab assessment showed that mature male biomass (MMB) was 50,600 mt, which is less than the minimum stock size threshold (MSST) of 76,700 mt. Because of the assessment and model recommendation, the stock was declared overfished by NMFS. In June 2022, the Council approved a purpose and need statement and proposed alternatives for the rebuilding plan. Then, during the October 2022 Council meeting, the SSC reviewed the EBS snow crab rebuilding projection scenario. In December 2022, the Council recommended the Draft Environmental Assessment and Rebuilding Plan<sup>82</sup> for final action. In February 2023, the Council took final action to adopt a rebuilding plan (Amendment 53 to the Crab FMP).<sup>83</sup> On

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<sup>80</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-assessment-proposed-amendment-43-bering-sea-aleutian-islands>

<sup>81</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=5606e5d3-2fb3-4b3b-9094-5bd86298563a.pdf&fileName=1%20Eastern%20Bering%20Sea%20Snow%20Crab%20SAFE.pdf>

<sup>82</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=df63088a-0290-4743-973e-aa9f7ac8b7da.pdf&fileName=Snow%20Crab%20Rebuilding%20Analysis%20.pdf>

<sup>83</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=cdd350f-b151-4436-ac3b-a092ddaedf24.pdf&fileName=MOTION%20C1%20.pdf>



September 7, 2023, NMFS announced approval of Amendment 53 to the Crab FMP to include the new rebuilding plan for snow crab (88 FR 61477, September 7, 2023). The objective of the amendment is to rebuild the snow crab stock consistent with the requirements of the Magnuson-Stevens Act. A target rebuilding time frame of six years was set where the stock will be considered rebuilt once it reaches  $B_{MSY}$ . This option allows for bycatch removals and for a directed fishery to open under a state harvest strategy while the stock is rebuilding. The EA accompanying this action found that there were no significant environmental impacts.<sup>84</sup>

In November 2021, the Council received a request to expand the red king crab savings area from the Alaska Bering Sea Crabbers. In December 2021, the Council determined the proposal did not meet the three necessary criteria for NMFS to implement an emergency rule. NMFS then denied the request for emergency action in January 2022. Concurrently, the Council tasked staff with a discussion paper that would provide the best available information on four topics related to Bristol Bay Red King Crab, including the annual molting and mating cycle, the impacts of fisheries on this cycle, the prevalence of bottom contact by pelagic trawl gear, how stock boundaries are used in assessment, and options for flexible management<sup>85</sup>. At the April 2022 Council meeting, the Council reviewed the discussion paper and initiated a request for information (June 6, 2022, 87 FR 34255) on current mechanisms fishing sectors were employing to reduce bycatch of red king crab. The Council also tasked staff and NMFS with developing an expanded discussion paper on annual or seasonal gear closures for the red king crab savings area, sources of mortality for red king crab, information needed to create flexible management measures, and information on the Amendment 80 fleet and Pacific cod fleet as they relate to red king crab bycatch. The Council received a presentation on the expanded discussion paper in October 2022.

Also in October 2022, NMFS announced receipt of a petition from the Alaska Bering Sea Crabbers for emergency rulemaking to close the RKCSA and Red King Crab Savings Subarea (RKCSS) to all fishing gear for a period of six months from January 1, 2023 to June 30, 2023 (October 28, 2022, 87 FR 65183). The Council reviewed the emergency rule request in December 2022 and determined that the proposal did not meet the three necessary criteria for NMFS to implement an emergency rule. At the same time, the Council initiated an analysis regarding Bristol Bay red king crab; the Council adopted a purpose and need statement to address the current stock status of Bristol Bay red king crab and alternatives for analysis<sup>86</sup>. In December 2022, NMFS denied the request for emergency action to close the RKCSA and RKCSS to all fishing gears from January 1, 2023 to June 30, 2023. The request was denied because the petition was deemed to not meet the criteria defined under NMFS Policy Guidelines for the Use of Emergency Rules.<sup>87</sup>

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<sup>84</sup> <https://www.fisheries.noaa.gov/s3/2023-12/508-Snow-Crab-Rebuilding-Analysis-Final.pdf>

<sup>85</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=bbffb468-398e-4500-bbe5-112b6a05ceae.pdf&fileName=E%20Council%20Motion%20on%20BBRKC.pdf>

<sup>86</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=0b1b34c1-34c0-42a3-afa6-5a9e0aed4c0d.pdf&fileName=C1%20Motion%20%20RKCSA%20FINAL.pdf>

<sup>87</sup> [https://www.fisheries.noaa.gov/media-release/noaa-fisheries-denies-request-emergency-action-close-red-king-crab-savings-area-and?utm\\_medium=email&utm\\_source=govdelivery](https://www.fisheries.noaa.gov/media-release/noaa-fisheries-denies-request-emergency-action-close-red-king-crab-savings-area-and?utm_medium=email&utm_source=govdelivery)

At their December 2022 meeting, the Council approved development of a work plan on crab bycatch, improvements to crab stock condition,<sup>88</sup> and initiated an analysis that could close areas in the Bering Sea to different groundfish gear types with the goal of reducing Bristol Bay red king crab mortality from groundfish fishing. The Council's purpose and need for this analysis highlighted a goal of promoting optimum yield from the directed Bristol Bay red king crab fishery while minimizing negative impacts on groundfish fleets that may experience area closures and impacts on other species encountered by groundfish gears (target and non-target).<sup>89</sup> In June 2023, the Council reviewed and received a presentation on the initial review analysis for groundfish area closures within the Bristol Bay red king crab stock assessment area and associated impacts to groundfish fisheries.<sup>90</sup> The Council recommended a second initial review and revised the analysis to include biological consequences of different prohibited species catch limits and importance of the RKCSA with respect to the Bristol Bay red king crab stock, tradeoffs to bycatch and fishing operations in the groundfish fisheries, improve rationale for varying management triggers that close the RKCSA to trawl gear, and include information on ongoing and potential research projects to improve understanding of Bristol Bay red king crab spatial distribution and life history.<sup>91</sup>

The Council is considering an updated analysis in the second initial review draft at its February 2024 Council meeting for action alternatives that could result in areas closed to certain groundfish gears on a calendar-year basis, conditional on triggering mechanisms that are assessed annually.<sup>92</sup> Alternative 2 would result in annual closures of the RKCSA to certain groundfish gears. If an annual closure is in place for a given year, both pelagic and non-pelagic trawl gears would be excluded from the RKCSA; pot and hook-and-line (HAL) gear would be excluded depending on sub-options that could carve-in/out pot and/or HAL gear from any closure under Alternative 2. The RKCSA contains the RKCSS and thus Alternative 2 may affect the non-pelagic trawl sector relative to "no action" under certain circumstances. Alternative 3 applies only to the pot gear directed fishery for Pacific cod. Alternative 3 would result in NMFS Area 512 being closed Pacific cod pot fishing in years when the triggering mechanism is met. Area 512 lies east of the RKCSA – farther inshore with regard to the Bristol Bay region as a whole – and is contained within the Nearshore Bristol Bay Trawl Closure Area (NBBTCA) that is already closed to all trawling year-round. The action alternatives are not mutually exclusive. At the February 2024 meeting, the Council recommended no further action based on the analysis that changes to the management of the RKCSA and Area 512 may have negatives impacts on other prohibited species like Chinook and chum salmon and halibut.<sup>93</sup> The Council did request a

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<sup>88</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=911b9fd8-5032-4c36-84cb-14c66b2bffcc.pdf&fileName=D2%20Council%20Motion.pdf>

<sup>89</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=0b1b34c1-34c0-42a3-afa6-5a9e0aed4c0d.pdf&fileName=C1%20Motion%20%20RKCSA%20FINAL.pdf>

<sup>90</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=2faac872-c0a4-4a05-93a2-352be833fef1.pdf&fileName=C4%20BBRKC%20Analysis.pdf>

<sup>91</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=c82d4c84-8e06-4dde-8a14-c9777cfbde86.pdf&fileName=C4%20Motion%201%20BBRKC%20Closure%20Area.pdf>

<sup>92</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=3752f9f0-a4ed-49b6-b590-7b6943843229.pdf&fileName=C2%20Action%20Memo.pdf>

<sup>93</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=2306d5ab-b297-4a93-854c-8daef7a4a3b6.pdf&fileName=C2%20Council%20Motion.pdf>

discussion paper on options for incentivizing pelagic trawl gear to minimize bycatch to the extent practicable and to minimize the impacts of pelagic trawl gear on sensitive benthic habitat and unobserved mortality of stocks that rely on such habitat, while improving or maintaining fishing efficiency.

Additionally, at the June 2023 meeting the Council approved the formation of an inter-agency working group to develop a framework for how to estimate the magnitude and extent of unobserved fishing mortality (UFM) for crab stock from all gear types. The working group is also tasked with developing guidance for explicitly incorporating these estimates in BSAI crab stock assessments and to inform other Council documents related to conservation and management of crab stocks.<sup>94</sup> The UFM working group is an interagency group comprising NOAA staff, SSC, and Crab Plan Team members that met weekly from October–November 2023 to discuss the Council’s objectives of 1) identifying data sources, major data gaps, and assumptions to estimate unobserved mortality for stock assessments and to improve understanding of the temporal/spatial extent across fisheries and gear types; and 2) provide research priority recommendations for ongoing and new projects. The working group recognized that this is a starting point that will require further public discussions through subsequent CPT meetings and SSC/Council reviews. The working group will report to the Council at the June 2023 meeting when an analysis is reviewed highlighting the current methodology to estimate UFM, data gaps in which more research is necessary to appropriately estimate UFM, provide a framework for estimating UFM in stock assessment, and research needs to improve estimation of UFM.

These actions taken since 2007 are meant to manage crab bycatch in the BSAI groundfish fisheries. There are no crab bycatch limits in the GOA. Annual reports on the number of incidentally caught crab in the BSAI are available at Alaska Region website on the catch and landings page.<sup>60</sup> Reports indicate for 2023 that no sector, in the BSAI, exceeded a crab bycatch limit. Additionally, the trawl gear sector in the BSAI was below 25% utilization of the limits).<sup>95</sup> The updated analyses on the various crab bycatch actions, as well as the information and circumstances in the 2023 SAFE reports, indicate the annual implementation of the groundfish harvest specifications will not affect the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS, which analyzed impacts of the harvest strategy on crab and crab bycatch, including impacts to mortality, spatial and temporal impacts to genetic structure of the population and reproductive success, prey for crab, and habitat for crab.

### **5.3.6 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

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<sup>94</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=911b9fd8-5032-4c36-84cb-14c66b2bffcc.pdf&fileName=D2%20Council%20Motion.pdf>

<sup>95</sup> [https://www.fisheries.noaa.gov/sites/default/files/akro/car120\\_psc\\_bsai\\_with\\_cdq2023.html](https://www.fisheries.noaa.gov/sites/default/files/akro/car120_psc_bsai_with_cdq2023.html);  
[https://www.fisheries.noaa.gov/sites/default/files/akro/car250\\_psc\\_crab2023.csv](https://www.fisheries.noaa.gov/sites/default/files/akro/car250_psc_crab2023.csv)

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>96</sup>

The Harvest Specifications EIS analyzed impacts of the harvest strategy on grenadiers, including impacts to mortality, spatial and temporal impacts to genetic structure of the population and reproductive success, prey for grenadiers, and habitat for grenadiers. Reports on grenadier catch can be found on the NMFS webpage for catch and landings.<sup>60</sup>

### 5.3.7 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, and fin whales was completed November 24, 2010.<sup>97</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 destroy or adversely modify designated critical habitat<sup>98</sup> 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 (WDPS) of Steller sea lions and were likely to destroy or adversely modify their designated critical habitat. The biological opinion contained Reasonable and Prudent Alternatives (RPAs) designed to remove the likelihood the fisheries would jeopardize the WDPS of Steller sea lions or destroy 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 WDPS of Steller sea lions or destroy 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 WDPS of Steller sea lions, as required under the ESA, and to conserve and manage the groundfish resources in accordance with the

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<sup>96</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-initial-regulatory-5>.

<sup>97</sup> <https://www.fisheries.noaa.gov/resource/document/biological-opinion-authorization-alaska-groundfish-fisheries>.

<sup>98</sup> Critical habitat designation is generally required for species listed under the ESA. Critical habitat identifies specific areas within the geographical area occupied by the species at the time it was listed as threatened or endangered that contain physical or biological features essential to the conservation the species and that may require special management considerations or protection. Critical habitat may also include areas that were not occupied by the species at the time of listing but that are essential for the conservation of the species. Under the ESA, the only regulatory effect of critical habitat designation is the requirement under Section 7 that federal agencies consult with NMFS or FWS to ensure their actions are not likely to destroy or adversely modify critical habitat.

Magnuson-Stevens Act. An EA determined that this action would not have significant environmental impacts.<sup>99</sup>

On April 18, 2012, NMFS published a proposed rule to remove the eastern DPS (EDPS) of Steller sea lions from the List of Endangered and Threatened Wildlife (77 FR 23209). NMFS completed a Status Review of the EDPS of Steller sea lion in March 2012. 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 had recovered and no longer met the definition of an endangered or threatened species under the ESA. On November 4, 2013, NMFS issued a final rule to remove the EDPS 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 WDPS of Steller sea lions. NMFS held two public meetings to elicit pertinent scientific information (79 FR 53384, September 9, 2014). NMFS formed a Critical Habitat Review Team to assemble the best scientific information available. 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>100</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 WDPS of Steller sea lions or destroy 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>101</sup>

On December 8, 2017, NMFS announced the initiation of a five-year review of the endangered WDPS 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 WDPS 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 WDPS should

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<sup>99</sup> <https://www.fisheries.noaa.gov/resource/document/revisions-steller-sea-lion-protection-measures-bering-sea-and-aleutian-islands>

<sup>100</sup> <https://www.fisheries.noaa.gov/resource/document/final-environmental-impact-statement-steller-sea-lion-protection-measures>

<sup>101</sup> <https://www.fisheries.noaa.gov/resource/document/biological-opinion-authorization-alaska-groundfish-fisheries-under-proposed>

remain listed as endangered under the ESA.<sup>102</sup> According to the five-year review, threats and uncertainties continue to influence the recovery potential of the WDPS of Steller sea lions, but the review did not identify any new threats. Prey availability, predation, toxins, and marine debris continue to be identified as key factors influencing the recovery of the WDPS of Steller sea lions. The five-year review noted impacts from the 2014-2016 marine heat wave in the GOA, including impacts to Steller sea lion prey, the decline of Steller sea lion pups between 2015 and 2017, and the survival of adult female Steller sea lions. However, recent data suggests adult females may have recovered from the effects of the North Pacific marine heatwave based on recent data.<sup>103</sup> Another recent study on body condition discusses the importance of body size on juvenile and adult survival, its influence on time to weaning, and how time to weaning can be optimized for different habitats based on long-term factors like prey dynamics; however, the study does not identify immediate red flags for Steller sea lions.<sup>104</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 WDPS Steller sea lions. In accordance with those regulations (§ 679.20(d)(4)), NMFS determined that the 2019 stock assessment 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 would remain closed until a subsequent stock assessment projected that the spawning biomass for Pacific cod in the GOA exceeds 20 percent of the projected unfished spawning biomass during a fishing year. NMFS did not prohibit directed fishing for Pacific cod in the GOA in subsequent years because subsequent stock assessments for Pacific cod projected that the spawning biomass for Pacific cod in the GOA will exceed 20 percent of the projected unfished spawning biomass during the fishing years. The 2023 stock assessment for Pacific cod indicates the stock spawning biomass is still at a lower level but is above twenty percent for 2024 and 2025.<sup>105</sup> The population is at a low abundance but is showing trends of a strong recruitment year class.<sup>106</sup> In addition, the stock is not subject to overfishing, is not overfished, and is not approaching a condition of being overfished.

The Harvest Specifications EIS analyzed the impacts of the alternative harvest strategies on Steller sea lions with regard to incidental take from entanglement in fishing gear and marine debris. The EIS considered the take relative to the potential biological removal and in consideration of the total harvest under each alternative harvest strategy. Between 2017 and 2021, the mean annual mortality and serious injury rate for U.S. commercial fisheries in Alaska (including state and Federal fisheries) was 24 WDPS Steller sea lions. This metric is inclusive of fisheries that are monitored by fisheries observers. The fisheries where these incidents occurred include the BSAI trawl fisheries for Atka mackerel, flatfish, Pacific cod, and pollock; BSAI

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<sup>102</sup> <https://www.fisheries.noaa.gov/resource/document/western-distinct-population-segment-steller-sea-lion-5-year-review-summary-and>

<sup>103</sup> <https://doi.org/10.3389/fmars.2023.1127013>

<sup>104</sup> Hastings, K. K., Johnson, D. S., Pendleton, G. W., Fadely, B. S., & Gelatt, T. S. 2021. Investigating life-history traits of Steller sea lions with multistate hidden Markov mark-recapture models: Age at weaning and body size effects. *Ecology and Evolution*, 11(2), 714-734

<sup>105</sup> [https://apps-afsc.fisheries.noaa.gov/Plan\\_Team/2023/GOApcod.pdf](https://apps-afsc.fisheries.noaa.gov/Plan_Team/2023/GOApcod.pdf)

<sup>106</sup> [https://apps-afsc.fisheries.noaa.gov/Plan\\_Team/2023/GOAecosys.pdf](https://apps-afsc.fisheries.noaa.gov/Plan_Team/2023/GOAecosys.pdf)

longline cod; GOA trawl fisheries for flatfish and sablefish longline. A summary of these interactions and additional information about this stock are found in the most recent stock assessment for this population.<sup>107</sup> The mean annual mortality and serious injury rate for U.S. commercial fisheries is below the potential biological removal (PBR)<sup>108</sup> for the WDPS Steller sea lions (PBR is 299). In the BSAI pollock trawl fishery, the mean estimated annual mortality and serious injury is 2.3% of total U.S. commercial fishery catch (n = 6.8) from 2017 to 2021, and mortality and serious injury is below ten percent of PBR. In the BSAI Amendment 80 (flatfish) trawl fishery, the mean estimated annual mortality and serious injury is 4.3% of total U.S. commercial fishery catch (n = 13) from 2017 to 2021, and mortality and serious injury is below ten percent of PBR.

A primary focus of earlier ESA consultations (including the 2010 and 2014 biological opinions) and the Harvest Specifications EIS are the impacts of the groundfish fisheries on prey availability for Steller sea lions, although the EIS also noted threats from predation, toxic substances and diseases, and marine debris. The Harvest Specifications EIS noted the harvest of prey species by the groundfish fisheries is recognized as a very important potential impact on Steller sea lions. At that time, there were already a number of Steller sea lion protection measures in place, explained and analyzed in the EIS, to control the spatial and temporal harvest of groundfish species recognized as important prey to mitigate the potential for competition for prey with the groundfish fisheries. Since 2007, NMFS has continued to implement measures that address and mitigate potential impacts on prey availability. As a result of a 2010 biological opinion, RPAs were included to avoid jeopardy, implementing a variety of SSL protection measures. These measures mainly focused on establishing harvest limits by sector, area, and season for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands, as well as spreading effort over space and time to prevent localized depletion of prey. These measures (79 FR 70286, November 25, 2014), and measures implemented by the 2000 and 2014 opinions, have been in place for 8 - 22 years and have coincided with a measured increase in overall abundance for the WDPS of Steller sea lions.

**Reinitiation of ESA Section 7 Consultation:** NMFS has reinitiated ESA Section 7 consultation on the BSAI and GOA groundfish fisheries because reinitiation was triggered pursuant to 50 CFR § 402.16. There are no changes to the listing of WDPS Steller sea lions. The ESA consultation will comprehensively evaluate the effects of the BSAI and GOA groundfish fisheries on ESA-listed species, including WDPS Steller sea lions, and Steller sea lion designated critical habitat. NMFS is not aware of any particular new information that suggests the Alaska groundfish fisheries have population level effects on ESA-listed species or critical habitats other than those effects already considered in previous consultations.

Based on the above analyses and the most recent information available, the annual implementation of the groundfish harvest specifications will not affect the human environment in

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<sup>107</sup> <https://www.fisheries.noaa.gov/s3/2024-01/Draft-2023-Alaska-MMSARs.pdf>

<sup>108</sup> The term “potential biological removal level” means the maximum number of animals, not including natural mortalities that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. 16 U.S.C. § 1362(20).

a significant manner or to a significant extent not already considered in the Harvest Specifications EIS.

### **5.3.8 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 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 107 to the BSAI 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>109</sup>

### **5.3.9 Seabirds**

Several seabird species are caught incidental to the Alaska groundfish fisheries. In 2022, an estimated 4,618 seabirds were caught in hook-and-line, trawl, and pot fisheries in the BSAI and GOA. The 2023 ESRs for the Bering Sea, Aleutian Islands, and GOA examined the following regarding seabirds: time of breeding, breeding and reproductive success, distribution, diet, and mortality, as well as connections between seabirds, physical environmental conditions, climate change, biological indicators, availability of prey in the ecosystem, and foraging conditions. The information and circumstances in the 2023 SAFE reports indicate the annual implementation of the groundfish harvest specifications will not affect the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS, which examined the impacts of the harvest strategy on seabirds, including the incidental take of seabirds, impacts on prey availability for seabirds (both disturbance to prey and disturbance to seabird foraging), and impacts on benthic habitat that could indirectly impact seabirds and prey.

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>110</sup>

A 2016 NMFS Alaska Region technical memorandum provides additional information on how seabird bycatch occurs, seabird avoidance requirements, and seabird bycatch estimates for the Alaska groundfish and halibut fisheries for 2007 through 2015.<sup>111</sup> Subsequent NMFS Alaska

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<sup>109</sup> <https://www.fisheries.noaa.gov/resource/document/environmental-assessment-regulatory-impact-review-proposed-amendment-107-fmp>

<sup>110</sup> <https://www.fisheries.noaa.gov/resource/document/final-draft-ea-rir-irfa-regulatory-amendment-revise-regulations-seabird-avoidance>

<sup>111</sup> <https://repository.library.noaa.gov/view/noaa/12695>



Region technical memoranda provide updates to the seabird bycatch estimates for the Alaska groundfish and halibut fisheries through 2021.<sup>112</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. In 2022, an estimated 1,655 northern fulmars (*Fulmarus glacialis*), 746 Gulls, and 530 shearwaters were taken incidentally in the BSAI and GOA hook-and-line fisheries.

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 halibut hook-and-line fisheries. In 2022, 203 black-footed albatross, 44 Laysan albatross, and 11 unidentified albatross were taken incidental to hook-and-line fisheries in the BSAI and GOA.

Occasionally, endangered short-tailed albatross are taken incidental to the Alaska groundfish fisheries. From 1999 through 2019, six short-tailed albatross were observed to be killed in the BSAI groundfish hook-and-line fisheries. Two of these takes occurred in August and September of 2010, one occurred in October of 2011, two occurred on the same haul in September 2014, and one occurred in December of 2014. NMFS extrapolates the observed takes of seabirds to the total fishing effort to estimate total bycatch. For example, two short-tailed albatross were recorded taken in the observer sample in the Pacific cod hook-and-line fishery in 2010. When the catch accounting system (CAS) expanded these takes to all unsampled hooks in the haul and all unsampled events across fisheries, the estimated take across the Pacific cod hook-and-line fishery in 2010 was 15 short-tailed albatross. Of the two short-tailed albatross recorded taken in the Greenland turbot hook-and-line fishery in 2014, only one was in the observer sample. When expanded by the CAS to all unsampled hooks in the haul and all unsampled events across fisheries, the estimated take across the Greenland turbot fishery in 2014 was six short-tailed albatross. In 2020, two short-tailed albatross were observed to be killed in the BSAI Pacific cod fishery. The first occurred in September 2020, near Zhemchug Canyon in NMFS reporting area 521. The second occurred in October 2020, south of St. Matthew Island in NMFS reporting area 521. The NMFS Alaska Regional Office, NMFS Alaska Fisheries Science Center, and the USFWS coordinated efforts and communication in response to this mortality event and complied to the fullest extent with ESA requirements to protect this species. In 2023, one short-tailed albatross was taken by a longline-fishing vessel in the GOA. The carcass was shipped to the University of Alaska Fairbanks for additional analysis. NMFS estimated no takes of short-tailed albatross in the groundfish and halibut fisheries from 2007 through 2009, from 2012 through 2013, 2015 through 2019, 2021 and 2022.

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.

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<sup>112</sup> <https://www.fisheries.noaa.gov/resource/publication-database/alaska-regional-office-technical-memorandums>

Fish and Wildlife Service (USFWS). This is 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 to ensure BSAI and GOA groundfish fisheries are not likely to jeopardize the continued existence of either eider or destroy or adversely modify their designated critical habitat. NMFS estimated no takes of Steller's eider or spectacled eider in the groundfish and halibut fisheries in 2021, 2022, and 2023.

**Section 7 Consultation with USFWS:** In August 2015, NMFS prepared a programmatic biological assessment that analyzed the effects of the BSAI FMP, GOA FMP, and the parallel groundfish fisheries in State of Alaska waters on the short-tailed albatross and the Steller's eider.<sup>113</sup> In this biological assessment, the potential direct and indirect impacts of Federal fisheries and fisheries managed by the State with Federal coordination or oversight were evaluated in the context of the short-tailed albatross and the Alaska-breeding population of the Steller's eider.

In December 2015, the USFWS issued its biological opinion on the effects of the Alaska groundfish fisheries on endangered short-tailed albatross and threatened Steller's eider. The biological opinion concluded that the groundfish fisheries off Alaska are not likely to jeopardize the continued existence of short-tailed albatross and are not likely to adversely affect Steller's eider or their designated critical habitat. The 2015 biological opinion includes an incidental take statement that exempts the observed take of six short-tailed albatross, either by hook-and-line gear or trawl gear, over a two-year period from the take prohibitions of section 9 of the ESA. In May 2020, NMFS requested a reinitiation of the of the 2015 formal consultation on the fisheries as authorized by the GOA and BSAI Groundfish FMPs and the parallel groundfish fisheries in State waters due to the takes of Steller's Eider and spectacled eiders. The 2021 biological opinion concluded that the groundfish fisheries off Alaska are not likely to jeopardize the continued existence of short-tailed albatross and are not likely to adversely affect Steller's eider and spectacled eider or their designated critical habitat. The 2021 biological opinion includes an incidental take statement that exempts the observed take of six short-tailed albatross over a two-year period, and three Steller's eiders and 25 spectacled eiders over a four-year period, either by hook-and-line gear or trawl gear, from the take prohibitions of section 9 of the ESA.<sup>114</sup> To date, the 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 remain threatened. The USFWS published its 12-month finding in the *Federal*

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<sup>113</sup> <https://www.fisheries.noaa.gov/resource/document/biological-assessment-effects-fmp-go-and-bsai-groundfish-fisheries-and-state>

<sup>114</sup> <https://ecos.fws.gov/tails/pub/document/18939343>

*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).

**Memorandum of Understanding (MOU):** In 2012, NMFS entered into an MOU with the USFWS to promote the conservation of migratory bird populations, as required by Executive Order 13186.<sup>115</sup> This MOU focuses on avoiding, or, where impacts cannot be avoided, minimizing to the extent practicable adverse impacts on migratory birds, and strengthening migratory bird conservation through enhanced collaboration between NMFS and USFWS by identifying general responsibilities of both agencies and specific areas of cooperation. Given NMFS's focus on marine resources and ecosystems, this MOU places an emphasis on seabirds, but does not exclude other taxonomic groups of migratory birds. Under this MOU, NMFS is responsible for considering seabird conservation during the development of relevant fishery management actions.

### 5.3.10 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. The Harvest Specifications EIS examined the impacts of alternative harvest strategies on listed and unlisted marine mammals including the level of incidental take and entanglement (relative to the potential biological removal), the harvest of prey species and impacts to prey availability and foraging success, and disturbance to marine mammals from fishing operations (vessel traffic and noise and use of nets). Impacts on marine mammals were examined relative to the level of total harvest under each alternative harvest strategy.

**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>116</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>117</sup>

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<sup>115</sup> [http://www.st.nmfs.noaa.gov/Assets/nationalseabirdprogram/eo13186\\_nmfs\\_fws\\_mou2012.pdf](http://www.st.nmfs.noaa.gov/Assets/nationalseabirdprogram/eo13186_nmfs_fws_mou2012.pdf)

<sup>116</sup> <https://www.fisheries.noaa.gov/action/12-month-finding-petition-list-ribbon-seal>

<sup>117</sup> <https://www.fisheries.noaa.gov/action/status-review-ribbon-seal-listing-not-warranted>

There have been incidental mortalities and serious injuries of ribbon seals observed between 2014 and 2018 in the BSAI flatfish trawl, BSAI Pacific cod trawl, BSAI pollock trawl, and BSAI rockfish trawl fisheries.<sup>118</sup> However, these interactions have been considered to be infrequent and do not rise to a level of biological concern for this population. Between 2014 and 2018, the minimum estimated mean annual mortality and serious injury rate incidental to U.S. commercial fisheries was 0.9 ribbon seals, based exclusively on observer data. The BSAI pollock and flatfish trawl fisheries and the trawl CV vessels in the PCTC Program are in the Observer Program's full coverage category.

**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 status reviews of each species. On October 22, 2010, NMFS listed the southern DPS of spotted seals as threatened (75 FR 65239). The other two spotted seal populations (Bering DPS and Okhotsk DPS) 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, October 22, 2010).

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).

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 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). There have been incidental mortalities and serious injuries of bearded and ringed seals observed between 2014 and 2018 in the BSAI flatfish trawl and BSAI pollock trawl fisheries.<sup>119</sup> However, these interactions have been considered to be infrequent and do not rise to a level of biological concern for these populations. Between 2014 and 2018, the minimum estimated mean annual rates of mortality and serious injury incidental to U.S. commercial fishing operations were 4.8 ringed seals<sup>120</sup> and 1.8 bearded seals<sup>121</sup>, based exclusively on observer data. There have also been incidental mortalities and serious injuries of non-listed Beringia DPS spotted seals observed between 2014 and 2018 in the BSAI flatfish

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<sup>118</sup> <https://www.fisheries.noaa.gov/s3/2021-08/RINGED-SEAL-Pusa-hispida-hispida-Arctic-Stock.pdf>

<sup>119</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>120</sup> <https://www.fisheries.noaa.gov/s3/2021-08/RINGED-SEAL-Pusa-hispida-hispida-Arctic-Stock.pdf>

<sup>121</sup> <https://media.fisheries.noaa.gov/2021-08/BEARDED-SEAL-Erignathus-barbatus-nautilus-Beringia-Stock.pdf>

trawl fishery. This resulted in a minimum estimated mean annual mortality and serious injury rate of 1.0 spotted seals incidental to U.S. commercial fishing operations, based exclusively on observer data.<sup>122</sup> This mortality and serious injury rate is considered insignificant and approaching a zero mortality and serious injury rate for this population. The BSAI pollock and flatfish trawl fisheries are in the Observer Program's full 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>123</sup> The biological opinion concluded that the fisheries were not likely to jeopardize the continued existence of the Arctic ringed seal or the Beringia DPS of the bearded seal.

On November 27, 2020, NMFS announced it was initiating a five-year status review for the Arctic, Okhotsk, Baltic, and Ladoga ringed seal under the ESA (85 FR 76017). Subsequently, on January 13, 2021, NMFS announced it was initiating a 5-year review for the Beringia and Okhotsk DPSs of bearded seals under the ESA (86 FR 2648).

On April 1, 2022, NMFS published a final rule to designate critical habitat in the northern Bering, Chukchi, and Beaufort seas off the coast of Alaska for Arctic ringed seals (87 FR 19232) and the Beringia distinct population segment of bearded seals (87 FR 19180), which are both listed as threatened under the ESA.

NMFS has reinitiated ESA Section 7 consultation on the BSAI and GOA groundfish fisheries because reinitiation was triggered pursuant to 50 CFR § 402.16, including the critical habitat designations for Arctic ringed seals and the Beringia distinct population segment of bearded seals. The ESA consultation will comprehensively evaluate the effects of the BSAI and GOA groundfish fisheries on ESA-listed species and designated critical habitat. NMFS is not aware of any particular new information that suggests the Alaska groundfish fisheries have population level effects on listed ringed and bearded seals other than those effects already considered in previous consultations.

The main threats to bearded seals identified in the 2010 five-year status review were related to the destruction, modification, or curtailment of habitat or range and a decrease in prey density or availability due to changes in ocean temperature and ice cover.<sup>124</sup> Groundfish fishing operations do not directly compete (i.e. harvest) for primary prey resources of bearded seals, thus the main threat of groundfish fisheries for bearded seals is from direct interactions with fishing operations, mainly from takes in trawl gear. As noted above, the minimum estimated mean annual rates of mortality and serious injury incidental to U.S. commercial fishing operations were 1.8 bearded seals, well below the PBR of 8,210. In the BSAI pollock trawl fishery, the mean estimated annual mortality is 0.6 seals, and mortality and serious injury is below ten percent of PBR. In the BSAI Amendment 80 (flatfish) trawl fishery, the mean estimated annual mortality is 1.2 seals, and mortality and serious injury is below ten percent of PBR.<sup>121</sup>

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<sup>122</sup> <https://media.fisheries.noaa.gov/2021-08/SPOTTED-SEAL-Phoca-largha-Bering-Stock.pdf>

<sup>123</sup> <https://www.fisheries.noaa.gov/resource/document/biological-opinion-alaska-groundfish-fisheries-and-exempted-fishing-permit-test>

<sup>124</sup> <https://repository.library.noaa.gov/view/noaa/3761>

The main threats to ringed seals identified in the 2010 five-year status review were related to increased hypothermia due to decreasing depth and duration of snow cover.<sup>125</sup> The threat considered the second highest was increased predation, also associated with diminishing snow cover. Groundfish fisheries do not have a direct nexus to these threats, thus the main threat to ringed seals from groundfish fisheries is from direct interactions with fishing operations. As noted above, the minimum estimated mean annual rates of mortality and serious injury incidental to U.S. commercial fishing operations were 4.8 ringed seals, well below the PBR of 4,755. In the BSAI pollock trawl fishery, the mean estimated annual mortality is 0.2 seals, and mortality and serious injury is below ten percent of PBR. In the BSAI Amendment 80 (flatfish) trawl fishery, the mean estimated annual mortality is 4.6 seals, and mortality and serious injury is below ten percent of PBR.<sup>118</sup>

**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>126</sup> On June 30, 2017, NMFS announced the initiation of a five-year review of the status 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>127</sup> In March 2022, NMFS Protected Resources announced the initiation of the next five-year review for the North Pacific right whale (87 FR 17991), and in February 2024 published the five-year review, concluding that no change in listing status is needed.<sup>128</sup>

In March 2022, Center for Biological Diversity and Save the North Pacific right whale submitted a petition to NMFS to revise designated critical habitat for the North Pacific right whale. The petition requests extending critical habitat to connect the two existing designations in the Gulf of Alaska and Bering Sea (specifically, by extending the Bering Sea critical habitat area boundary westward and southward to the Fox Islands, through Unimak Pass to the edge of the continental slope, and eastward to the Kodiak Island critical habitat area). NMFS announced a 90-day finding on the petition to revise critical habitat, finding that the petition presented substantial scientific information that the petitioned action may be warranted (July 12, 2022, 87 FR 41271).

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<sup>125</sup> <https://repository.library.noaa.gov/view/noaa/3762>

<sup>126</sup> <https://www.fisheries.noaa.gov/resource/document/final-recovery-plan-north-pacific-right-whale-eubalaena-japonica>

<sup>127</sup> <https://www.fisheries.noaa.gov/resource/document/north-pacific-right-whale-eubalaena-japonica-five-year-review-2017>

<sup>128</sup> <https://www.fisheries.noaa.gov/resource/document/north-pacific-right-whale-eubalaena-japonica-five-year-review-summary-and>

NMFS' 90-day finding solicited scientific and commercial information concerning the petitioned action to inform the 12-month finding.

On September 26, 2023 (88 FR 65940), NMFS published a 12-month finding on the petition to revise North Pacific right whale critical habitat concluding that a revision to critical habitat is warranted and outlined how they intend to proceed. The following steps will be taken to revise critical habitat: 1) analyze acoustic data collected in areas recommended by the petitioners and in currently designated critical habitat; 2) assess spatial and temporal patterns of prey species in conjunction with oceanographic information; 3) analyze sightings data for evidence of feeding behavior; 4) synthesize available acoustics data, trends in zooplankton, and sightings data to identify areas that meet the definition of critical habitat; 5) prepare a section 4(b)(2) impacts analysis; and 6) develop proposed rule for any proposed revisions to North Pacific right whale critical habitat for public comment.

**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 Sustainable Fisheries determined that the Alaska groundfish fisheries and Amendment 93 are not likely to adversely affect Cook Inlet beluga whales or their critical habitat. NMFS published a final recovery plan for the Cook Inlet beluga whale DPS in December 2016.<sup>129</sup> In February 2021, NMFS announced the initiation of a five-year review of the status of the endangered Cook Inlet beluga whale (86 FR 11504).<sup>130</sup> In September 2022, NMFS Protected Resources published the most-recent five-year review, concluding that the Cook Inlet beluga whale remains endangered.<sup>131</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). Listed DPSs that occur in Alaska are the Mexico DPS (threatened) and the Western North Pacific DPS (endangered). Additional unlisted DPSs occur in Alaska as well. In April 2021, NMFS issued a final rule (86 FR 21082, April 21, 2021) designating critical habitat under the ESA for humpback whales. Humpback whale critical habitat was designated for three DPSs (Central America, Mexico, and Western North Pacific). However, only the Mexico

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<sup>129</sup> <https://www.fisheries.noaa.gov/resource/document/recovery-plan-cook-inlet-beluga-whale-delphinapterus-leucas>

<sup>130</sup> <https://www.fisheries.noaa.gov/action/5-year-review-cook-inlet-beluga-whale-delphinapterus-leucas-distinct-population-segment-dps>

<sup>131</sup> <https://www.fisheries.noaa.gov/resource/document/2022-status-review-cook-inlet-beluga-whale-delphinapterus-leucas-distinct#:~:text=In%20September%202022%20NOAA%20Fisheries,should%20remain%20listed%20as%20endangered>

DPS and Western North Pacific DPS occur in Alaska waters. Designations were proposed for all three humpback whale DPSs in October 2019 (84 FR 54354) and were finalized in 2021. Critical Habitat for the Western North Pacific DPS is designated at 59,411 square nautical miles (nmi<sup>2</sup>) in the Eastern Bering Sea (EBS) and GOA. Critical habitat for the Mexico DPS is designated at 116,098 nmi<sup>2</sup> in the EBS, GOA, and California Current System.

The most recent status review for humpback whales was in 2015.<sup>132</sup> The report identified that, in the Pacific Ocean, the main threats to humpback whales are energy development, whaling, competition with fisheries, vessel collisions, and fishing gear entanglements. From the list of identified threats to humpbacks in the North Pacific, the main overlap with GOA and BSAI groundfish fisheries would be competition with fisheries, vessel collisions, and fishing gear entanglements. Directed Federal fisheries off Alaska do not target humpback whale primary prey species, although there is incidental catch of some forage fish species like herring. Trawl fisheries in the BSAI are subject to a bycatch, or prohibited species catch, limit for herring (set at 1 percent of the annual eastern Bering Sea herring biomass) (50 CFR § 679.21(e)(1)(v)). Documented collisions between fishing vessels and humpback whales are rare, and most vessel strikes occur with vessels like cruise ships or shipping vessels. Entanglement risk for humpback whales with groundfish fisheries remains a threat.

Two humpback whale mortalities were observed in the BSAI pollock trawl fishery between 2016 and 2020, resulting in a minimum estimated mean annual mortality and serious injury rate of 0.4 humpback whales, of which 0.03 was prorated to the Mexico-North Pacific stock and 0.008 was prorated to the Western North Pacific stock. This metric is inclusive of fisheries that are monitored by fisheries observers. A summary of these interactions and additional information about the Mexico-North Pacific stock<sup>133</sup> and the Western North Pacific stock<sup>134</sup> are found in the most recent stock assessments.

NMFS has reinitiated ESA Section 7 consultation on the BSAI and GOA groundfish fisheries because reinitiation was triggered pursuant to 50 CFR § 402.16, including the revised listing of the threatened Mexico DPS humpback whale and the endangered Western North Pacific DPS humpback whale and critical habitat designations for those DPSs. The ESA consultation will comprehensively evaluate the effects of the BSAI and GOA groundfish fisheries on ESA-listed species and designated critical habitat. At this stage, NMFS is not aware of any particular new information that suggests the Alaska groundfish fisheries have population level effects on listed humpback whales.

**Sperm Whales:** There are three stocks of sperm whale stocks in U.S. water. This includes the North Pacific stock, California/Washington/Oregon stock, and Hawaii stock. The North Pacific stock is found in the Bering Sea and Gulf of Alaska. The most recent range wide estimate is from 2005 and estimated 32,100 sperm whales in the eastern North Pacific. No more recent estimates exist for other areas in North Pacific waters. The most recent status review available for sperm whales is from 2015.<sup>135</sup> In the report it is stated that it is often assumed that the worldwide

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<sup>132</sup> <https://repository.library.noaa.gov/view/noaa/4883>

<sup>133</sup> <https://www.fisheries.noaa.gov/s3/2023-08/Humpback-Whale-MNP-2022.pdf>

<sup>134</sup> <https://www.fisheries.noaa.gov/s3/2023-08/Humpback-Whale-WNPS-2022.pdf>

<sup>135</sup> <https://repository.library.noaa.gov/view/noaa/17032>



population of sperm whales has increased since the implementation of the International Whaling Commission moratorium against whaling in 1988, yet there is insufficient data on population structure and abundance of inhabited ocean basins to determine population trends accurately. The main threats identified were vessel strikes, entanglement in fishing gear, anthropogenic noise, exposure to contaminants, climate change, and marine debris. Entanglement in fishing gear is the most likely way groundfish fishing in Alaska may affect sperm whales.

Between 2014 and 2018, mortality and serious injury of sperm whales was observed in the Bering Sea/Aleutian Islands halibut longline fishery (one serious injury in 2015, prorated at 0.75), the Aleutian Islands sablefish pot fishery (one mortality in 2018), and the Gulf of Alaska sablefish longline fishery (one serious injury in 2016, prorated at 0.75). The mortality and serious injury was extrapolated to fishery-wide estimates when possible, resulting in a minimum estimated mean annual mortality and serious injury rate of 3.3 sperm whales in U.S. commercial fisheries between 2014 and 2018.<sup>136</sup> The Harvest Specifications EIS evaluated impacts of alternative harvest strategies on sperm whales, including the level of incidental take and entanglement, the harvest of prey species and impacts to prey availability and foraging success, and disturbance to marine mammals from fishing operations (vessel traffic and noise and use of nets) associated with each alternative. Impacts on marine mammals were examined relative to the level of total harvest under each alternative harvest strategy. For sperm whales, the EIS examined the level of incidental take (entanglement in fishing operations and marine debris). The EIS also noted that sperm whales depredate longline groundfish fisheries targeting halibut and sablefish. However, the recent widespread transition from longline to pot gear for sablefish reduces the likelihood of sperm whales interacting with fishing gear in order to depredate catch.

NMFS has reinitiated ESA Section 7 consultation on the BSAI and GOA groundfish fisheries because reinitiation was triggered pursuant to 50 CFR § 402.16. The ESA consultation will comprehensively evaluate the effects of the BSAI and GOA groundfish fisheries on ESA-listed species and designated critical habitat. At this stage, NMFS is not aware of any particular new information that suggests the Alaska groundfish fisheries have population level effects on listed sperm whales.

**Fin Whales:** There is one stock of fin whales in the North Pacific designated as the Northeast Pacific stock. Population estimates and trends are uncertain for fin whales. The minimum population estimate for the Northeast Pacific stock is 2,554 whales, however, this is an underestimate for the entire stock because it is based on surveys which covered only a small portion of the stock's range. Likewise, an annual population trend of 4.8% from 1987-2003 was estimated for fin whales, but it should be used with caution, due to uncertainties in the initial population estimate (in 1987) and due to uncertainties about the population structure of fin whales in the North Pacific.<sup>137</sup> Threats to fin whales include entanglements in fishing gear, ship strikes, and changing ocean conditions that may affect the availability of prey and abundance of biotoxins. Based on the most recent stock assessment report, no incidental mortality or serious injury of Northeast Pacific fin whales due to interactions with fisheries in Alaska waters was reported to the NMFS Alaska Region marine mammal stranding network between 2014 and

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<sup>136</sup> <https://media.fisheries.noaa.gov/2021-08/SPERM-WHALE-Physeter-macrocephalus-North-Pacific-Stock.pdf>

<sup>137</sup> <https://repository.library.noaa.gov/view/noaa/52074>

2018.<sup>138</sup> NMFS does have a report of one Northeast Pacific fin whale caught and killed in a BSAI pollock trawl net in 2019, however due to the vetting and review process for takes of marine mammals, this incident is not yet included in a published stock assessment report.<sup>139</sup> The PBR for the Northeast Pacific fin whale is 5.1.

The Harvest Specifications EIS evaluated impacts of alternative harvest strategies on fin whales, including the level of incidental take and entanglement, the harvest of prey species and impacts to prey availability and foraging success, and disturbance to marine mammals from fishing operations (vessel traffic and noise and use of nets). Impacts on marine mammals were examined relative to the level of total harvest under each alternative harvest strategy. For fin whales, the EIS examined the level of incidental take (entanglement in fishing operations and marine debris). At the time of the Harvest Specifications EIS, take at that time had only occurred in the GOA pollock trawl fishery.

NMFS has reinitiated ESA Section 7 consultation on the BSAI and GOA groundfish fisheries because reinitiation was triggered pursuant to 50 CFR § 402.16. The ESA consultation will comprehensively evaluate the effects of the BSAI and GOA groundfish fisheries on ESA-listed species and designated critical habitat. At this stage, NMFS is not aware of any particular new information that suggests the Alaska groundfish fisheries have population level effects on listed fin whales.

**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 six 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

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<sup>138</sup> <https://media.fisheries.noaa.gov/2021-08/FIN-WHALE-Balaenoptera-physalus-Northeast-Pacific-Stock.pdf>

<sup>139</sup> <https://repository.library.noaa.gov/view/noaa/44638>

feature of prey species. NMFS Sustainable Fisheries prepared a memo to the record in November 2021. It 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. This informal consultation concluded in 2014 when 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.<sup>140</sup> NMFS AKRO prepares a yearly incidental catch of Chinook salmon in groundfish fisheries report for NMFS West Coast region as part of the requirements of the biological opinion.<sup>141</sup>

**Cook Inlet Salmon Fisheries in the Exclusive Economic Zone (EEZ).** In May 2021, the NMFS Alaska Region Sustainable Fisheries Division (SFD) requested initiation of informal consultation with the NMFS Alaska Region Protected Resources Division (PRD) on Amendment 14 of the Salmon FMP and the potential effects of Federal Management of Cook Inlet salmon fisheries in the EEZ on ESA-listed species and designated critical habitat. Prior to Amendment 14, all commercial salmon fishing in Cook Inlet, including State waters and the EEZ, was managed by the State of Alaska. The existing Salmon FMP did not include the Cook Inlet EEZ. Amendment 14 included the Cook Inlet EEZ in the Salmon FMP's fishery management West Area. Amendment 14 also applied Federal management by extending the existing Salmon FMP prohibition on commercial salmon fishing in the West Area EEZ to the Cook Inlet EEZ. In August 2021, PRD concurred with the SFD determination that the proposed action may affect, but is not likely to adversely affect, the WDPS Steller sea lion (*Eumetopias jubatus*), Mexico DPS humpback whale (*Megaptera novaeangliae*), western North Pacific DPS humpback whale, fin whale (*Balaenoptera physalus*), or Cook Inlet beluga whale (*Delphinapterus leucas*) or its critical habitat.

On June 21, 2022 Amendment 14 was vacated by the U.S. District Court for the District of Alaska. Since Amendment 14 was vacated, NMFS published a proposed rule and NOA for Amendment 16 to the Salmon FMP (88 FR 72314, October 19, 2023). This proposed rule would

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<sup>140</sup> <https://repository.library.noaa.gov/view/noaa/17209>

<sup>141</sup> <https://www.fisheries.noaa.gov/resource/document/annual-report-alaska-groundfish-fisheries-chinook-salmon-incidental-catch-and-esa>

establish Federal fishery management for commercial and recreational salmon fishing that occurs in the Cook Inlet EEZ. On September 14, 2023, NMFS Alaska Region SFD requested initiation of informal consultation with NMFS Alaska Region PRD on proposed Amendment 16 of the Salmon FMP and proposed implementing regulations for the potential effects of Federal management of Cook Inlet salmon fisheries in the EEZ on ESA-listed species and designated critical habitat. The proposed management plan under Amendment 16 and subject to the consultation is described in detail in the draft NEPA analysis (EA)<sup>142</sup> and the proposed rule and NOA (88 FR 72314). In February 2023, PRD concurred with the SFD determination that the proposed action may affect, but is not likely to adversely affect, the WDPS Steller sea lion (*Eumetopias jubatus*), Mexico DPS humpback whale (*Megaptera novaeangliae*), western North Pacific DPS humpback whale, fin whale (*Balaenoptera physalus*), or Cook Inlet beluga whale (*Delphinapterus leucas*), or designated critical habitat. Pursuant to a court order, NMFS must implement a final rule by May 1, 2024.

**Petition to list the sunflower sea star under the ESA:** In August 2021, the Center for Biological Diversity petitioned the Secretary of Commerce to list the sunflower sea star (*Pycnopodia helianthoides*) as a threatened or endangered species under the ESA and to designate critical habitat concurrent with the listing. NMFS announced a 90-day finding on the petition, finding the petition presented substantial scientific information indicating listing may be warranted, and initiated a status review to determine whether a listing under the ESA is warranted (December 27, 2021, 86 FR 73230). On March 16, 2023, NMFS published a proposed rule (88 FR 16212) to list the sunflower sea star as a threatened species under the ESA and solicited public comment to inform the final listing determination, as well as the development of potential protective regulations and future critical habitat designation. NMFS did not propose to designate critical habitat in the proposed rule because it is not currently determinable.

### 5.3.11 Additional Circumstances on Marine Mammals

**Northern fur seals:** NMFS currently manages the northern fur seal population as two stocks in the U.S.: the Eastern Pacific and the San Miguel stocks. The Eastern Pacific stock includes northern fur seals breeding on St. Paul, St. George, and Bogoslof islands and Sea Lion Rock, AK. NMFS designated the Pribilof Islands northern fur seal population as depleted under the MMPA on May 18, 1988 (53 FR 17888). The most recent estimate for the number of northern fur seals in the Eastern Pacific stock, based on pup production estimates on Sea Lion Rock (2014), on St. Paul and St. George Islands (mean of 2014, 2016, and 2018), and on Bogoslof Island (mean of 2015 and 2019), is 626,618 northern fur seals.<sup>143</sup>

Regulations issued under the authority of the Fur Seal Act authorize Pribilovians to take fur seals on the Pribilof Islands if such taking is for subsistence uses and not accomplished in a wasteful manner (50 CFR 216.71). In 1993, NMFS prepared a conservation plan for northern fur seal, and NMFS prepared an update in 2007.<sup>144</sup> NMFS is currently preparing another revision to the

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<sup>142</sup> <https://www.fisheries.noaa.gov/s3/2023-10/Amend-16-EA-RIR-508-Compliant-0.pdf>

<sup>143</sup> <https://www.fisheries.noaa.gov/s3/2022-08/2021-NORTHERN-FUR-SEAL-Callorhinus-ursinus-Eastern-Pacific-Stock.pdf>

<sup>144</sup> <https://repository.library.noaa.gov/view/noaa/17351>

conservation plan. A draft conservation plan was made available to the public and NMFS requested comments in 2023 (88 FR 38010, June 12, 2023).

In 2005, NMFS prepared and published an environmental impact statement analyzing the setting of annual Pribilof Islands fur seal subsistence take ranges for the subsistence use of fur seals on St. Paul and St. George Islands, including alternatives authorizing a static limit (2,000 from St. Paul and 500 from St. George), a rolling five year average of actual harvest, and up to the potential biological removal.<sup>145</sup> The preferred alternative that NMFS implemented was the status quo limits in place since 1997 of 2,000 from St. Paul and 500 from St. George, total of 2,500 fur seals.

In 2014, NMFS revised the regulations governing the fur seal subsistence use on St. George (79 FR 65327, November 4, 2014). The final rule authorizes a harvest up to 150 male young of the year fur seals annually during a new autumn harvest season from all breeding and hauling grounds, consistent with traditional practices, to meet the community's nutritional and cultural needs. The total number of fur seals harvested annually remained within the range of 300-500 male animals that has been in place since 1997. Harvests will be coordinated between NMFS and the Council under an existing co-management agreement. NMFS prepared a final supplemental environmental impact statement to assess the environmental, social, and economic impacts associated with the regulatory changes to the management of the subsistence harvest on St. George Island.<sup>146</sup> In the EIS and final rule implementing the regulatory changes, NMFS recognized that St. George Island residents have a need for long-term sustainable use of northern fur seals for subsistence purposes of cultural continuity, food, clothing, arts, and crafts.

In 2019, NMFS revised the regulations governing the fur seal subsistence use on St. Paul and St. George (84 FR 52372, October 2, 2019). The final rule changes the subsistence harvest range setting process and established harvest limits in regulations. The final rule authorizes Pribilovians who reside on St. Paul Island, Alaska, to kill for subsistence uses each year up to 2,000 male fur seals less than seven years old (defined as juvenile males), including young of the year (also called pups). This rule authorizes up to 20 mortalities of female fur seals per year (and any female mortality will be included in the 2,000 fur seals authorized for subsistence use per year). The final rule allows the taking of fur seals on St. Paul Island over two subsistence use seasons annually: One season from January 1 through May 31 using firearms to hunt, and the second season from June 23 through December 31 without using firearms for the harvest. In addition, the final rule authorizes Pribilovians who reside on St. George Island, Alaska, to kill each year up to 500 male fur seals during harvests for subsistence use, including authorization of up to three female mortalities each year (and any female mortality will be included in the 500 fur seals authorized for subsistence use per year). NMFS prepared a final supplemental environmental impact statement to analyze the alternative regulatory changes for the regulations governing St. Paul.<sup>147</sup> In the EIS and final rule implementing the regulatory changes, NMFS recognized Pribilovians on St. Paul Island needed greater flexibility to meet their subsistence needs by obtaining fresh fur seal meat and subsistence resources throughout the year. The purpose of the proposed action is to conserve northern fur seals and manage the subsistence use

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<sup>145</sup> <https://repository.library.noaa.gov/view/noaa/17330>

<sup>146</sup> <https://repository.library.noaa.gov/view/noaa/19161>

<sup>147</sup> <https://repository.library.noaa.gov/view/noaa/21426>

of fur seals on St. Paul Island for their long-term sustainable use for purposes of food, cultural continuity, clothing, arts, and crafts.

Under co-management agreements with NMFS, the tribal governments of St. Paul<sup>148</sup> and St. George<sup>149</sup> have a formal role in managing the harvest of northern fur seals to meet their subsistence needs. These co-managements are pursuant to the MMPA, which authorizes NMFS to enter into cooperative agreements with Alaska Native Organizations to conserve marine mammals and to provide co-management of subsistence use by Alaska Natives (16 U.S.C. 1388). In November 2022 and June 2023, NMFS received requests from the Aleut Community of St. Paul Island and the Traditional Council of St. George Island, respectively, to revise the regulations governing fur seal subsistence use (88 FR 77245; November 9, 2023).

The Harvest Specifications EIS examined the impacts of alternative harvest strategies on listed and unlisted marine mammals like northern fur seals. This included an analysis of the level of incidental take and entanglement (relative to the potential biological removal), the harvest of prey species and impacts to prey availability and foraging success, and disturbance to marine mammals from fishing operations (vessel traffic and noise and use of nets). Impacts on marine mammals were examined relative to the level of total harvest under each alternative harvest strategy. The EIS noted that the minimum estimate of groundfish-fishery caused northern fur seal mortality and serious injury was well below PBR and at a level approaching insignificance (10% of PBR). Based on the most recent stock assessment for northern fur seals,<sup>150</sup> the minimum estimate of groundfish-fishery caused northern fur seal mortality and serious injury remains well below the PBR of 11,403. The total mean annual mortality and serious injury rate incidental to U.S. commercial fisheries between 2015 and 2019 is 3.5 northern fur seals (2.7 from observer data + 0.8 from stranding data). The minimum mean annual mortality and serious injury rate due to entanglements in Bering Sea/Aleutian Islands gillnet (0.2), Bering Sea/Aleutian Islands unidentified fishing gear (0.2), trawl gear (1.2), and hook and line gear (0.2) in Alaska waters between 2015 and 2019 totaled 1.8 northern fur seals. The mean estimated annual mortality and serious injury from the BSAI Amendment 80 (flatfish) trawl fishery is 2.7 fur seals, and is below 10 percent of the stock's PBR.

The 2022 EBS ESR noted that northern fur seal pup production at St. Paul Island in 2022 continued a declining trend since 1998 that may be partially attributed to low pup growth rates. This trend was present in 2007 when NMFS completed the Harvest Specification EIS and expressly noted in that EIS that the northern fur seal population in the Pribilof Islands had been declining (at that time, with pup production down 15.7 percent on St. Paul Island and 4.1 percent on St. George Island between 2002 and 2004). Currently, there are varying trends in pup production. As noted in the 2007 EIS and the 2022 EBS ESR, there has been a decline in pup production on St. Paul Island since the mid-1990s. However, pup production has stabilized on St. George Island beginning around 2002; and pup production has increased on Bogoslof, with estimated pup production for the Eastern Pacific stock declining at 0.55% (95% CI: -2.11 to 1.06; not significantly different from 0) per year from 2009 to 2019.

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<sup>148</sup> <https://media.fisheries.noaa.gov/dam-migration/nfs-st-paul-comanagement-agreement-2020.pdf>

<sup>149</sup> <https://media.fisheries.noaa.gov/dam-migration/01stgeorgeagreement-akr.pdf>

<sup>150</sup> <https://www.fisheries.noaa.gov/s3/2022-08/2021-NORTHERN-FUR-SEAL-Callorhinus-ursinus-Eastern-Pacific-Stock.pdf>

The 2023 EBS ESR noted that northern fur seals have been observed entangled with fishing gear on St. Paul Island. The EIS evaluated impacts from entanglement in marine debris and from reductions in prey availability due to removals in the groundfish fisheries of prey species for fur seals like pollock and Pacific cod. The EIS recognized data gaps regarding the impacts of prey competition but recognized that evidence indicates considerable overlap may exist between the size of pollock consumed by fur seals and pollock harvested in the groundfish fisheries and that competition for prey species may exist if the groundfish fisheries and fur seals depend on the same area for removing prey. The EIS therefore assumed that spatial overlap between pollock harvest and foraging fur seals exists and therefore considered the level of potential competition associated with each alternative.

Notably, as a component of the alternative analysis in the EIS, NMFS structured Alternative 4 to set lower harvest rates in part in response to public comment to constrain TACs by ecosystem components such as northern fur seals. NMFS recognized the stock assessments used to establish the ABCs and OFLs incorporate ecosystem components, and the EIS analyzes the effects of alternative harvest strategies on ecosystem components, including northern fur seals.

The information and circumstances in the 2023 SAFE reports indicate the annual implementation of the groundfish harvest specifications will not affect the human environment in a significant manner or to a significant extent not already considered in the Harvest Specifications EIS.

**Killer whales:** There are five stocks of killer whales present in the North Pacific including the Eastern North Pacific Alaska Resident; Eastern North Pacific Northern Resident; Eastern North Pacific Gulf of Alaska, Aleutian Islands, and Bering Sea Transient; ATI Transient; and West Coast Transient. Four of these stocks regularly occur in Alaskan waters. In December 2023, NMFS released a summary report of documented killer whale entanglements in Alaska from 1991 to 2022.<sup>151</sup> As explained in that report, there were 37 entanglement reports over that period. Most reported incidents were associated with trawl and longline gear (30). Thirteen of the entanglements occurred in the BSAI flatfish trawl fishery, seven entanglements occurred in the BSAI pollock trawl fishery, six entanglements occurred in the BSAI Pacific cod longline fishery, three entanglements occurred in the BSAI Greenland turbot longline fishery, and one entanglement occurred in the BSAI sablefish longline fishery.<sup>152</sup> Stock information on population trends, distribution in Alaska, and estimated mean annual mortality in BSAI pollock trawl and flatfish trawl fisheries are described in the table below.

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<sup>151</sup> <https://www.fisheries.noaa.gov/feature-story/noaa-fisheries-releases-report-killer-whale-entanglements-alaska-1991-2022>

<sup>152</sup> <https://www.fisheries.noaa.gov/resource/document/killer-whale-entanglements-alaska>

### North Pacific Killer Whale Stocks

Cetacean Stock/DPS	Population Trends	Distribution in Alaska	Estimated Mean Annual Mortality in the BSAI pollock trawl fishery and BSAI flatfish trawl fishery
Killer whale – AT1 transient	This population has been closely documented from 1984 to present. From 1984-1988 22 animals were seen annually. In the two years following the 1989 Exxon Valdez oil spill, only 11 individual animals were re-sighted. No recruitment to this population has occurred since 1984. The population has continued to decline with a current estimate of seven individuals.	AT1 killer whales are found only in Prince William Sound and the Kenai Fjords area.	BSAI pollock trawl: 0 BSAI flatfish trawl: 0
Killer whale - Eastern North Pacific GOA, Aleutian Islands, and Bering Sea transient	Transient killer whales in the northern Gulf of Alaska have had stable numbers from 1984-2012. At present, reliable data on trends in population abundance for the Aleutian Islands and Bering Sea portion of this stock of killer whales are unavailable.	Transient-type killer whales from the GOA, Aleutian Islands, and Bering Sea are considered to be part of a single population. They occur mainly from Prince William Sound through the Aleutian Islands and Bering Sea.	BSAI pollock trawl: 0 BSAI flatfish trawl: 0.4
Killer whale - Eastern North Pacific Alaska resident stock	The minimum population estimate ( $N_{min}$ ) for the Alaska Resident stock of killer whales based on photo-identification studies conducted between 2005-2009 is 2,084 animals. Data from Matkin et al. (2003) indicate that the component of the Alaska Resident stock that summers in the Prince William Sound and Kenai Fjords area is increasing. With the exception of AB pod, which declined drastically after the Exxon Valdez oil spill and has not yet recovered, the component of the Alaska Resident stock in the Prince William Sound and Kenai Fjords area increased 3.2% (95% CI = 1.94 to 4.36%) per year from 1990 to 2005 (Matkin et al. 2008).	Alaska resident whales are found from southeastern Alaska to the Aleutian Islands and Bering Sea. Intermixing of Alaska residents have been documented among the three areas, at least as far west as the eastern Aleutian Islands.	BSAI pollock trawl: 0 BSAI flatfish trawl: 0
Killer whale - Eastern North Pacific Northern resident stock	The minimum population estimate ( $N_{MIN}$ ) for the Northern Resident stock of killer whales is 302 whales, which includes whales found in Canadian waters. From the mid-1970s to the 1990s, the Northern Resident killer whale population increased at an annual rate of 2.6% (i.e., from 122 whales in 1974 to 218 in 1997). A decline was reported from 1998 to 2001 at a rate of 7% per year. The increased mortality that drove this decline coincided with a period of reduced range-wide Chinook salmon abundance, their primary prey (Ford et al. 2010). Then, after 2001, the growth was positive again with the population increasing at an average rate of 2.9% per year from 2002 to 2014. This represents an average annual increase of 2.2% over the 40-year time series. However, annual Northern Resident killer whale population growth rates have slowed over the past five census years, from 5.1% in 2014 to -0.3% in 2018.	The Eastern North Pacific Northern Resident stock is a transboundary stock and includes killer whales that frequent British Columbia, Canada, and Southeast Alaska (Dahlheim et al. 1997, Ford et al. 2000). They have been seen infrequently in Washington State waters. Members of the Northern Resident population have been documented in Southeast Alaska; however, they have not been seen to intermix with Alaska Residents	BSAI pollock trawl: 0 BSAI flatfish trawl: 0.8

In 2023, a significant amount of killer whale incidental catch occurred. The work on the December 2023 summary report began before the reports of incidental catch were released. Ten killer whales were caught in fishing gear, nine in Amendment 80 (flatfish) catcher/processor



trawl gear and one in pollock catcher/processor trawl gear.<sup>153</sup> Six of those 10 were killed in the fishing gear, one was released alive but seriously injured, and two were already dead when caught in the gear. An eleventh whale was caught in a research survey. Observers on the fishing vessels were able to collect biological samples from some of the whales, and NMFS determined 8 of the whales (of the 11 total) were from the Eastern North Pacific Alaska resident killer whale stock. Scientists were unable to determine the stocks for the remaining three whales. Three stocks of killer whales have overlapping geographic ranges in the areas where these interactions occurred: Eastern North Pacific Alaska Resident; Gulf of Alaska, Aleutian Islands, and Bering Sea Transient; and Eastern North Pacific Offshore. NMFS determined the level of incidental catch did not exceed the PBR for these stocks.

NMFS is continuing to work with representatives of the Amendment 80 (non-pollock trawl) fleet to investigate factors that may have contributed to the elevated killer whale bycatch rates in 2023.<sup>154</sup> NMFS is also working with the industry and survey operations to explore ways to avoid killer whale interactions, and NMFS is funding a research project that is scheduled to start in spring 2024.

NMFS intends to initiate by January 2025 a review of available information about whether there are multiple demographically independent populations of killer whales within the currently-defined Eastern North Pacific Alaska resident killer whale stock. The Eastern North Pacific Alaska resident killer whale stock, as currently defined, includes resident killer whales in Southeast Alaska, the Gulf of Alaska, the Aleutian Islands, and the Bering Sea. This evaluation would involve experts from NMFS's Alaska, Northwest, and Southwest Fisheries Science Centers. Should the agency find that there are demographically independent populations of killer whales and subsequently decide to describe new stocks of killer whales in Alaska that would be accomplished through the development of new draft stock assessment reports. These would be made available for public review and comment separate from the harvest specifications process.

The Harvest Specifications EIS examined the impacts of alternative harvest strategies on listed and unlisted marine mammals. There are no listed stocks of killer whales in waters off Alaska. The EIS analyzed the level of incidental take and entanglement (relative to the potential biological removal), the harvest of prey species and impacts to prey availability and foraging success, and disturbance to marine mammals from fishing operations (vessel traffic and noise and use of nets). Impacts on marine mammals were examined relative to the level of total harvest under each alternative harvest strategy. The EIS noted that resident killer whales compete with fisheries, particularly fisheries targeting halibut and sablefish, and the EIS considered that take in trawl gear (primarily from propeller strikes) could occur. And, the EIS noted that the mean annual mortality from the BSAI and GOA groundfish fisheries did not exceed PBR for any of the killer whale stocks in Alaska, and although annual mortality was below 10 percent of PBR for most species, the EIS expressly noted that killer whale mortality in all fisheries was above the insignificance threshold of ten percent (at that time, the amount of take from all fisheries of the

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<sup>153</sup> <https://www.fisheries.noaa.gov/feature-story/cause-death-determined-11-killer-whales-incidentally-caught-fishing-gear-alaska-2023>

<sup>154</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=e396a98d-d2bb-4ce9-9454-85077470ac0f.pdf&fileName=B2%20NMFS%20Report.pdf>

BSAI and GOA transient and Alaska resident killer whale stocks was 75 percent and 21 percent of PBR).

The number of human-caused mortalities and serious injuries of killer whales in the groundfish fisheries was significantly higher in 2023 than in past years, and the cause of the take is entanglement in trawl nets. However, the recent information presented on impacts to killer whales does not differ significantly from the effects analyzed in the EIS, which as noted above considered a level of mortality above PBR from interactions with the fisheries under the alternatives analyzed in the EIS. The level of mortality in 2023 is still below the PBR for the stocks and remains within the scope analyzed in the EIS in terms of the impacts from stemming from the alternatives analyzed.

#### **5.4 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.*

##### **5.4.1 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 2010 stock assessment for Pacific walrus determined 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 scientific information available. 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. The latest stock assessment published in July 2023 and determined a minimum population size estimate of 214,008 animals. However, the current population trend for the stock is unknown.<sup>155</sup>

**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,

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<sup>155</sup> <https://downloads.regulations.gov/FWS-R7-ES-2022-0155-0014/content.pdf>

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, 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>156</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; 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>157</sup>

#### **5.4.2 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.

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<sup>156</sup> <https://www.fws.gov/alaska/pages/endangered-species/northern-sea-otter>

<sup>157</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)

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 with the required permits may move between State and Federal waters during concurrent parallel and Federal fisheries.

The State usually opens State-waters groundfish 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 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 GHL 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 ABC for the pollock stock in the combined W/C/WYK of the GOA includes the amount for the GHL established by the State for the Prince William Sound (PWS) pollock fishery. Annually, State of Alaska fisheries managers recommend setting the PWS GHL at a certain percentage (2.5 percent in recent years) of the annual combined W/C/WYK ABC. Once the PWS GHL 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 GHL, do not exceed the combined W/C/WYK ABC. The methodology to establish the pollock GHL 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 GHL fishery is accounted for in the annual pollock assessments. Accordingly, the Council annually recommends setting the combined W/C/WYK pollock ABC and TAC to account for the State's PWS GHL, which NMFS approves and implements in the current harvest specifications.

The BOF established the GHL for vessels using pot, longline, jig, and hand troll gear in State waters in the State's Aleutian Islands (AI) State waters sablefish registration area that includes all State waters west of Scotch Cap Light (164° 44.72' W longitude) and south of Cape Sarichef (54° 36' N latitude). The AI GHL is set at 5 percent of the combined BS and AI ABC. The State's AI sablefish registration area includes areas adjacent to parts of the Federal BS. Based on the 2022 GHL sablefish catch, most of the State's 2024 and 2025 GHL sablefish fishery is expected to occur in State-waters adjacent to the federal Bering Sea subarea. Therefore, the Council recommended and NMFS approves that the 2024 and 2025 sablefish TACs in the BS and AI account for the State's GHLs for sablefish caught in State waters.

Accommodating for the state-waters GHL 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 setting Federal TACs to ensure total harvests of the groundfish stocks do not exceed ABCs.

**Pacific Cod Fishery Expansion:** Beginning in 2014, the Federal Pacific cod TACs for the GOA, the Bering Sea subarea, and the Aleutian Islands subarea included the amount needed for the State's GHL 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>158</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.

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 2023, the BOF approved a one percent increase in the BS GHL for vessels using pot gear. Starting in 2023, if 90 percent of the GHL is harvested by November 15 of the preceding two consecutive years, the GHL for the next year will increase by 1 percent, up to 15 percent of the BS ABC. Also, the GHL will decrease by 1 percent if 90 percent is not harvested by November 15 of the preceding two consecutive years. For 2024, the BS Pacific cod ABC is 167,952 mt, and for 2025, it is 150,876 mt. Therefore, based on the preceding years' harvests, the GHL in the BS for pot gear will be 12 percent for 2024 (20,154 mt) and is projected to be 12 percent for 2025 (18,105 mt). 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). If 90 percent of the GHL is not harvested by November 15 of the preceding year for two consecutive years, the GHL will decrease by 4 percent, but the GHL may not decrease below 15 percent of the AI ABC. Based on preceding years' harvests, the GHL is 35% of the AI ABC. For 2024 and 2025, 35 percent of the AI ABC is 4,351 mt. The Council and its Plan Team, SSC, and AP recommended that the sum of all state and Federal water Pacific cod

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<sup>158</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)

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 GHGs for Pacific cod caught in State waters in the Bering Sea and Aleutian Islands. The Federal TACs for Pacific cod in both the BS and AI are set annually to accommodate the State GHGs to ensure that Federal and State-waters groundfish harvests in the BS and AI do not exceed the Federal ABCs.

In the Gulf of Alaska, the Federal TACs for Pacific cod are set to accommodate the State GHG 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 GHG. In the Western Regulatory Area, the Federal TAC is set up to 70 percent to accommodate the State GHG, and in both the Eastern and Central Regulatory Areas, the Federal TAC is set up to 75 percent to accommodate the State GHGs. The sum of all state and Federal water Pacific cod removals from the GOA do not exceed the ABC recommendation for GOA Pacific cod.

Accommodating for the state-waters GHG in the BS, AI, and GOA from the Pacific cod ABCs ensures that the combined harvests from the State-waters and Federal fisheries are managed within the ABCs derived from the Federal harvest specifications process for that species and area. Increases in GHGs for the state-waters groundfish fisheries requires setting Federal TACs to ensure total harvests of the groundfish stocks do not exceed ABCs.

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 GHGs 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 GHGs. 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.

### **5.4.3 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 2012 model, estimates of recent recruitment are lower than previously thought and commercial catch limits have been reduced over the past

several years. Total mortality (including Pacific halibut removals for subsistence, recreational, commercial, non-directed discards, and commercial discards)<sup>159</sup> steadily declined from 2005 through 2023. Total mortality was 71.87 million pounds (lb) in 2010, 58.80 million lb in 2011, 50.98 million lb in 2012, 48.27 million lb in 2013, 42.53 million lb in 2014, 42.31 million lb in 2015, 42.02 million lb in 2016, 42.21 million lb in 2017, 38.50 million lb in 2018, 39.97 million lb in 2019, 34.23 million lb in 2020, 38.18 million lb in 2021, 38.61 million lb in 2022, 35.46 million lb in 2023, and a projected 35.29 million lb in 2024. The IPHC Commissioners and their advisors convened at the IPHC Annual Meeting January 22 through January 26, 2024, to consider the most recent stock assessment, catch limit recommendations, and stakeholder input, and to set the catch limits for 2024.

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. Additional actions previously implemented to address halibut bycatch in the groundfish fisheries were discussed in Section 6.3.3 Halibut Bycatch Management.

#### **5.4.4 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) were 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>160</sup>

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<sup>159</sup> <https://www.iphc.int/uploads/data/time-series-datasets/excel/iphc-2023-tsd-008.xlsx>

<sup>160</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-10-18/pdf/2016-24500.pdf>

## 6 Future Actions

This section provides a summary description of the reasonably foreseeable future actions that may affect the harvest specifications process and the impacts of the groundfish fisheries on the resources components analyzed in 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. Some potential future actions have also been described under sub-sections of Section 5 New Circumstances.

### **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>161</sup> On the basis of the analysis, the Council adopted a management approach statement, and nine 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. The Council conducted its most recent comprehensive review of its Programmatic Groundfish Management Policy at its February 2022 meeting.<sup>162</sup> This review highlighted Council activities in calendar years 2019-2021 that continue to fulfill the Priorities and Objectives established in the Policy. The Council also indicated that it continues to approve the substance of the management policy and objectives as written, although noting that some of the language is dated.

The Council and NMFS prepared a Supplemental Information Report (SIR). 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 reinitiate programmatic changes to the groundfish fisheries that would have necessitated an SEIS at that time. NMFS finalized the SIR and reached a determination that supplementation of the 2004 PSEIS was not required.<sup>163</sup>

In October 2022, the Council initiated a discussion paper that would provide a plan and timeline for reevaluating the 2004 PSEIS and other approaches in light of potential impacts from the changing climate in the BSAI and GOA. The Council did not recommend initiating a SIR for this

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<sup>161</sup> <https://www.fisheries.noaa.gov/resource/document/alaska-groundfish-fisheries-programmatic-supplemental-environmental-impact>

<sup>162</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=f8c3ef0f-41e6-49d8-a17f-1714eaf6a1ba.pdf&fileName=D3%20Groundfish%20Management%20Policy%20Review.pdf>

<sup>163</sup> <https://www.fisheries.noaa.gov/resource/document/alaska-groundfish-fisheries-programmatic-supplemental-environmental-impact>



evaluation. The Council reviewed a discussion paper at its February 2023 meeting<sup>164</sup> and recommended consideration of a Programmatic EIS for Council-managed fisheries. Then, in June 2023, the Council recommended that NMFS initiate development of a Programmatic EIS and recommended NMFS initiate NEPA scoping. Two alternatives were proposed under the Council motion to (1) maintain status quo for Council-managed fisheries or (2) adopt a more adaptive ecosystem-based management policy and objectives for Council-managed fisheries with new risk tools and knowledge pathways considered.<sup>165</sup> In December 2023, the Council received an update from staff on a proposed workplan to develop an operational, adaptive climate resilient management policy for all active federal fisheries managed under the Council's jurisdiction, using the vehicle of the PEIS that the Council initiated in June 2023.<sup>166</sup> Under the workplan, the Council would plan to take final action to recommend its new policy by December 2025. In the intervening time, the Council would host a climate scenario workshop and a PEIS implementation workshop, as well as consider alternatives and take public comment at several Council meetings. NMFS would plan to issue a notice of intent regarding the PEIS in approximately summer 2024. In February 2024, the Council will receive an update from Council staff to assist in analysis structure and priorities.<sup>167</sup> At its February 2024 meeting, the Council addressed the process for the development of a new Programmatic EIS to evaluate its action alternatives for management policies and objectives for fisheries off Alaska. Based on a motion passed at the meeting, in 2024 through early 2025 the Council and NMFS will gather input from Alaska Native Tribes and stakeholders to inform the direction and structure of alternatives analyzed under a Programmatic EIS. The Council recommended delaying the timelines outlined under the 2023 workplan, and NMFS will begin the NEPA scoping process in 2024-2025.

Re-initiation of the 2010 BSAI and GOA Groundfish FMP Consultation under Section 7 of the ESA. In December 2022, NMFS announced its intention to re-initiate consultation under Section 7 of the ESA to evaluate the effects of the GOA and BSAI groundfish fisheries on ESA-listed species and critical habitats. The consultation would include all groundfish fisheries managed under the GOA and BSAI groundfish FMPs and the State of Alaska parallel groundfish fisheries. The consultations will focus on the effects of the current fishery management regime (i.e. status quo) and NMFS will use the best scientific information available in the analyses. NMFS has determined that allowing the groundfish fisheries to continue to operate during the reinitiation period will not violate ESA section 7(a)(2) or 7(d). To implement the 2024 and 2025 harvest specifications for the BSAI and GOA, NMFS has determined that the operation of the groundfish fisheries off Alaska under the final 2024 and 2025 harvest specifications for the BSAI and GOA would not violate ESA sections 7(a)(2) and 7(d).

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<sup>164</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=f147c92d-d7bf-444f-a398-71393e63f96f.pdf&fileName=D2%20PSEIS%20Discussion%20Paper.pdf>

<sup>165</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=37104c8f-4824-41ed-a730-dd195dd32d5c.pdf&fileName=D2%20Motion.pdf>

<sup>166</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=9ad5dbcb-4b72-4ee9-a091-2eaf57ea36d9.pdf&fileName=B1%20IRA%20Funding%20Staff%20Workplan.pdf>

<sup>167</sup> <https://meetings.npfmc.org/CommentReview/DownloadFile?p=a3c1729f-5f90-45d6-8d89-330b0c816fc3.pdf&fileName=D3%20Programmatic%20Policy%20Evaluation%20Discussion%20Paper.pdf>

## 7 Determination

After reviewing the information above and presented in the SAFE reports, I have determined that (1) the 2024 and 2025 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. The 2024 and 2025 harvest specifications will result in environmental, social, and economic impacts within the scope of those analyzed and disclosed in the EIS. At this time, the available information does not indicate a need to prepare additional supplemental NEPA documentation for the 2024 and 2025 harvest specifications. Therefore, a supplemental EIS is not necessary to implement the 2024 and 2025 harvest specifications.

  
Regional Administrator

February 29, 2024  
Date

## 8 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 2023 versions for each species or species group may be found here: [https://apps-afsc.fisheries.noaa.gov/Plan\\_Team/2023/assessments.htm](https://apps-afsc.fisheries.noaa.gov/Plan_Team/2023/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 2023 versions for each species or species group may be found here: [https://apps-afsc.fisheries.noaa.gov/Plan\\_Team/2023/assessments.htm](https://apps-afsc.fisheries.noaa.gov/Plan_Team/2023/assessments.htm)

## Appendix C: Ecosystem Status Report

These documents are included by reference. The 2023 ESRs, assessments, report cards, and noteworthy information for the Eastern Bering Sea, Aleutian Islands, Gulf of Alaska, and Arctic can be found here: <https://apps-afsc.fisheries.noaa.gov/refm/reem/ecoweb/index.php>

## Appendix D: Economic Status Report

This document is included by reference. The Groundfish Economic Status Reports summarizes available economic data about the federal groundfish fisheries in the BSAI and GOA. Published annually as an appendix to the Stock Assessment and Fishery Evaluation reports, the Economic Status Report presents summary statistics on catch, discards, prohibited species catch, ex-vessel and first-wholesale production and value, participation by small entities, and effort in these fisheries. The 2023 version may be found here: <https://reports.psmfc.org/akfin/f?p=501:2000>